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**REPORT ON MANAGEMENT OVERSIGHT
AND INTERNAL CONTROLS RULES
APPLICABLE TO IORPs**

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List of abbreviations

| | |
|-----------|---|
| AT | Austria |
| BE | Belgium |
| BG | Bulgaria |
| CZ | Czech Republic |
| DE | Germany |
| DK | Denmark |
| ES | Spain |
| FI | Finland |
| FR | France |
| HU | Hungary |
| IE | Ireland |
| IT (CPF) | Italy, Contractual Pension Funds |
| IT (OPF) | Italy, Open Pensions Funds |
| LI | Liechtenstein |
| LT (PA) | Lithuania, Pension associations |
| LT (LAC) | Lithuania, Life Assurance Company |
| LU (CAA) | Luxembourg, Commissariat aux assurances |
| LU (CSSF) | Luxembourg, Commission de Surveillance du Secteur Financier |
| LV | Latvia |
| MT | Malta |
| NL | Netherlands |
| NO | Norway |
| PL | Poland |
| PT | Portugal |
| RO | Romania |
| SE | Sweden |
| SI | Slovenia |
| SK | Slovakia |
| UK | United Kingdom |

I. Introduction

In today's world of financial institutions' complex governance structures the internal governance practices, covering risk management, internal controls and management oversight and culture, undoubtedly play a very important role also in the regulation and supervision of institutions for occupational retirement provision (hereafter referred to as "IORPs"). The 2008 – 2009 financial crisis has put these internal governance issues at the forefront regulators concerns and actions of the whole spectrum of financial institutions, of which IORPs are also an important part.

As these internal governance issues cover a wide variety of items its study was split into two separate workstreams. The risk management workstream has already tackled a first set of issues, namely those associated with risk strategy and assessment, and has identified risk management rules and their implementation as well as supervision practices¹. This workstream – Management oversight and internal controls - will cover the remaining issues. The topics of this workstream should be seen as a complement of the risk management work.

I.1. Legal background

Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (hereafter referred to as "the Directive") states in the recital (20) that: "Institutions for occupational retirement provision are financial service providers which bear a heavy responsibility for the provision of occupational retirement benefits and therefore should meet certain minimum prudential standards with respect to their activities and conditions of operation."

More explicitly, Article 14 (1) regarding powers of intervention and duties of the competent authorities addresses the issue of internal controls: "The competent authorities shall require every institution located in their territories to have sound administrative and accounting procedures and adequate internal control mechanisms."

Article 9(1) of the mentioned Directive, on the conditions of operation concerning the overall functioning of the IORP, states that each Member State should ensure that:

- "the institution is effectively run by persons of good repute who must themselves have appropriate professional qualifications and experience or employ advisers with appropriate professional qualifications and experience;"
- "properly constituted rules regarding the functioning of any pension scheme operated by the institution have been implemented and members have been adequately informed of these rules;"

Paragraph 3 of Article 9 addresses the issue of allowing MS to impose other rules on the conditions of operations: "A Member State may make the conditions of operation of an institution located in its territory subject to other requirements, with a view to ensuring that the interests of members and beneficiaries are adequately protected."

¹ ["CEIOPS' report on Risk Management rules applicable to IORPs"](#)

I.2. Objective and methodology of the survey

These topics of internal governance have been addressed by CEIOPS, in its advice on Solvency II to the Commission, and other international organisations, as shown below, but none of them with the main focus on the occupational retirement provision.

- **International Association of Insurance Supervisors (IAIS) and Organisation of Economic Co-operation and Development (OECD)** Issues paper on corporate governance, January 2009;
- **Organisation of Economic Co-operation and Development (OECD) Working Party on Private Pensions (WPPP)** Pension Funds' Risk Management Framework: Regulation and Supervisory Oversight, July 2009;
- **Committee of European Banking Supervisors (CEBS)** Consultation Paper 24 High-level principles for risk management, April 2009.
- **International Organisation of Securities Commissions (IOSCO)** Risk Management and Control Guidance for Securities Firms and their Supervisors May 1998.

It is thus of interest to analyse how the matters of management oversight and internal controls are approached in the occupational pensions sector.

The main aim of this project is to map out and analyse the various approaches and practices adopted by Member States in relation to management oversight and internal controls in IORPs. The IORP Directive explicitly mentions the subject of internal controls but does not provide in-depth provisions on it. Therefore this project will be explored both in the context of a possible review of the IORP Directive (as regards internal controls) and as a matter of mutual and general interest (for the remaining part of the analysis, especially the internal governance section).

In brief, this questionnaire has the following objectives:

1. To carry out a fact finding exercise regarding the rules/requirements for management oversight and internal controls that are currently in place, and how are they implemented (through regulations, issuance of best practices / guidelines or other) in each Member State;
2. To obtain the overview of arrangements and procedures set up by the IORPs to control and monitor their administrative and management duties and use this fact finding exercise to identify the similarities and differences of the internal control systems developed for IORPs in the different Member States;
3. To gather information if, and how, each Supervisory Authority performs the supervision of these rules/requirements.
4. To summarize the trends on management oversight and internal controls practices based on the information gathered and the analysis made on the three prior objectives.

In order to collect information necessary for achieving the objectives of the survey, a questionnaire covering the above mentioned aspects was prepared. Both the questionnaire and this report were drafted by a workstream sub-group of the CEIOPS' Occupational Pensions Committee comprised of:

- Czech Republic (Jan Dezort)
- Latvia (Ieva Ose)
- Norway (Ragnhild Wiborg)
- Portugal (João Ferreira)
- Spain (Mercedes Buigues)

I.3. Responding countries

On 24 February 2010, the questionnaire was sent to all 30 CEIOPS members and observers. Replies from 24 countries were received. The responding countries include: Austria, Belgium, Bulgaria, Czech Republic, Germany, Estonia, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg (Commissariat Aux Assurances - CAA), Malta, The Netherlands, Norway, Poland, Portugal, Romania, Slovenia (Insurance Supervision Agency), Slovakia, Spain, Sweden and United Kingdom.

Countries not considered and other considerations

The Czech Republic noted that while foreign IORPs can operate on its territory in accordance with the Directive, it is not possible to set up an IORP in the Czech Republic. Therefore the Czech Republic was not able to supply relevant information necessary for this report.

The Estonian Financial Supervisory Authority also stated there were no IORPs in Estonia thus they were not in a position to answer the questionnaire.

France is not included in the report because it specifically applies to institutions subject to the IORP directive, whereas the corresponding "activity" in France is performed by insurance entities subject to insurance directives.

Malta, Hungary and Lithuania reported that although they had established the IORPs legal framework in their jurisdictions they did not have IORPs operating yet. As a consequence their answers were included in Section II.3 and II.4 of this report but not on Section II.5 since they had no supervisory practices until date.

The answers for Slovenia refer only to the IORPs² supervised by the Slovenian Insurance Supervision Agency (ISA). Please note that there are also IORPs of the mutual pension fund type supervised by the Securities Market Agency.

Responding countries often included some remarks, comments or made certain qualifications when answering the questions in the survey. These are reproduced in this report only when necessary in order to explain some of the findings. Otherwise, this report is limited to providing an overview of main results.

Context of findings

The findings stated in this report reflect the situation as of September 2010.

² The IORPs supervised by the Slovenian ISA have legal personality.

II. Outline of findings

II.1. Interpretation of the findings

This introductory section is meant to give readers a summary overview of how the report should be read in order to guarantee a consistency on the interpretations of the results. Therefore, when reading this report, readers should have in mind the following aspects:

- Clarification of the term “rules”: in the context of this report the word “rules” means any sort of requirements independently of how they are set so it has a wider meaning than strictly legislation or regulation as it also encompasses rules in the form of guidelines, standards of practice, best practices or other non-binding format;
- Clarification of “existence of rules/requirements”: according to the performed survey the questions were made on the basis of whether or not each MS and Observer had rules/requirements that addressed each of the items identified. The corollary of this is that if a MS and Observer does not have rules on a specific item (from the list of items identified regarding to management oversight and internal controls) that does not necessarily mean that item is not addressed at all because it could be included on a wider concept of rules that IORPs need to establish – as it may be implicit on a wider requirement but not directly described. Example regarding item C.4-Conflicts of interest: there might be general rules/requirements about the elimination of conflicts of interest without addressing any of the four items listed.
- Clarification of “supervisory practices”: supervision of the rules/requirements can be achieved via regular reporting and/or inspections and/or through less regular reporting and/or on an ad hoc basis where a risk is highlighted as a concern to the supervisor. The answers in this survey regarding supervision are not explicit to which approaches are adopted in Member States.
- Please note that the report makes references to the questionnaire structure – section C (Management oversight and risk culture), section D (Internal controls) and section E (Supervisory practices on management oversight and Internal controls), whereas section A devoted to MS identification and details and Section B related to Overall rationale of MOIC.

II.2. Rationale on Management Oversight and Internal Controls rules/requirements

This section of the survey aimed to get an overview of the regulatory and supervisory approach towards management oversight and internal controls. The purpose is to verify each MS approach, whether on regulatory measures or on the supervisory processes and how are they linked with the IORPs legal form (presented in brackets right after each country’s name).

Austria (IORP with legal personality):

Internal Controls are mostly regulated in the Pension Company Act and taking into account that Austrian Pension Companies are Stock Companies also the stock act rules apply. An Internal Audit has to be installed - regulated in the Austrian Pension Company Act and Internals Controls in the Asset Management and Risk Management are derived from the Risk Management Regulation passed by the Financial Market Authority (FMA) as well as from the Pension Company Act. A standard compliance code was developed by the industry together with the FMA for pension companies.

Belgium (IORP with legal personality):

The Belgian regulatory framework is based on the prudent person approach with almost no quantitative rules but with extensive qualitative rules regarding governance in general and investments specifically.

The framework is flexible with regards to: the organisational structure the IORP can take (although only one legal form is allowed), the pension schemes that can be managed (DB, DC, mixed, hybrid, single/multi-employer/industry-wide) and the calculation of technical provisions (for example, no predetermined interest rate).

The regulatory framework follows a risk-based approach regarding the solvency requirements and the supervisory approach.

Bulgaria (IORP with legal personality):

Regarding the management oversight the Bulgarian legislation has introduced fit and proper requirements to the members of the IORPs management body³. In order to ensure internal control of the IORP, legislation⁴ was introduced obliging the IORP to establish an internal control unit. The General Shareholders Meeting adopts the rules of the operation of the unit. Certain ordinances of the FSC prescribe specific obligations to the internal control unit. The rules and the activity of the internal control unit are monitored during onsite inspections.

The Law on the Independent Financial Audit also requires the companies, operating in public interest to establish an Audit Committee that monitors the financial reporting in the company, its external auditing and the efficiency of the internal control and risk management systems.

Germany (IORP with legal personality):

In Germany, IORPs are legally separated entities which take in general the legal form of joint-stock companies or mutual insurance (Pensionskassen) / pension fund (Pensionsfonds) associations and are only permitted to operate DB schemes.

According to the legislation⁵ IORPs must have a proper business organisation which ensures compliance with the applicable laws and regulations and the supervisory requirements. The Managing Board is responsible for ensuring that the IORP has a proper business organisation in place. In addition to sound administrative and accounting procedures appropriate to the IORPs business operations, a prerequisite for a proper business organisation is, in particular, an appropriate risk management.

This requires inter alia organisational and operational rules which must ensure that the significant processes are monitored and controlled, the establishment of an appropriate internal management and control system and an internal audit system.

The Supervisory Authority has issued Minimum Requirements for Risk Management in Insurance Undertakings⁶ which details the relevant legislation⁵.

Hungary (IORP with legal personality):

In Hungary the legal structure of the IORP is joint stock company, and the legislation focuses on the fit & proper rules on the management board, the obligation to have supervisory board, the role of the internal auditor and the control of outsourced activities.

The focus of the current framework is on the legislation because there are no IORPs yet there is also no practical supervisory experience.

³ Contained in Art. 121e of the Social Insurance Code (SIC).

⁴ Art.123f of the SIC.

⁵ Section 64a of the Insurance Supervision Act (Versicherungsaufsichtsgesetz).

⁶ BaFin's Circular 3/2009 (VA)

Ireland (IORP without legal personality – trust based):

The overall rationale is very much driven by the legal form of the IORPs, the trust model applies. A great deal of reliance is placed on the applicability of trust law to the IORPs, e.g. the trustees (who are responsible for the management of the IORP) must act at all times in the interests of the members. If they fail in this duty, they can be sued by the members.

With this background, the approach taken on management oversight and internal controls is a regulatory one: there are certain actions and disclosures that the trustees are obliged to make.

Within this framework, as long as the IORP satisfies certain requirements (e.g., disclosures, investment regulations) the IORP is free to manage its own affairs in whatever manner it chooses, subject to the IORP being managed in the best interests of the members. In practice, this means that very large IORPs form sub-committees such as audit sub-committee, whereas smaller IORPs will not have this type of internal management structure.

Italy (IORP with legal personality):

The Supervisory authority – COVIP – issued rules regarding the organization and internal control of contractual pension funds. They provide qualitative rules establishing general principles and set that the internal controls have to check the compliance of the IORP activities with legislative and regulatory rules as well as with internal rules. The rules set by COVIP specify the main areas to be particularly supervised.

As pension funds outsource several activities⁷, guidelines devote particular attention to the internal organization and to the procedures put in place by the IORP to guarantee that it is able to coordinate and control all activities, especially those outsourced. The internal control function might be performed by an internal body which is independent with respect to other governing bodies or it might be outsourced to qualified third parties. The final responsibility rests with the managing board of the contractual pension fund. In case of breaches, the responsible of the internal control has to report to the governing bodies. An annual report on internal controls has to be submitted to governing bodies and to COVIP, indicating the main issues found and solutions suggested.

Latvia (IORP with legal personality):

Latvian approach is based on regulatory measures and supervisory processes. In terms of legal form, IORPs are separate legal entities and the legislation provides for mandatory appointment of external asset manager and custodian.

Liechtenstein (IORP with legal personality):

In the context of the approval process the Financial Market Authority Liechtenstein considers different aspects such as risk management, internal instructions/controls etc.

Lithuania (IORP with legal personality):

There are no IORPs established in Lithuania yet. At the moment conditions for organisation of the activity of occupational pensions accumulation are already

⁷ According to the legislation, contractual pension funds must outsource some activities (asset management, custodian of assets) to professional third parties while other activities (e.g. administrative and accountancy activities) are usually outsourced, even if there is no legal obligation to do so. The IORP, which keeps the final responsibility of outsourced activities, has to intervene in the case of inadequacy of the service outsourced, monitors the outsourced activities (periodic report, meetings).

regulated by the Law⁸, which essentially transposes the provisions of the Directive 2003/41/EC, and by some secondary legislation (i.e. regulations that generally stipulate the conditions related to the establishment of IORPs). The rules on management oversight and internal controls are not actually detailed. Therefore, the majority of Lithuanian requirements regarding the subject under discussion stems from the primary legislation.

Luxembourg (IORP with legal personality):

Luxembourg's approach is based on regulatory measures and the supervisory process, independently of the legal form. The legal form of IORPs under the supervision of Commissariat aux Assurances is established in the legislation⁹. Pension funds with legal forms ASSEP and SEPCAV are under the supervision of CSSF.

Malta (IORP without legal personality – trust based):

In Malta, the core principles are contained in the primary and secondary legislation while details on the conduct of business and prudential regulation are contained in binding Regulations issued by the Malta Financial Services Authority. This, notwithstanding the primary legislation gives the competent authority the power to impose any binding supervisory requirements on regulated entities in terms of the Maltese Pensions legislation.

The Netherlands (IORP with legal personality)

In the Netherlands, pension funds are legally separated, independent entities, usually in the form of a foundation. The regulatory framework is based on the prudent person approach with no quantitative rules (apart from the IORP Directive's limits on investments in the plan sponsor), but with qualitative rules regarding governance, investments etc. Within this (risk-based) framework, a pension fund is free to manage its own affairs in the manner they choose themselves, and supervision aims to check whether the pension fund meets the minimum legal requirements. The purpose of the regulation is to improve the institutions' risk management and internal controls, by focusing on the responsibilities of the pension fund board.

Norway (IORP with legal personality):

Norwegian IORPs are separate legal entities. Apart from one they are foundations providing DB pension schemes and therefore regulated with few exceptions the same way as life insurance companies. A regulation¹⁰ on Risk Management and Internal Control was laid down by Finanstilsynet. The regulations apply to (nearly) all institutions under supervision, including i.e. insurance intermediaries and real estate agents. The regulation also covers "management oversight". The purpose of the regulation is to improve the institutions' risk management and internal control by elaborating on the responsibilities the board of directors and management have. The regulations and the guidelines issued by Finanstilsynet (a Circular) are general in nature and provide guidance on what Finanstilsynet will emphasise in its on-site supervision.

In addition to the regulation, "management oversight, risk management and internal controls" is also covered in the risk modules based on solvency II directive. The risk modules represent non-binding supervisory guidance. They

⁸ Law on the Accumulation of Occupational Pensions.

⁹ Amended regulation of 30 August 2000 on pension funds under supervision of Commissariat aux Assurances

¹⁰ Regulation no. 1080 of 22 September 2008.

are now used as tools on on-site inspection together with the regulation on risk management and internal controls.

Finanstilsynet has also put in place specific regulations for the institutions' use of information technology through: 'Regulation on use of information and communication technology (ICT)'. To supervise compliance with the regulation, Finanstilsynet uses a method based on Control Objectives for Information and related Technology (COBIT)¹¹.

Finanstilsynet applies a risk-based supervisory methodology based on international supervisory standards. On-site inspection is based on the use of risk modules, which are a framework for determining risks and risk level in the entity and the entity's management and control of risks.

A module for overall governance and control is also available on Finanstilsynet's web page with information for Norwegian pension funds. The module is based on CEBS "Guidelines on Internal Governance". It covers issues that are neither explicitly covered in the regulation on Risk Management and Internal Control nor the belonging Circular (like capital planning, fit and proper requirements for key personnel, conflict of interests, performance measures and ethical standards).

Poland (IORP with legal personality):

In Poland, IORPs are of defined contribution nature only (pure DC plans). Requirements regarding this kind of plans are not perceived as strictly as with reference to DB plans in relation to risk management framework. Polish IORPs have in place some legal aspects of management oversight and culture however most measures are enforced by occupational pension societies who manage occupational pension funds exclusively on voluntary basis rather than via binding legislative or supervisory measures. Additionally, Polish Financial Supervision Authority (PFSA) is working on the risk management supervisory system as an additional supervisory measure in relation to supervising entities. During the licensing process the PFSA, as a preventive supervision measure, requires that an occupational pension society must establish an internal control system.

Portugal (IORP without legal personality – contract based, pool of assets):

In terms of legal framework, Portuguese IORPs are of the contractual form which means they do not have a legal personality and are a segregated pool of assets managed by an external governing body (the Pension Fund Managing Entity - PFME).

Members and beneficiaries of the IORP have a contractual claim against the pension scheme assets under the management of the PFME.

In this context Portuguese IORPs are run by a professional body, belonging to the PFME, who have the responsibilities of administrative and financial management of the IORP. In performing their duties, the PFME should act independently and in the exclusive interest of members, beneficiaries and plan sponsors.

The management oversight, internal controls and the risk management rules applicable to IORPs (which were regulated in 2009 and are due to be implemented until the end of 2010) were derived from the equivalent rules established to the insurance sector in 2005 taking into account the specificities of the pension fund business model.

¹¹ Which is an international framework describing best practices for IT. The method is process-based, and we have among others developed modules with detailed questionnaires for selected processes.

These governance rules (management oversight, internal controls and risk management) are imposed on the PFME and not on the IORPs, since it's the PFME who have legal personality.

The regulations issued by the Supervisory Authority establish high level requirements and define the responsibilities and accountability regarding the matter under discussion however they do not prescribe how those requirements should be met. Following the approach taken regarding the insurance sector, these regulations are going to be complemented with the issuance of technical standards (that should be applied following a "comply or explain" approach), and are due to be launched by the end of 2010.

As the risk management and internal controls regulations were issued in mid 2009 and are due to be implemented by the end of 2010, we do not have yet practical experience on the supervision of some of these matters therefore some of the issues supervisory practices are based on our expectation of how are we going to supervise it.

Romania (IORP without legal personality):

Romanian private pension system started to operate in 2007 and the supervisory approach is a rule based one. In 2010 CSSPP intends to implement a consistent regulatory framework regarding internal control and risk management as a first step for implementing a risk based approach on medium term. As a result, some of the issues discussed in this report are not applicable to our system, as they address risk based supervision in a more mature market.

Slovenia (only IORP with legal personality):

According to the Slovenian legislation, members of the board have to ensure, that IORP operates in accordance with the rules on risk management and with all legislation regulating operation of IORP.

Members of the board are obliged to ensure the monitoring of risks to which the operations of the IORP are exposed. They also have to adopt adequate measures designed to manage the mentioned risks.

Members of the board have to set-up an internal control system in all the areas of the IORPs operations and internal audit and ensure that they operate according to relevant legislation. They are also obliged to ensure that the IORP keeps its books of account and other records and business documentation, drafts book-keeping documents, values book items, compiles accounting and other reports, and reports to the Insurance Supervision Agency pursuant to legislation.

Slovakia (IORP with legal personality):

The private pension system was established in 1996 and significantly reformed in 2004. Therefore the regulation is quite modern and follows the global general trends. The rules are inspired mostly by UCITS Directive.

All five IORPs in Slovakia are single purpose entities dealing solely with management of pension assets. The system is mixed in nature, i.e. personal for most members, occupational for small amount of members. Since there are quite high barriers of entry into this market¹² most IORPs are subsidiaries of large financial groups. The primary legislation is very prescriptive and imposes quite strict and precise rules on IORPs.

The management board of the IOPRP has fiduciary duties towards members and beneficiaries. The directors and the IORP itself must act independently and in the best interest of members and beneficiaries. Board has to establish an

¹² E.g. minimum initial capital of 1 650 000 EUR, strict fit & proper requirements for management and key staff.

effective internal control and risk management systems. The legislation prescribes quantitative and qualitative investment limits.

Spain (IORP without legal personality – contract based, pool of assets):

In Spain, the pension system is composed by pension funds without legal personality so they are managed by pension fund managing entities. These entities have the responsibility to act in the best interest of members and beneficiaries of pension funds. In order to work properly, they have to comply with several rules in different aspects.

Due to the fact that the pension funds do not have legal personality, the obligations related to management oversight and internal control are imposed to managing entities.

In the law¹³ there are some general rules about responsibility (for instance, the separation of responsibility between managing and custody entities) and the composition of the managing board of the managing entities, but the rules connected with internal controls and management oversight are established in the regulation of pension plans and funds¹⁴. The regulation is relatively new and 2008 was the first time that some of these rules were in force. For example, it is compulsory to send every year a report about the effectiveness of internal control procedures where they have to inform about detected problems, their implications and suggesting the measures to correct them. 2009 was the first time the Spanish supervisor received it.

Sweden (IORP with legal personality):

In Sweden the IORP Directive is applicable to friendly societies and insurance companies with occupational pensions business. The approach in relation to management oversight and internal controls may therefore sometimes differ between these two legal forms of IORPs. Sweden's overall measures towards management oversight and internal controls are both in relation to regulation and supervision. The regulation concerning this area is often mostly principle based, without very much detail in different specific aspects.

UK (IORP without legal personality – trust based):

Specific legislation¹⁵ in the UK was implemented that gave effect to the requirement under Article 14(1) of the IORP Directive that schemes should have adequate internal control mechanisms in place. There is therefore a legal requirement that trustees of an occupational pension scheme must establish and operate adequate internal controls.

The ultimate responsibility for this rests with the trustees who have a legal duty to act in the best interests of the members. To assist them with complying with this requirement, The Pensions Regulator (TPR) has issued a code of practice and accompanying guidance. These set out processes and controls that the regulator would consider to be adequate for the purpose of satisfying the legal requirement. It is not the intention to provide a prescriptive list of rules and good governance will depend on the behaviours and culture of the trustee board and employer.

However, revised guidance was issued in June 2010 which went beyond the high level view in the previous version providing further detail and support focusing on key risk areas. It is intended to provide practical guidance on for the purposes of satisfying the legal requirement for adequate controls to be in place.

Where the failure to operate adequate internal controls is deemed to be materially significant, for example where the design or absence of a control could result in a persistent underpayment of benefits, the Regulator expects to be notified under

¹³ RDL 1/2002.

¹⁴ RD 304/2004 modified by the R.D. 1684/2007.

¹⁵ Section 249A of the Pensions Act 2004.

the whistleblowing framework. Also, a number of notifiable events exist where a report to the regulator is required.

The answers given in this report relate to the main areas where TPR has highlighted that suitable internal controls would likely be appropriate.

II.3. Overview of the management oversight and risk culture rules/requirements applicable to IORPs, their existence and implementation

Management oversight and a control culture are a vital part of a functioning risk-management framework. The governing board of the pension fund is responsible for defining, implementing and improving the pension fund’s risk management strategy and systems, and for establishing and highly ethical standard throughout the organisation.

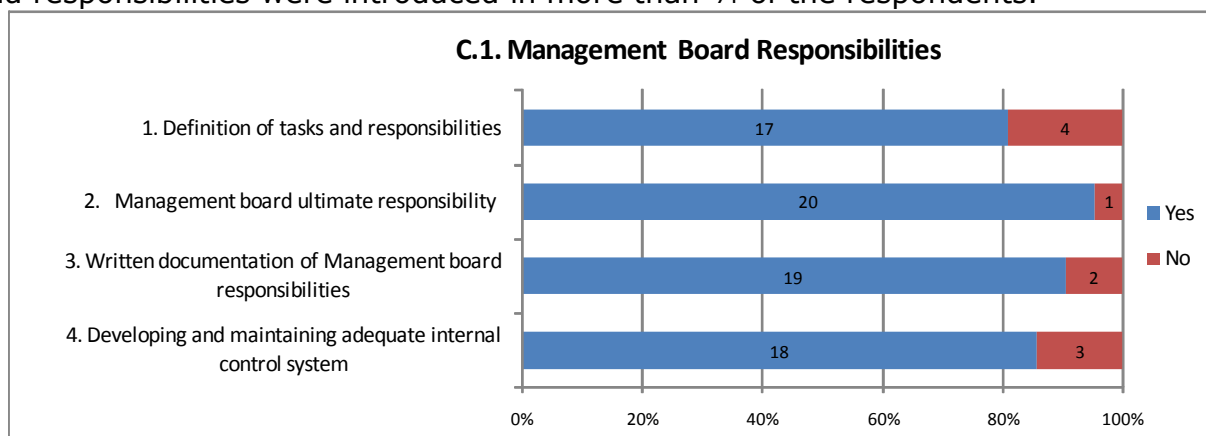
OECD “Pension Funds’ Risk Management framework: regulation and supervisory oversight”

Countries were asked to identify, from a list of issues, whether or not their legal framework provided specific management oversight and risk culture (MORC) rules/requirements.

Existence of management oversight and risk culture rules/requirements

The following graphs show the results from a YES / NO perspective on the existence of those specific management oversight and risk culture (MORC) rules/requirements.

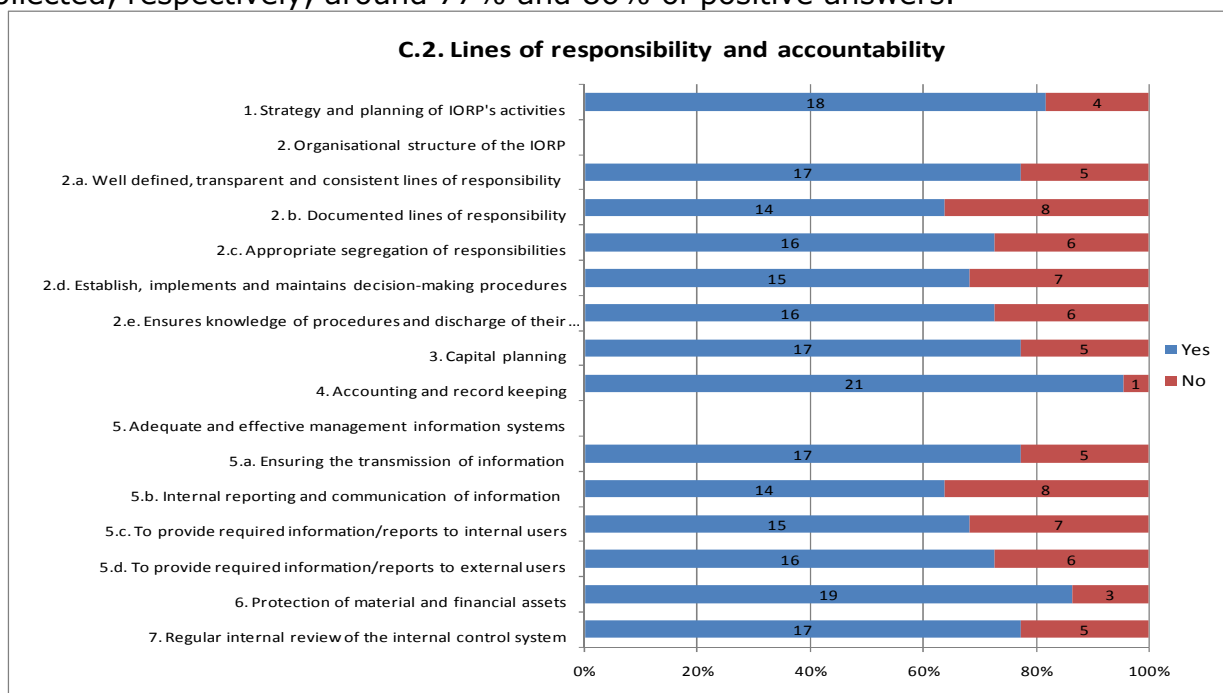
From the Management Board Responsibilities (C.1) perspective the overall results show that, on average of the 4 subtopics, a very significant percentage (over 88%) of respondents has implemented these requirements. The majority of MS and Observers have rules/requirements establishing the ultimate responsibility of the Management Board (95%) and have required the written documentation of the Management Board responsibilities (90%). Requirements regarding the definition of the allocation of tasks and responsibilities were introduced in more than ¾ of the respondents.



Bulgaria has noted that in respect of the “Definition of tasks and responsibilities” (subtopic 1) the Management Board has to adopt internal rules for its activity while **Lithuania** clarified on subtopic 4 “Developing and maintaining adequate internal control system” that according to the Law the obligation to have adequate internal control system is attributed to an IORP (not to the competence of the Management Board). Pension funds in **Luxembourg** are all of the form of non-profit making organisations, managed by external pension fund managers therefore the provisions on Management Board responsibilities should be in place at the level of the pension

fund manager. **Malta** was not in a position to provide a reply on this topic given that IORPs in Malta do not have a distinct legal personality, and the Retirement Scheme Administrator undertakes responsibility for the operation of the Scheme. For subtopics 1 and 4, the Insurance legislation in **Norway**, that also contains rules regarding pension funds, states that the board of directors shall arrange for proper organisation of the activity, including internal control systems and shall ensure that written guidelines in regard to proper asset management exist at all times and must be reviewed at least once a year. **Poland** reported that despite non-binding regulations in this scope, most IORPs usually have documentations mentioned in subtopics 1, 3 and 4. In **Portugal**, for subtopic 3, the requirements on the written documentation also focus on the execution / fulfilment of the Management Board's competences / responsibilities (e.g., written evidence that the Management Board is fulfilling its duties like Management Boards minutes, emails...).

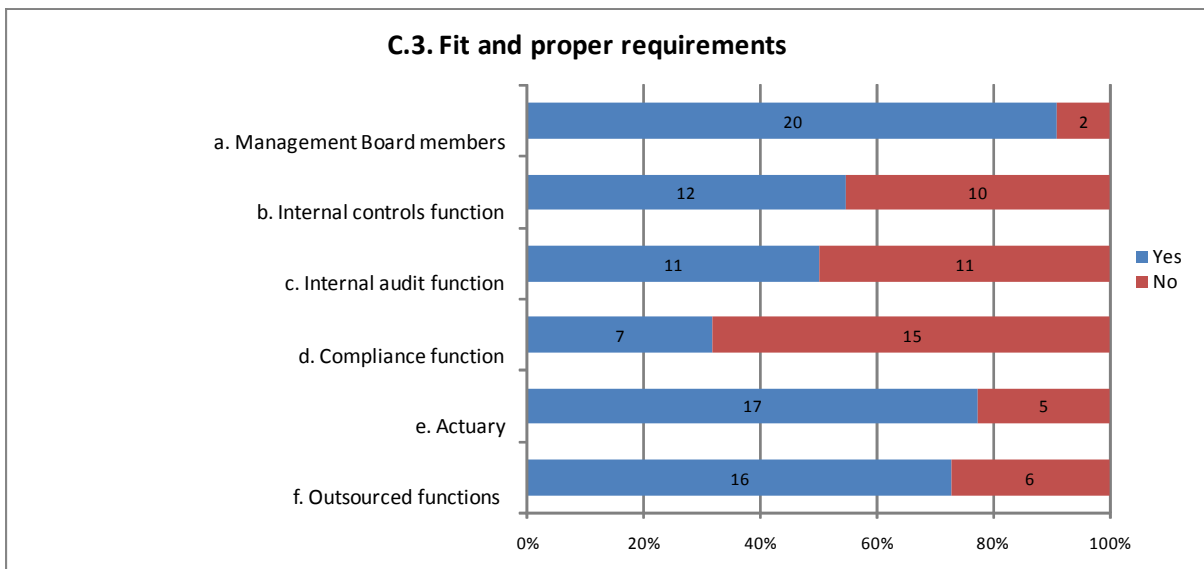
Regarding the lines of responsibility and accountability (C.2) the average of positive answers on the several topics identified is around 75%. The existence of rules/requirements that explicitly establish the responsibility and accountability of the strategy and planning of the IORPs activities exceeds 80% of the respondents while in terms of organisational structure the item with less positive answers was the rules/requirements on documented lines of responsibility, a little below 65%. The definition of lines of responsibility and accountability on capital planning and accounting and record keeping have had high degree of positive answers, 17 and 21 respectively. Respondents also gave around 70% of positive answers on the accountability and definition of responsibility concerning the adequacy and effectiveness of management information systems while the items protection of material and financial assets and regular internal review of the internal control system collected, respectively, around 77% and 86% of positive answers.



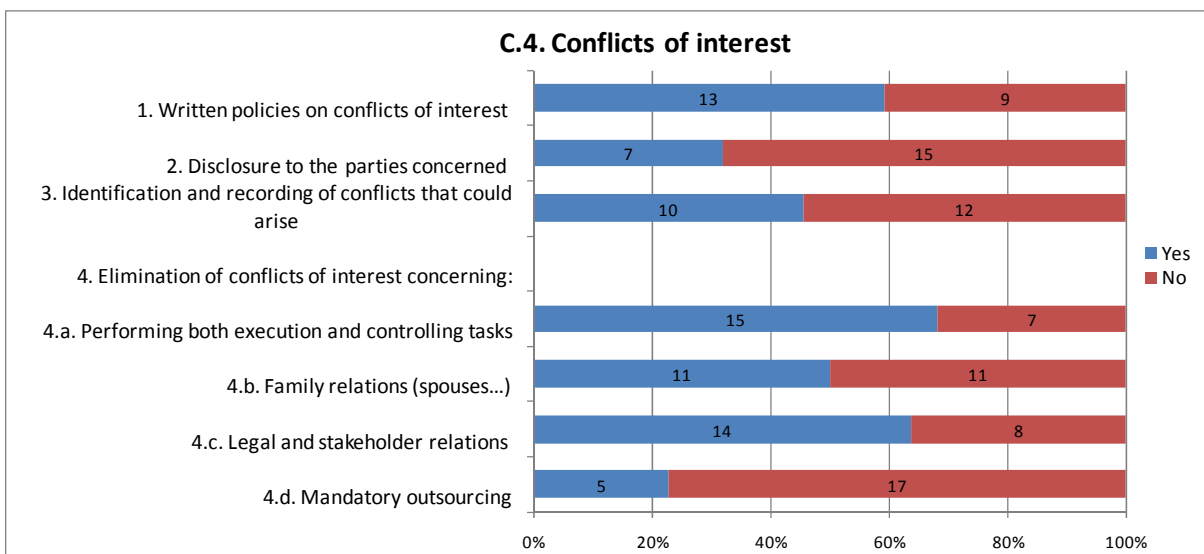
On subtopic 2.c "Appropriate segregation of responsibilities" **Bulgaria** clarified that the segregation of responsibilities are established in the internal rules of the IORP. In **Ireland** subtopic 2.c is mainly achieved through the appointment of an administrator by the trustees, although the trustees can self-certify their capability and competence to take on this role themselves if they feel they are in a position to perform these duties. Pension funds in **Luxembourg** are all of the form of non profit making organisations, managed by external pension fund managers therefore the provisions

on Management Board responsibilities should be in place at the level of the pension fund manager.

The existence of rules/requirements in respect of fit and proper requirements are quite diverse, with the Management board members being the group of people who collected more positive answers (20) followed by the actuary (17) and outsourced functions (16) while the compliance function is in the other extreme with only 7 positive answers (**BE, BG, DE, ES, LV, MT** and **PT**). Please note that compliance function only exists in 12 jurisdictions (please see Part D.2 on the next section). The results regarding fit and proper requirements on the outsourced function was slightly higher than 2/3 which reflects the concern from MS and Observers in imposing quality standards for the outsourcing of functions.



Norway reported that their "non-binding supervisory guidance" on risk modules defend the management should/ought to ensure that the institution has personnel with sufficient competence to manage and control the actual risks. **Romania** and **Slovakia** stated that for the time being the compliance function is ensured by the internal control. For the purpose of this section the **UK** clarified that the Management Board Members should be interpreted as trustees.



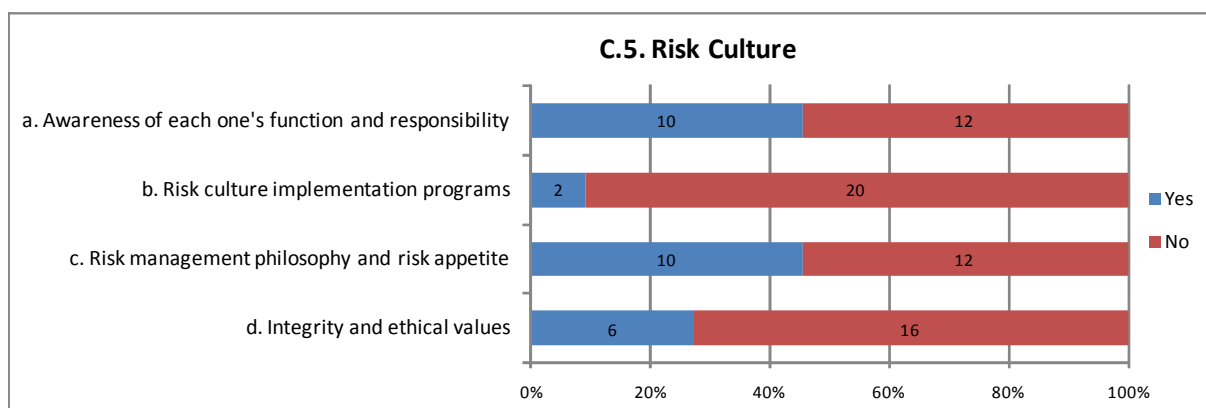
In overall terms, and comparing to the above topics under the Management Oversight and Risk Culture section, one can conclude that for the identified subtopics on conflicts of interest there is not a very high level of existence of rules/requirements – on average for all subtopics the percentage of positive answers is around 50%.

Almost 60% (13 positive answers) of MS and Observers responded they had rules/requirements to explicitly draft policies on conflicts of interest but on the other hand only 7 of them (**BE, DE, IT, MT, NL, RO** and **UK**) had rules on the disclosure of these conflicts to the parties concerned. As for rules/requirements for the elimination of conflicts of interest over 68% of respondents answered they had policies to address situations where the same person or structure is performing both execution and controlling tasks which contrast with only 23% having requirements to address the elimination of conflicts in mandatory outsourcing issues.

In **Lithuania**, the Law envisages only that an IORP must try to avoid conflicts of interests and, in the case it is not possible to avoid them, ensure fair treatment of the participants. The regulations in **Malta** stipulate that there should be procedures in place which ensure that staff conduct business openly, fairly and in compliance with the rules and regulations, avoiding conflicts of interest and avoiding any undisclosed or improper benefit to staff but do not provide any detail on family relations. The **Norwegian** law in this regard states that “The company shall have in place guidelines for asset selection and portfolio change designed to avert conflicts of interest arising between clients and client groups or between clients and the company. In the event of a conflict of interest between clients and the company, client interests shall take precedence.”

As for what concerns risk culture the level of existence of rules/requirements was relatively below the level of positive answers in the above mentioned topics, with only 34% on average for the four subtopics.

Out of 22 countries 10 have responded affirmatively to the existence of rules/requirements about risk management philosophy and risk appetite and to the “awareness of each one’s function and responsibility” while only 2 of them (**DE** and **PT**) have established rules about “risk culture implementation programs” and 6 (**BE, BG, DE, ES, NL** and **PT**) have implemented requirements that specifically addressed “integrity and ethical values”.



Bulgaria noted the Supervisory Authority had always tried to promote integrity and ethical values amongst the supervised entities, for instance by encouraging them to comply with the CFA Code of Conduct for Members of a Pension Scheme Governing Body. The risk management rules in **Germany** require an adequate risk culture within the undertaking, which heightens the risk awareness of all employees involved with risks, creates sufficient risk transparency and promotes internal dialogue on risk management issues. It is further clarified that for the Supervisory Authority, risk

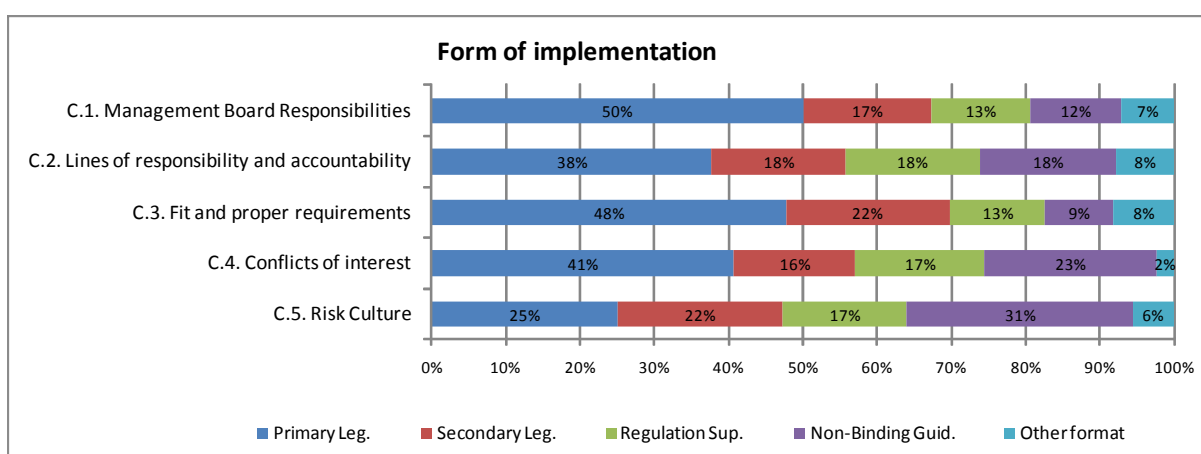
culture refers to the way in which undertaking-specific risks are dealt with. In this respect, risk culture is shaped by the relevant corporate culture. The decisive factor is that the undertaking-specific risk culture is systematically established and actually practiced from the top level down. A significant component of such a risk culture is the communication of risks. For example, part of a practiced risk culture is also the creation of incentive systems for reporting claims/losses or the appointment of a risk officer to whom claims/losses can be (anonymously) reported. In addition, a practiced risk culture ensures quick adjustment to changed framework conditions thus preventing or limiting risks before they arise. In **Portugal**, the rules regarding risk culture establish that the organizational culture of the Pension Fund Managing Entities should guarantee the recognition of the importance of a risk management and internal controls in order to ensure a prudent and sound management of the IORPs. The rules then impose the responsibilities for the implementation of such requirements on the Management Board and senior management, without imposing any specific type of implementation.

Form of implementation of management oversight and risk culture rules/requirements

For each of the items presented in the graphs above MS and Observers were also required to answer, in case they responded positively to question on the existence of rules/requirements, how they were implemented. The list of implementation mechanisms from which they were to choose was:

- Primary legislation (by Law, issued by the Government);
- Secondary legislation (issued by the Government);
- Regulation issued by Supervisory Authorities;
- Non-binding supervisory guidance (standards of practice and guidelines);
- Other format.

Regarding the form of implementation of the management oversight and risk culture rules/requirements, the graph below presents the results. Detailed information on the form of the implementation for each rule per country can also be found in the tables in Annex IV.1.



Primary Legislation was by far the most used mean to implement rules/requirements on Management Oversight and Culture with the only exception the Risk Culture item in which the main implementation method was Non-binding Guidance. The three other means, Secondary Legislation, Regulation issued by Supervisors and Non-binding Guidance, were used more or less evenly in terms of form of implementation with a slight predominance of the latter.

Primary legislation was used in around 50% of the cases for the establishment of rules/requirements on Management Board Responsibilities and Fit and Proper Requirements. Non-binding Guidance was used significantly as a form of implementation of the rules/requirements for the issues of Conflicts of Interest and the above mentioned Risk Culture.

A more detailed analysis on the form of implementation for the subtopics shows that Primary Legislation is the means used to implement fit and proper requirements of the Management Board Members and outsourced functions in, respectively, 66% and 60% of the countries (C.3). As for fit and proper of the compliance function (C.3) none of the MS and Observers used Primary Legislation to establish the rules/requirements, instead regulation issued by supervisors, Non-Binding Guidance and other formats were used to do so.

As for the conflicts of interest item (C.4), Primary Legislation is used significantly for establishing rules/requirements on written policies of conflicts of interest (44%) and on the elimination of conflicts of interest (53% in average for all 4 subtopics) but has low relevance on disclosure to the parties concerned (where Regulation Issued by the Supervisor has 40% of answers) and identification and recording of conflicts that could arise.

As for the Other Format answers received from MS and Observers they comprised of:

- Internal rules of the IORP (**Bulgaria**);
- Pension fund manager statutes (**Liechtenstein**);
- Circular letters, interpreting primary and secondary legislation which is binding supervisory guidance (**Luxembourg**);
- Principles of pension fund governance issued by the Social partners (**The Netherlands**);
- Licensing process (**Poland**), and;
- Non-binding supervisory guidance that must be followed by the undertakings on a "comply or explain" basis (**Sweden**).

II.4. Overview of the internal controls rules/requirements applicable to IORPs, their existence and implementation

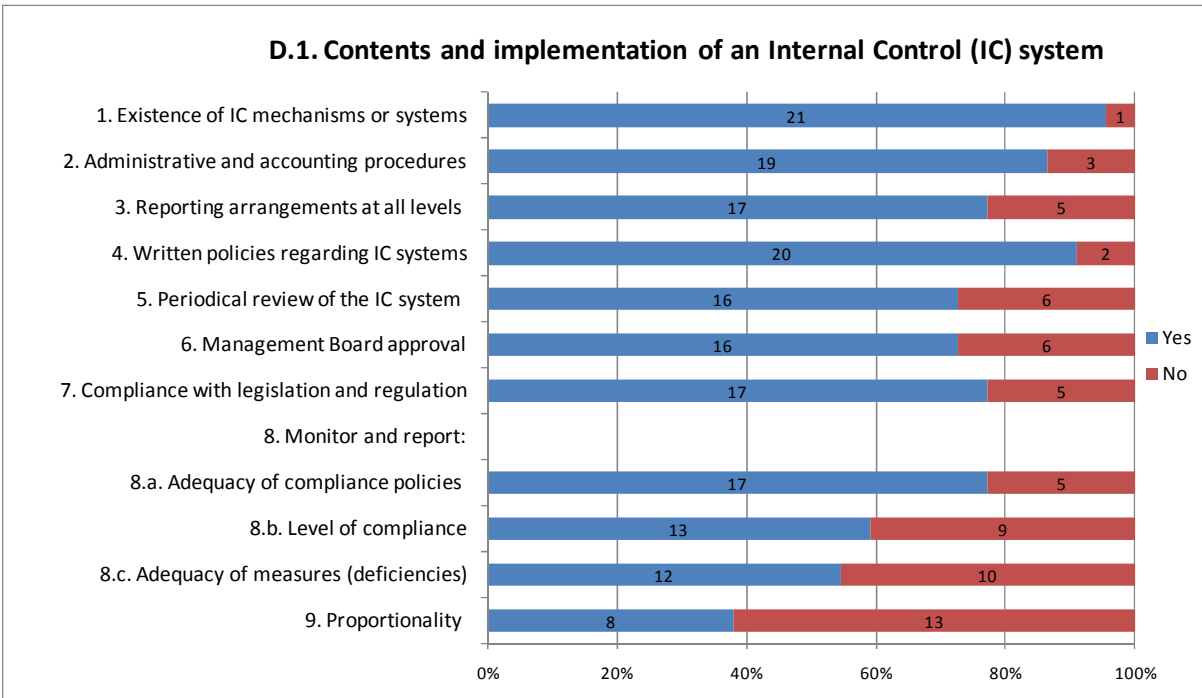
At the heart of any risk-management framework are the control mechanisms – both internal and external. These should operate at every level and be an integral part of daily activities, at the top management level, as well as within each department – comprising of physical controls, checking for compliance with exposure limits, as well as systems for verification and reconciliation etc.

OECD "Pension Funds' Risk Management framework: regulation and supervisory oversight"

Countries were asked to identify, from a list of issues, whether or not their legal framework provided specific internal controls (IC) rules/requirements.

Existence of internal controls rules/requirements

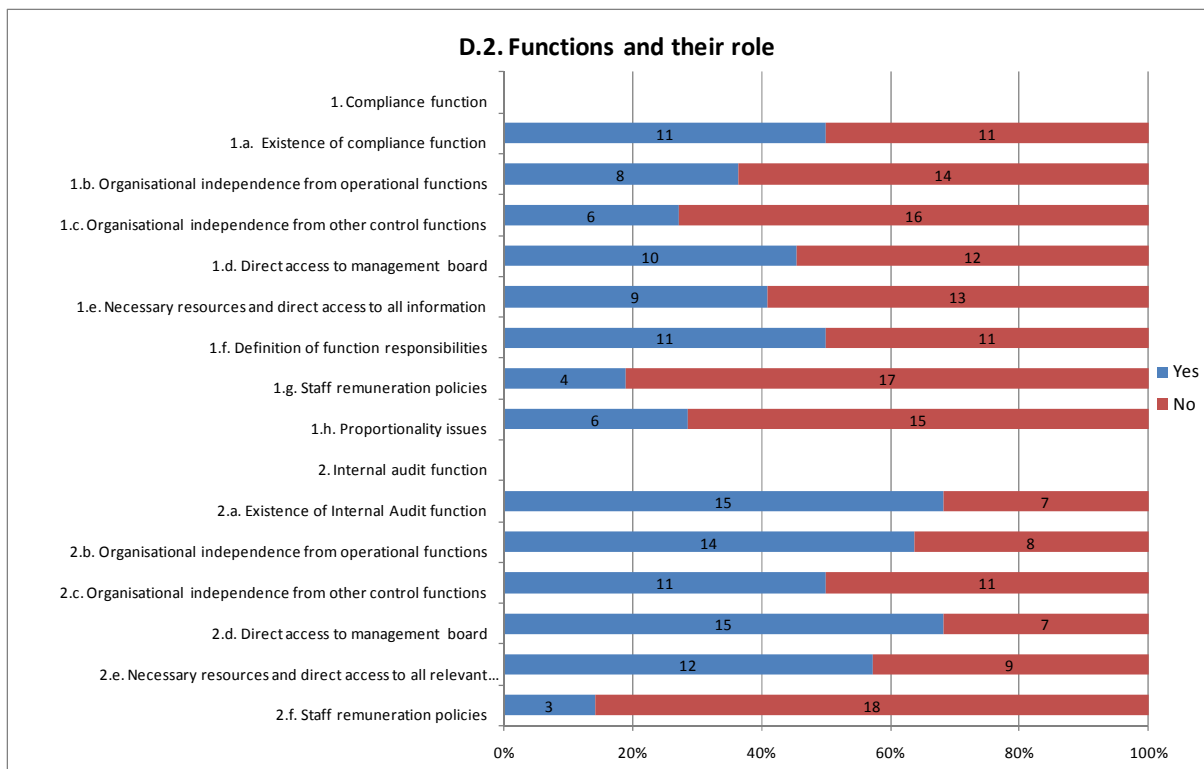
The following graphs show the results from a YES / NO perspective on the existence of those specific internal controls rules/requirements.



Countries were asked to identify contents and ways of implementation of an Internal Control (IC) system. The vast majority of responding MS and Observers has rules/requirements establishing the existence of IC mechanisms or systems including written policies regarding IC systems. Establishment of sound administrative and accounting procedures in the context of IC mechanisms or systems, as well as appropriate reporting arrangements is also a common practise implemented by most MS and Observers. The same applies to other components which were subject to the questionnaire: the periodical review of the IC system which is conducted in most MS and Observers (72%), the requirement of approval by the Management Board (72%) and existence of policies, systems or plans to ensure compliance with legislation and regulation (77%).

Rules/requirements on monitoring adequacy of compliance policies and procedures are applied in most MS and Observers (77%). The level of compliance is monitored by more than half of the respondents (59%), while the focus on “adequacy and effectiveness of measures taken to address any deficiencies in compliance policies and procedures” is less common (these requirements were reported by 54% of respondents).

Rules on proportionality of IC system components to the nature scale and complexity of the operations and activities were present in only 38% of responding jurisdictions (8 members).



Half the respondents have rules/requirements on existence of the compliance function and approximately 70% of respondents have rules/requirements on existence of the internal audit function.

Slovakia reported that their legislation does not distinguish between internal control, internal audit and compliance. It prescribes detailed rules merely with respect to internal control function. However, in practice, all IORPs do have an internal audit and compliance functions due to self-regulation as they are parts of larger international financial group which impose the same corporate governance standards on all subsidiaries within the group.

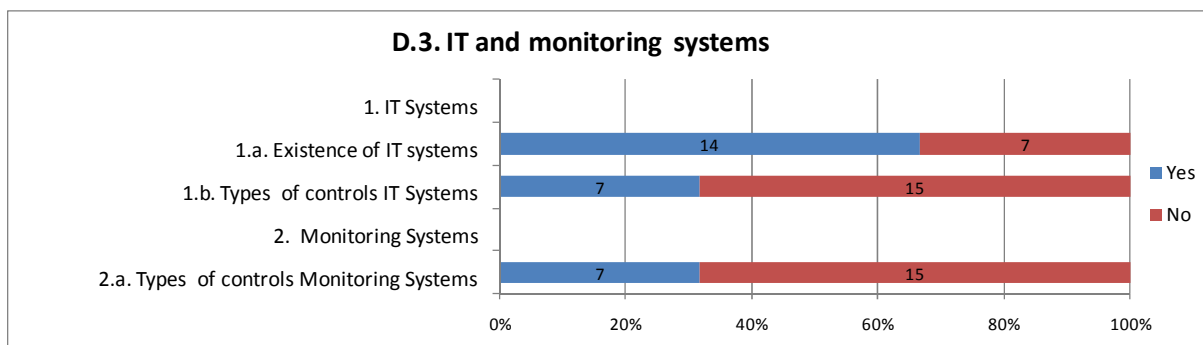
In the case of **UK**, compliance and audit legal requirements do apply to those responsible for managing certain activities on behalf of IORPs.

Almost all countries that have rules/requirements on existence of compliance function have rules on definition of the compliance function responsibilities and direct access to the management board. More than two thirds of these countries have requirements on organisational independence from the operational functions and around half of them have rules on organisational independence from other control functions.

Almost all countries that have rules/requirements on existence of internal audit function also have rules on organisational independence from the operational functions, direct access to the management board and 75% of them have requirements on the necessary resources and direct access to all relevant information. More than two thirds of these countries have also rules/requirements on organisational independence from other control functions. Therefore, the rules on independence are stronger in case of internal audit function compared to the compliance function.

In contrast, rules/requirements on staff remuneration policies exist only in a few countries: **DE**, **SE** and **SK** in both cases and **LV** in case of compliance. Moreover, these rules/requirements are implemented: by law and non-binding supervisory guidance in **DE**, by non-binding regulation in **SE** while in case of **SK** these rules are

imposed by self-regulation. Rules on staff remuneration of compliance in **LV** are governed by a binding supervisory guidance.



With all types of financial services now highly dependent on technology, internal controls are needed to verify the security of the IT systems. The respondents were asked on rules/requirements on existence of IT systems and definition of the type of controls of IT system.

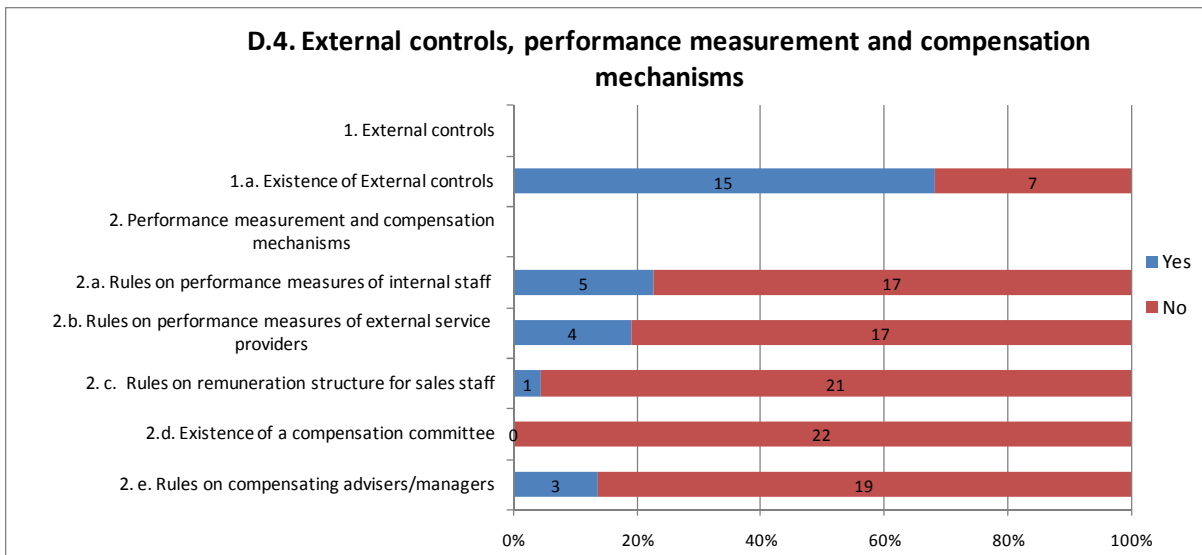
Besides that, MS and Observers were asked on rules/requirements defining the type of controls included in the monitoring system. Such checks will include: segregation of duties (e.g. front/ middle/ back office); cross checking; dual control of assets; double signatures; decision making limits/ authorizations; reconciliation procedures; compliance systems / officer and monitoring of third party / outsourcing agreements. The graph above shows responses to questions regarding the IT system and monitoring system.

Most respondents have rules/requirements that expressly address existence of IT systems (14 countries or 67%). Half the MS and Observers that have these rules also have requirements which define types of controls concerning IT systems and types of controls of the monitoring systems.

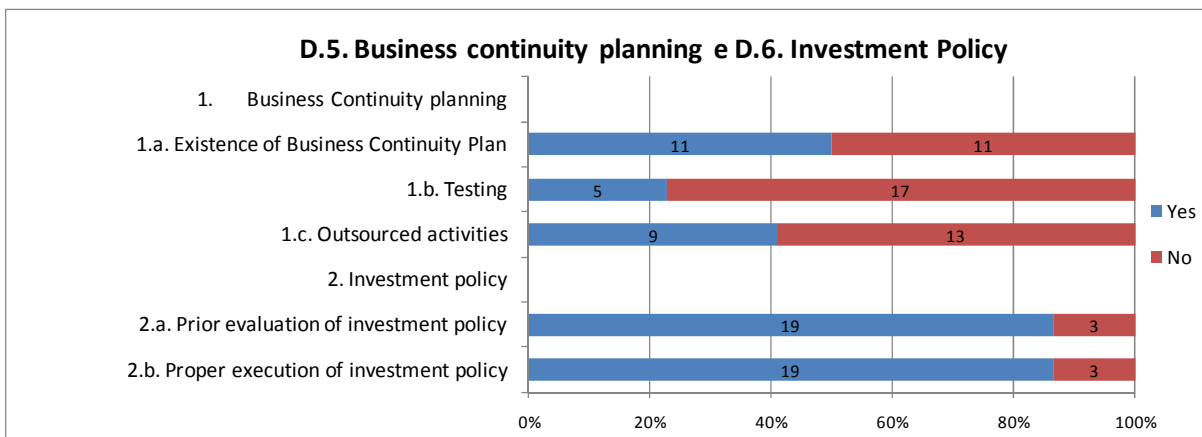
Ireland stated that in their legislation there is a requirement that the administrator self certify their capability and competence to carry out the functions it has taken on - for example, where the administrator's IT systems are not adequate, another administrator must be appointed or other remedial steps taken.

Malta explained that although there is no specific mention of IT and monitoring systems in Maltese legislation, the regulations issued by the supervisor state that the Scheme Administrator shall organise and control its affairs in a responsible manner, and shall have adequate operational, administrative and financial procedures and controls in respect of its own business and the Scheme to ensure compliance with regulatory conditions and to enable it to be effectively prepared to manage, reduce and mitigate the risks to which it is exposed.

The graph below indicates responses regarding external controls and performance measurement and compensation mechanisms. Although rules/requirements on the existence of external controls are in place in legislation of most MS and Observers, the other rules examined are applied only in few jurisdictions.



Rules/requirements on performance measures of internal staff exist in **DE, LV, MT, SE** and **UK**, while rules on performance measures of external staff exist in **DE, LV, NL** and **UK**. For the **UK** this relates to the requirement for trustees to have appropriate knowledge and understanding and that they should review their skills and competencies regularly. A regular review of external advisors should be undertaken to ensure trustees are receiving value for money. Only one country (**DE**) reported to have rules on remuneration structure for sales staff. No country has requirements about existence of a compensation committee while only three MS reported existence of rules on compensating advisers/managers (**DE, MT** and the **UK**). **AT** reported having rules in the secondary regulation concerning remuneration policies for the Risk Management function.



Exactly half of the responding countries (11) do have rules/requirements establishing existence of business continuity planning (BCP) in place, although only five respondents (**HU, LU, MT, NL, NO**) inform they have rules on testing BCP. Requirements on outsourced activities of BCP exist in nine countries (**BE, DE, HU, IT, LV, LU, MT, NL, NO**). **PT** reported that requirements concerning BCP should be introduced through binding technical standards which are expected to be issued until the end of 2010.

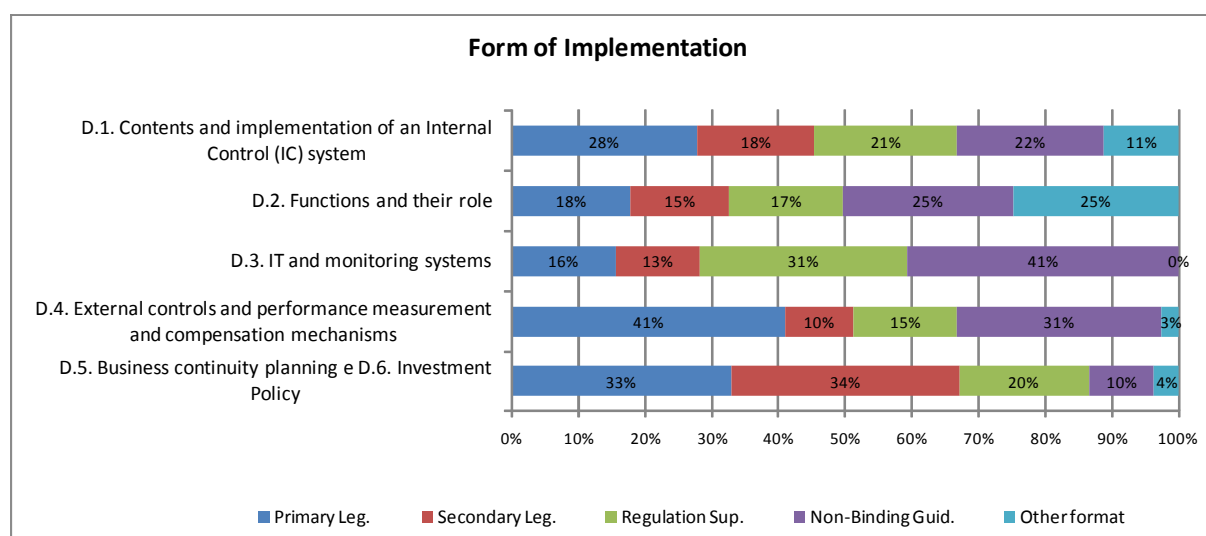
Vast majority of responding countries do have rules on prior evaluation and proper execution of investment policy. **Belgium** reported that there is a general article in their Royal Decree which serves as a basis for the requirements of prior evaluation and proper execution of investment policy. Similarly, **Ireland** reported that these requirements derive from a general requirement to prepare, disclose and review the

Statement of Investment Principles and to invest in compliance with the investment regulations. In **Malta**, the supervisor issued regulations which stipulate that the Scheme Administrator shall arrange for the Scheme assets to be invested in a prudent manner and in the best interest of Beneficiaries. **Sweden** reported that in their case, the requirement of proper execution of investment policy implies from the requirement for a document on investment policy which has to be a steering document for the undertaking. Regulation in **Norway** states that the board of directors shall ensure that written guidelines in regard to proper asset management exist at all times, and shall review the guidelines at least once a year. An account shall be prepared of the investment strategy including methods for measurement and management of investment risk and allocation of assets viewed in relation to the type and duration of the pension obligations. **Portugal** reported that these investment policy requirements should be introduced through binding technical standards which are expected to be issued until the end of 2010.

Form of implementation of internal controls rules/requirements

The options given in terms of means of implementation were the same as in II.2 – Management Oversight and Risk Culture.

Regarding the form of implementation of the internal controls rules/requirements, the graphs below present the results. Detailed information on the form of the implementation for each rule per country can also be found in the tables in Annex IV.2.



Concerning the form of implementation, all forms are more or less evenly spread among the respondents although, on average for each item, Primary Legislation is the most significant mean of implementation in items D.1, D.4 and D.5 and D.6 while Non-Binding Guidance has that significance in D.2 and D.3.

A more detailed analysis on the subtopics of the several items reveals that, in case of the general rules establishing the existence of IC mechanisms (D.1) and those establishing the existence of external controls (D.4), approximately half of the respondents who have implemented these rules/requirements have done it in the form of Primary Legislation (48% and 50% respectively). In all other cases usage of Primary Legislation was less common.

Contrary to other areas, no respondent reported usage of Primary Legislation in case of the existence of the compliance function (D.2). However, in comparison with compliance function, in case of internal audit function (D.2), 40% of respondents reported that the existence of the function was established by the Primary Legislation and 19-33% of respondents reported that Primary Legislation covered individual internal audit roles examined by the questionnaire.

Also the types of controls included in monitoring systems (D.3) were not covered by Primary Legislation in any case.

The role of Non-Binding Rules was stronger in the case of rules/requirements on (1) proportionality of internal control system to the nature scale and complexity of the operations and activities (D.1, 44% of respondents), (2) compliance function (D.2, 27-50%), (3) staff remuneration (compliance and internal audit functions – D.2 – and (4) IT and monitoring systems (D.3).

II.5. Supervisory practices on management oversight and internal controls

The collection of information regarding supervisory practices related to management oversight and internal controls was one of the main objectives of this workstream.

As the questions concerned current supervisory practices, countries with no IORPs established yet were not considered in this section (Malta, Hungary and Lithuania).

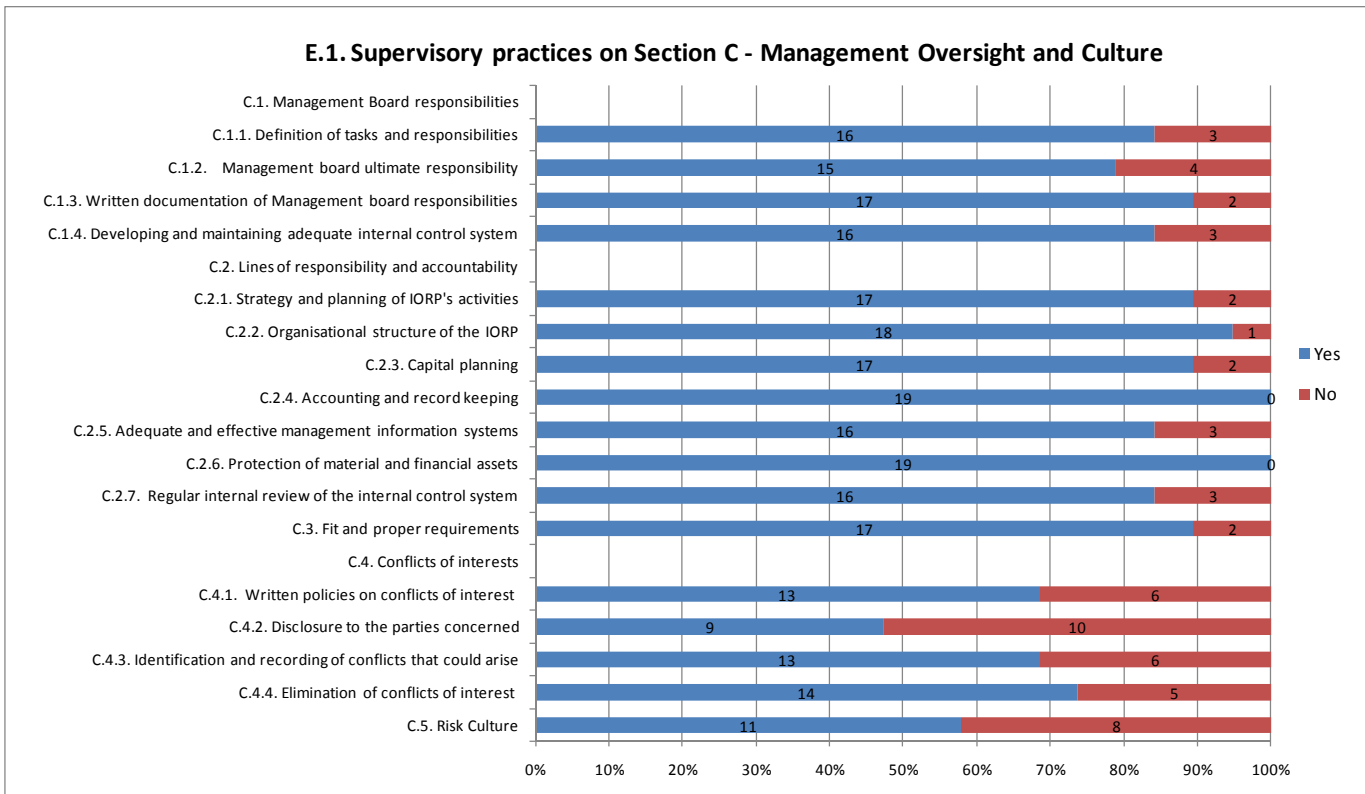
In the survey questionnaire, Member States were asked to identify whether or not they supervised the selected list of specified issues (the same list of issues as in section II.3 and II.4), and what were the means the supervisory authority uses to monitor the management oversight and internal controls duties of the IORP. The options given were:

- **Not applicable** (rules non existent or not applicable)
- **Not supervised;**
- **Regulatory reporting and analysis** – The supervisory authority uses the information required by regulatory reporting to supervise and analyse the risk management issues;
- **External validation / use of experts** – The supervisory authority uses reports from external entities / experts (such as auditors, actuaries or risk managers) to supervise and analyse the risk management issues;
- **On-site inspections;**
- **Off-site surveys and surveillance** – The supervisory authority uses the information on ad-hoc requests to IORPs to supervise and analyse the risk management issues;
- **Other.**

This supervision may occur as a matter of course (i.e. the supervisor will require these measures on a regular basis) or be undertaken in a risk based manner according to issues identified by the supervisor. For example where concerns are raised and the supervisor may as a result request certain additional information. The answers below do not then imply that this information or action is required of all IORPs on a regular basis. As a result the non-regular requests for information have been categorized under different forms of supervision with some MS using "Regulatory Reporting" and other using "Off-Site surveys and Surveillance" or even "Other".

Existence of supervisory practices

The following graphs show the results, from a YES / NO perspective, regarding the supervision of the MOIC rules/requirements.



The overall conclusion from the analysis on graph below is that most of the identified items (80% on average) in terms of rules/requirements on Management Oversight and Culture are supervised by competent authorities in the scope of the supervision of the IORPs.

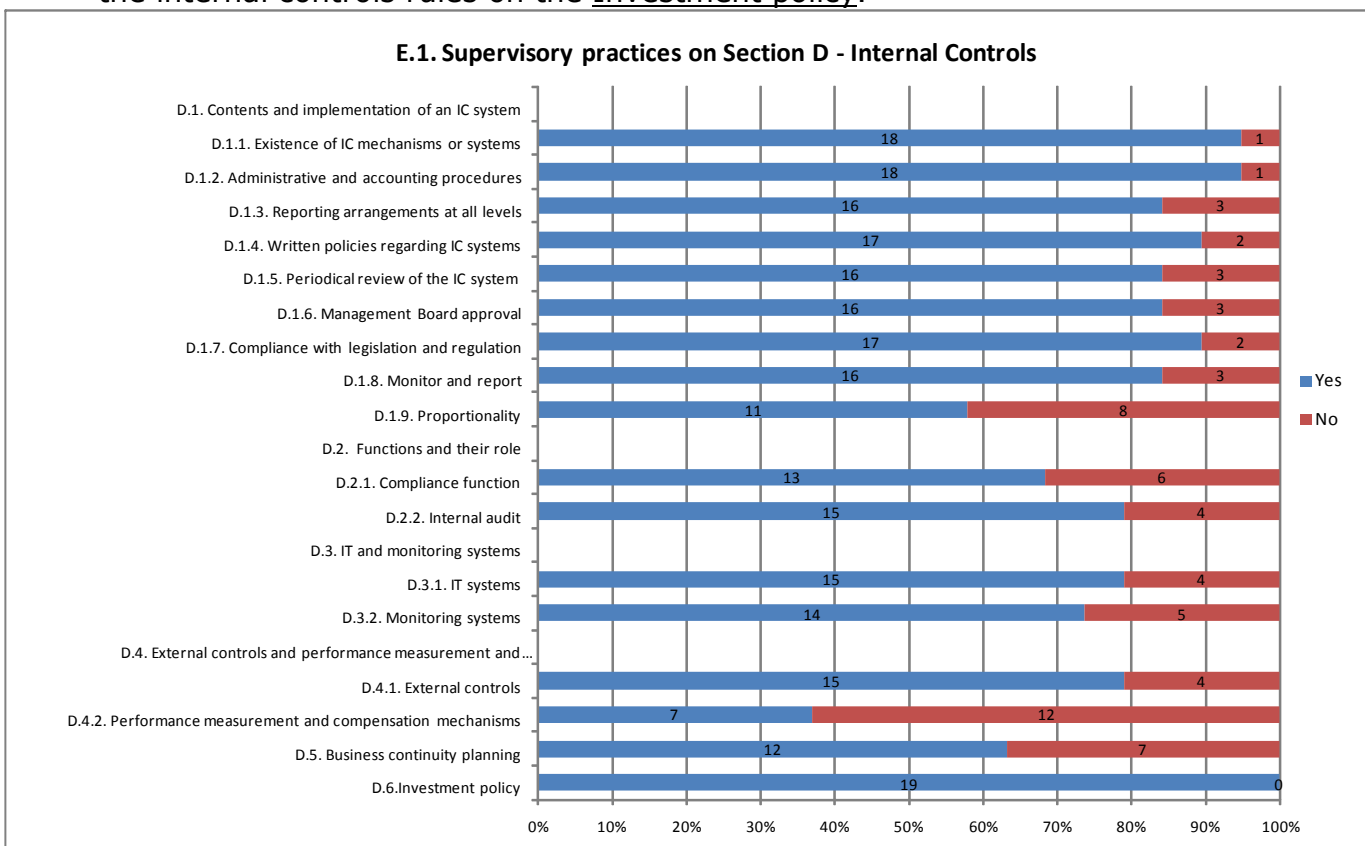
In terms of Management Board Responsibilities (items under C.1) around 84% of the items are supervised on average, with the topic "written documentation of Management Board responsibilities" being the item with most positive answers (17). The supervision of rules/requirements regarding Lines of responsibility and accountability (items under C.2) collected a quite high level of positive answers (92% on average, considering all 7 topics) with "accounting and record keeping" and "protection of material and financial assets" getting all 19 positive answers. Supervision of rules/requirements on Fit and proper requirements also scored high, with 17 positive answers, with the items under conflicts of interest having a lower level of supervision (64% on average), in which "disclosure to the parties concerned of identified conflicts of interest and how they should be eliminated" being supervised in less than half the MS and Observers (**BE, BG, DE, IT, LI, NL, RO, SE** and **UK**). The supervisory practices on rules regarding risk culture scored almost 60% in terms of positive answers to specific supervision.

Comparing these results with the information on existence of rules/requirements on Management Oversight and Culture (Section II.3) one can identify several approaches in terms of connection between regulatory and supervisory framework. The majority of countries tend to give the same answer in terms of supervision as for the existence of rules/requirements, meaning that whenever they establish specific rules for the identified topics they tend to supervise it and vice-versa. Some MS and Observers emphasize on regulatory approach in the sense that they set out requirements

regarding some of these issues but do not include them in their supervisory processes. On the other hand, the opposed approach also happens with countries relying on the supervisory approach instead of imposing specific rules on these topics – this is quite common in items C.4 (conflicts of interest) and C.5 (risk culture).

For what concerns the supervisory practices on the Internal Controls rules/requirements (Section II.4) the graph below demonstrates the number of positive answers to direct supervision on the identified items. Considering all the topics listed the average of positive answers is around 80% of respondent countries.

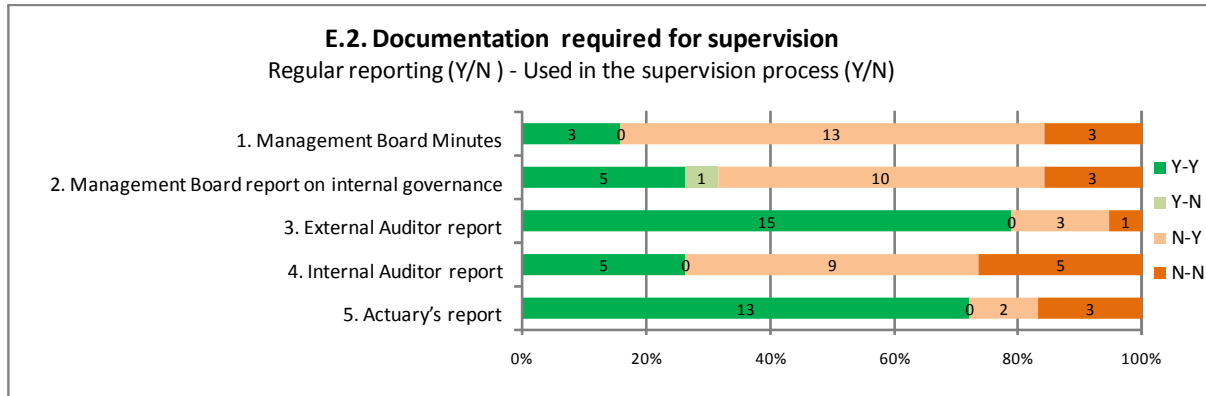
In respect on the rules/requirements on the Content and implementation of an Internal Controls system the results show an average of 85% of positive answers to question of supervision on the items D.1 despite the fact that the answers on the specific subtopics are quite diverse. Subtopics “Existence of IC mechanisms or systems”, “Administrative and accounting procedures” and “Written policies regarding IC systems” scored relatively high, above 90% of respondents, while “Proportionality” rules/requirements had slightly over half of positive answers. The number of positive answers regarding the supervisory practices on IT and Monitoring systems (D.3) was slightly higher (76%) than on Functions and their role (D.2, 74%) but still at high levels. Subtopic “Performance measurement and compensation mechanisms” under External controls and performance measurements and compensation mechanisms is the item least supervised with less than half the countries (**DE, IT, LU, NL, PT, SE** and **UK**) supervising it. 12 respondents (65%) reported they supervised the rules/requirements on Business continuity planning while all of them (19) supervised the internal controls rules on the Investment policy.



When comparing these results with the information on existence of rules/requirements on Internal Controls (Section II.4) it is possible to conclude that three approaches (to give the same answer in terms of supervision as for the existence of rules/requirements, emphasizing on regulatory approach or relying on the supervisory approach) in terms of connection between regulatory and supervisory framework still

stand. However, it is possible to identify that the latter approach (relying in the supervisory approach instead of imposing specific rules) is more commonly used than on Section II.4, especially in the items D.2, D.3, D.4 and D.5.

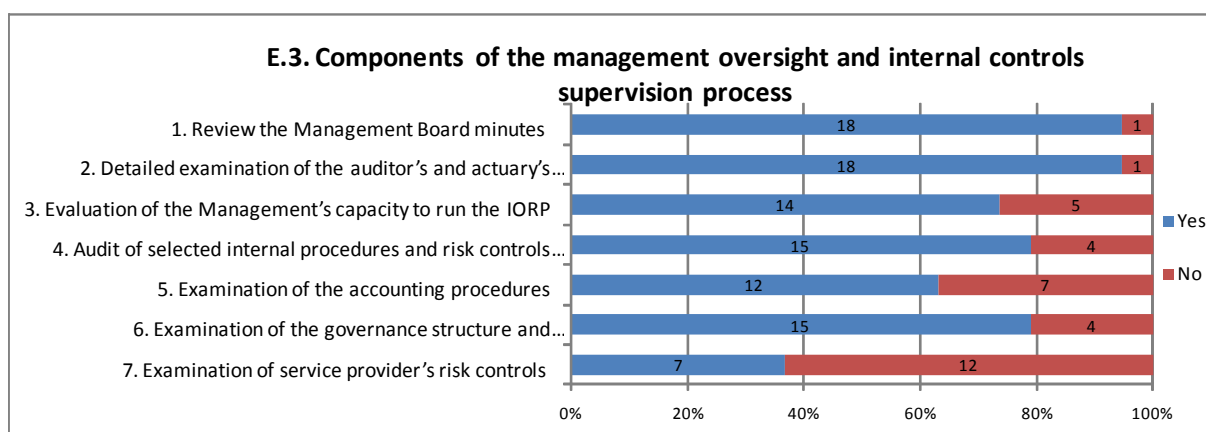
Graph E.2 summarizes the results concerning the documentation required for supervision and it condenses the results of the two questions made: the first Y/N refers to requirement for regulatory reporting while the second Y/N refers to supervisory process.



The results show that "Management Board Minutes" and "Management Board report on internal governance" are usually not required in terms of regular reporting but they are used in the supervisory process (N-Y). The "External Audit report" and "Actuary's report" are usually part of the regulatory requirements and are used as an important document in the supervisory process (Y-Y). The "Internal Audit report" is the document with most diverse approach since 5 MS and Observers have it in the regulatory reporting and they use it in the supervisory process (Y-Y), 9 of them do not require it in the regulatory but use it the supervision (N-Y) and 5 nor require it nor use it the supervision process (N-N).

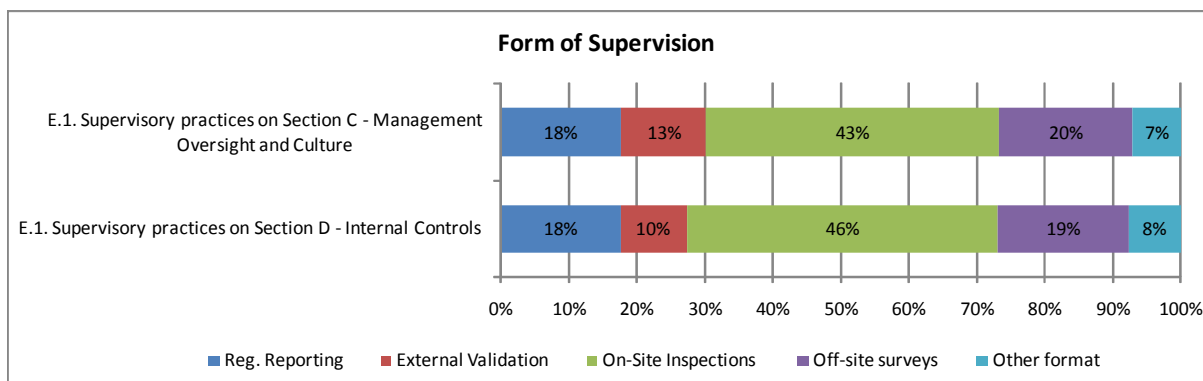
The graph below tries to identify which of the components from the list are part of the management oversight and internal controls supervision process.

Nearly all respondents indicated the first two items, "Review of the management board minutes" and "Detailed examination of the auditor's and actuary's report" as being an important component of their supervision on Management oversight and internal controls. Items 3, 4 and 6 were also identified as a component of the supervisory process in this regard for 75% of responding countries. The "Examination of the service provider's risk controls" was the item with lowest score in terms of being part of the supervisory process, with only 7 countries (**AT, BG, DE, LV, LU, NL** and **PT**) signalling them as a component.



Form of supervision

Regarding the form of supervision on the two main set of rules/requirements (Management Oversight and Culture and Internal Controls, respectively Section II.3 and II.4), the following graph present the results. Annex IV.3 provides the detailed information for each of the selected issues on the form of a table and identifies answers per country.



One can see from the graph above that the On-site Inspections is the most common form of implementation on how both Management Oversight and Culture and Internal controls are supervised, with around 45% of the responses. Regulatory reporting and analysis and Off-site surveys and surveillance are the means of implementation that rank next, with around 20% of answers while External validation and Other format accounting for the remaining percentages.

II.6. Relationship between the characteristics of occupational pensions framework and regulatory and supervisory practices on Management Oversight and Internal Controls in IORPs

Considering the characteristics of occupational pension's framework from the Risk Management report regarding the legal form of the IORP, the character of supervision and the types of risk sharing options in IORPs a graphical analysis was computed on the regulatory and supervisory practices on management oversight and internal controls.

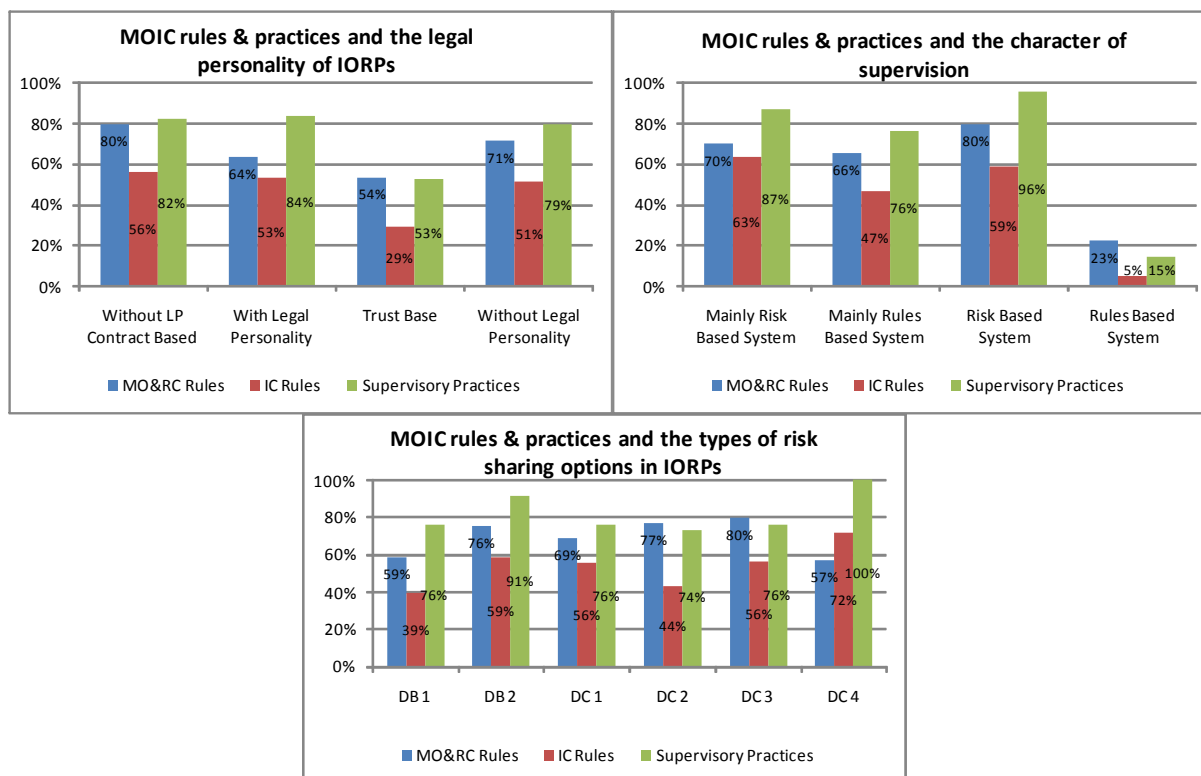
For this purpose a simple mean on all items identified for each section (existence of rules/requirements for management oversight and risk culture as well as for the internal controls section and practices on the supervision of MOIC rules/requirements) was used.

The graphs below explore the relationship between the level of existence of rules (on management oversight and risk culture and on internal controls) or supervisory practices (independently of the kind of the supervisory practices, e.g. off-sit surveys and surveillance, on-site inspections) and the different characteristics of the pension systems (the legal personality of IORPs, the character of supervision or the type of risk sharing options).

Annex IV.4 displays the summary table of characteristics (taken from the Risk Management report) and the existence of rules for each of the main sections discussed before – II.3 to II.5.

In the case of the types of risk sharing options in IORPs the description of each of the options is the following:

- DB 1 - Sponsor bears all risks;
- DB 2 - IORP bears all risks;
- DC 1 - Participant bears all risks;
- DC 2 - IORP bears investment risk in accumulation;
- DC 3 - Sponsor bears investment risk in accumulation;
- DC 4 - IORPs bear all risks.



III. Conclusions

The survey revealed a wide spectrum of Management Oversight and Internal Controls (MOIC) rules/requirements and supervisory practices amongst Member States, mainly reflecting the different stages of development which derives from the varying importance attached to second pillar pensions but also the legal framework under which the IORPs operate.

The conclusions presented next were drawn from the 22 responding countries for Sections II.3 and II.4 and 19 for Section II.5.

Findings about management oversight and risk culture rules/requirements (Section II.3)

1. Regarding the Management Board Responsibilities there is significant high level of existence of rules/requirements, 88% of positive answers on the average of topics identified, with the rule on the Management Board retaining the final responsibility getting 95% of positive answers.

2. Under the Lines of Responsibilities and Accountability umbrella the topic "Accounting and record keeping" received highest score in terms of existence of rules/requirements, with 95% of positive answers, while the average on the existence of rules was around 75%.
3. The existence of rules regarding the Fit and Proper Requirements of Management Board members was identified in 20 MS and Observers, which accounts for 90% of respondents. There were also a substantial number of positive answers in terms of requirements on fit and proper requirements on the Actuary and Outsourced functions, 17 and 16 responses respectively.
4. Considering all subtopics concerning Conflicts of Interest, the average of the percentage of positive answers on the existence of rules/requirements on the selected topics was around 50%. Transparency issues on the management of IORPs is a concern of regulators and supervisors and it should be acknowledged that 7 countries already have established rules "disclosure of identified conflicts of interest to the parties concerned and how they should be eliminated" and many of them (average of 11 for the 4 subtopics identified) also established requirements on the elimination of conflicts of interest.
5. Although it is not yet common practice it is worthwhile mention that a number of countries have issued rules/requirements on Risk Culture, including 2 of them which impose rules on the implementation of risk culture programs.
6. As for the means of implementation of these rules/requirements results show that Primary Legislation was by far the most used mean while Secondary Legislation, Regulation issued by the Supervisor and Non-Binding Guidance more or less evenly dividing the other forms of implementation. The latter is specially used for the implementation of Risk Culture rules.

Findings about internal controls rules/requirements applicable to IORPs (Section II.4)

7. In terms of Contents and implementation of an Internal Controls system the vast majority of responding MS and Observers (over 95%) has rules/requirements establishing the existence of IC mechanisms and most of them also have rules concerning the main components of the IC system.
8. As for Functions and their role is concerned, also, in general, rules on independence from operational functions are stronger in case of internal audit function (14 positive answers out of 15 countries who established this function) compared to the compliance function (8 positive answers out of 11 countries who established this function).
9. Rules/requirements on staff remuneration policies are already considered in a few MS and Observers. The same applies to requirements on performance measures of internal staff, requirements on performance measures of external staff and requirements on compensating advisers/managers. Rules on remuneration structure for sales staff was reported by one MS. Rules expressly requiring existence of a compensation committee were not found in any MS and Observers.
10. The existence of rules/requirements for the Internal Controls in terms of Business continuity planning is already a reality in half of the responding countries.
11. Rules/requirements regarding the proper execution and prior evaluation of the Investment Policy in the context of the Internal Controls have proved to be common practice amongst MS and Observers (almost 90% of respondents).

12. In terms of the forms of implementation for the rules/requirements on Internal Controls there is a higher level of segmentation between the different means, with no predominance of any specific means. In general, rules on internal audit are more often included in primary legislation, while in case of requirements on compliance this was not observed in any case.

Findings about supervisory practices regarding management oversight and internal controls in IORPs (Section II.5)

13. As for the supervisory practices on the list of selected rules/requirements regarding Management Oversight and Culture (Section II.3) and Internal Controls (section II.4) results show that, on average of all topics, around 80% of those rules/requirements are directly handled by the competent authorities in the scope of the supervision of the IORPs.
14. Comparing the results of the supervisory practices with the information on existence of rules/requirements one can identify three approaches: to give the same answer in terms of supervision as for the existence of rules, emphasizing on regulatory approach or relying on the supervisory approach. The latter approach (relying in the supervisory approach instead of imposing specific requirements) is more commonly used on the Internal Controls rules than on the Management Oversight and Culture rules.
15. For the purpose of supervision the approaches of documentation needed in terms of regular reporting and use on the supervision process differs widely. External Auditor Report and Actuary report are usually required by regular reporting and used in the supervisory process while Management Board Minutes and Management Board report on Internal Governance are not usually demanded in the reporting requirements but used in the supervisory process.
16. On-site Inspections is the most common form of implementation on how both Management Oversight and Culture and Internal controls are supervised, with almost 45% of the responses, with Regulatory reporting and analysis and Off-site surveys and surveillance ranking next.

General findings about the characteristics of occupational pensions framework and regulatory and supervisory practices on Management Oversight and Internal Controls in IORPs (Section II.6)

17. The statistical evidence collected seems to support, although without much significance (because some of the options have very few MS) a relationship between the legal form of the IORP and the level of rules/requirements and supervisory action on Management and Internal Controls. IORPs without legal personality in the form of contract based tend to have a higher level of rules/requirements than IORPs with legal personality, which may not be surprising given the fact that contracted based IORPs are managed by managing companies (external entities) and some of the requirements are applicable to them. On the other hand IORPs without legal personality of the trust based form seem to have fewer specific rules/requirements with a greater reliance on those managing the schemes to put in place adequate controls.

18. A reasonable clear generalisation that can be drawn from the character of supervision is that countries in which the main components of the supervisory process is risk based (either "Risk Based" or "Mainly Risk Based" options) tend to have a higher level of rules/requirements and supervisory practices of Management Oversight and Internal Controls than countries with a reliance on rules based supervisory approach.
19. When comparing the main risk sharing type of IORPs in each jurisdiction with the level of existence of rules/requirements on Management Oversight and Internal Controls and the corresponding supervisory practices it is possible to extract some statistical relationships. In countries dominated by DB pension provision, the level of existence of rules/requirements and supervisory practices on these issues are higher when it is the IORP itself¹⁶ who bears all the risks rather than when it is the sponsor¹⁷ who bears the majority of risks. In terms of countries with DC provision dominance it is not possible to draw any major conclusions due to the lack of statistical significance in some of the options. A relevant conclusion regarding the types of plans that could be drawn from the responses was that no respondent informed different regulations and supervisory practices for DC or DB in the matter under discussion.

IV. Annex

¹⁶ DB type 2 according to the types of risk sharing options in IORPs table presented in the Risk Management report.

¹⁷ DB type 1 according to the same table.

IV.1. Form of implementation of management oversight and risk culture rules - Tables with countries replies

| C.1. Management Board Responsibilities | | | | | | | | | | | | | | | | | | | | | | |
|--|-----|-------|-----|-------|-----|----|----|-------|----|----|----|----|-----|-------|-----|-----|----|-------|-------|----|-----|----|
| | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK |
| 1. Definition of tasks and responsibilities | P,S | P,N | | P,N | S | P | | P,S,R | P | P | | S | | P,S,O | P,R | | R | P | P | P | P | N |
| 2. Management board ultimate responsibility | P | P | O | P,N | S | | P | P,S,R | O | P | P | S | | P,S,O | P,R | P | R | P | P,S | P | P | P |
| 3. Written documentation of Management board responsibilities | P | N | P | P,N | S | P | | R | O | | P | O | | P | R | O | R | P | P | P | N | N |
| 4. Developing and maintaining adequate internal control system | P,S | P,N | P | P,S,N | S | P | | R,N | P | S | | P | | S | P,R | | R | P,S,R | P | P | N | P |
| C.2. Lines of responsibility and accountability | | | | | | | | | | | | | | | | | | | | | | |
| | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK |
| 1. Strategy and planning of IORP's activities | P | P | P | P,N | P,S | | | P,R | O | N | | S | P,R | P | R | P | R | P,S,R | P | | P,N | N |
| 2. Organisational structure of the IORP | | | | | | | | | | | | | | | | | | | | | | |
| 2.a. Well defined, transparent and consistent lines of responsibility | P,S | P,N | P,N | P,N | S | | | P,R | O | | | | R | P,R,O | R | N | R | S,R | P,S | P | N | N |
| 2.b. Documented lines of responsibility | P,S | N | P | P,N | S | | | | O | | | | | P,R,O | R | N | R | S,R | P,S,O | P | N | |
| 2.c. Appropriate segregation of responsibilities | P | N | O | N | S | | P | | O | P | | | | P,R,O | R | N | R | | P,S,O | P | N | N |
| 2.d. Establish, implements and maintains decision-making | P | | P | N | S | | | | O | | | P | R | P,R,O | R | N | R | S,R | | P | N | N |
| 2.e. Ensures knowledge of procedures and discharge of their responsibilities | P | | P | N | O | | | | O | P | | O | R | P,R,O | N | | R | S,R | P,S,O | P | N | N |
| 3. Capital planning | P | P,S | P,S | P,N | S | | | | O | P | | S | R | P | S | P | R | P | P,S | P | | P |
| 4. Accounting and record keeping | P | P,S,N | P,S | P,N | S | P | P | P,R | O | P | P | P | R | P | P,S | P,S | R | P,S,R | P,S | P | | N |
| 5. Adequate and effective management information systems | | | | | | | | | | | | | | | | | | | | | | |
| 5.a. Ensuring the transmission of information | P | N | P,S | P,N | S | | | R | P | | P | P | R | S | N | | R | S,R | P,S | | N | N |
| 5.b. Internal reporting and communication of information | P | N | P,O | P,N | S | | | R | P | | | | R | S | N | | R | S,R | P,S | | N | |
| 5.c. To provide required information/reports to internal users | P | N | O | P,N | | | | R | O | | P | P | R | S | N | | R | S,R | P,S | | N | |
| 5.d. To provide required information/reports to external | P | N | P,S | P,N | S | | P | R | O | P | | | R | S | N | P | R | P,S,R | P,S | | | |
| 6. Protection of material and financial assets | P | P | P,S | P,N | S | P | | P,R | O | P | | S | R | P | N | P | | P,S,R | P,S | P | N | N |
| 7. Regular internal review of the internal control system | P | N | P | P,N | S | P | P | R | P | P | | | | S | R | N | R | | P,S | | N | N |

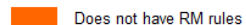
Note: The term "rules" means any sort of requirements independently of how they are set. Positive responses given in the table does not necessarily mean the rules /requirements are expressly addressed in the Member State, the nature of the answers may therefore vary from one Member State to another.

| C.3. Fit and proper requirements | | | | | | | | | | | | | | | | | | | | | | | |
|---|-------|-----|-----|-----|-----|----|----|-------|----|-----|----|----|----|-----|----|----|----|-------|-------|----|-----|----|--|
| | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK | |
| a. Management Board members | P | P | P | P,N | P,S | P | | P,S,R | P | P,S | P | S | | P | P | P | P | P,S,R | P,S | P | P,R | P | |
| b. Internal controls function | O | N | O | N | S | P | | R | P | | | | | S,O | | | | S,R | | P | | P | |
| c. Internal audit function | O | N | P | N | | P | | P,S | O | | | | | S,O | | | R | P,S,R | P,S | | | | |
| d. Compliance function | | N | O | N | S | | | | O | | | | R | | | | R | | | | | | |
| e. Actuary | P,S | P,S | P | P,N | S | P | P | | P | S | | O | R | P | P | | R | P,S,R | P,S | | | P | |
| f. Outsourced functions | | P,N | P | N | S | | P | P,S,R | P | S | P | P | R | | | P | P | | P,S | P | | P | |
| C.4. Conflicts of interest | | | | | | | | | | | | | | | | | | | | | | | |
| | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK | |
| 1. Written policies on conflicts of interest | | P,N | P | N | | | | S | P | | | | R | S | | | R | P,S,R | P | P | P | N | |
| 2. Disclosure to the parties concerned | | N | | N | | | | P,S,R | | | | | R | R | | | | S,R | | | | N | |
| 3. Identification and recording of conflicts that could arise | S | N | | N | | | | | | | | O | R | S | | P | R | | P,S | | | N | |
| 4. Elimination of conflicts of interest concerning: | | | | | | | | | | | | | | | | | | | | | | | |
| 4.a. Performing both execution and controlling tasks | | N | P,S | N | P,S | P | | | P | R | | | R | P | S | | | P | P | P | R,N | N | |
| 4.b. Family relations (spouses...) | | | P | N | S | P | | | O | R | | | | R | | | | P | P | P | | N | |
| 4.c. Legal and stakeholder relations | P | | P | N | P,S | P | | | P | N | | | R | N | | P | | P | P | P | | N | |
| 4.d. Mandatory outsourcing | | | P | | S | | | | P | | | | | | | | | | | P | | N | |
| C.5. Risk Culture | | | | | | | | | | | | | | | | | | | | | | | |
| | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK | |
| a. Awareness of each one's function and responsibility | P,S | | P,S | N | | | | | O | | | | | | N | | R | | P,S,O | P | N | N | |
| b. Risk culture implementation programs | | | | N | | | | | | | | | | | | | R | | | | | | |
| c. Risk management philosophy and risk appetite | P,S,R | | P,S | P,N | S | | P | | | | | | | S | N | | R | | | | R | N | |
| d. Integrity and ethical values | | N | N | N | S | | | | | | | | | P | | | R | | | | | | |

Legend:



Has RM rules



Does not have RM rules

P: Primary Legislation

S: Secondary Legislation

R: Regulation issued by Supervisor

N: Non Binding Supervisory Guidance

O: Other Format

Note: The term "rules" means any sort of requirements independently of how they are set. Positive responses given in the table does not necessarily mean the rules /requirements are expressly addressed in the Member State, the nature of the answers may therefore vary from one Member State to another.

IV.2. Form of implementation of internal controls rules - Tables with countries replies

| D.1. Contents and implementation of an Internal Control (IC) system | | | | | | | | | | | | | | | | | | | | | | |
|---|-----|-----|----|-----|----|----|----|----|----|----|----|----|----|-------|-----|----|----|-------|-----|----|----|----|
| | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK |
| 1. Existence of IC mechanisms or systems | P | P,N | P | P,N | S | P | | R | P | S | P | P | R | P | R | O | R | S,R | P,S | P | N | P |
| 2. Administrative and accounting procedures | O | P,N | O | P,N | S | P | | R | O | S | | P | R | S | R,N | O | | P,S,R | P,S | P | N | N |
| 3. Reporting arrangements at all levels | P,S | N | O | P,N | | P | | R | P | S | | P | R | R | R | | R | S,R | P | P | N | |
| 4. Written policies regarding IC systems | S | N | P | P,N | S | P | | R | O | S | | P | R | S | R | O | R | S,R | P | P | N | N |
| 5. Periodical review of the IC system | P | N | P | P,N | S | | | R | O | S | | O | | S | R | | R | | P | P | N | N |
| 6. Management Board approval | O | N | P | P,N | S | | | R | O | S | | | | | R | O | R | P,S,R | P | P | N | N |
| 7. Compliance with legislation and regulation | P | N | O | P,N | S | | | R | P | | | P | R | S | N | | R | S,R | P | P | N | N |
| 8. Monitor and report: | | | | | | | | | | | | | | | | | | | | | | |
| 8.a. Adequacy of compliance policies | P | N | | N | S | P | | R | O | S | | O | | P,S,O | N | | R | S,R | P | P | N | N |
| 8.b. Level of compliance | R | N | | N | S | P | | R | O | | | O | | P,S,O | N | | R | S,R | | | N | |
| 8.c. Adequacy of measures (deficiencies) | O | N | | N | S | P | | R | O | | | O | | | N | | R | S,R | | | | N |
| 9. Proportionality | | P,N | | N | S | | | R | | | | | | | R | | R | | | | N | N |
| D.3. IT and monitoring systems | | | | | | | | | | | | | | | | | | | | | | |
| | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK |
| 1. IT Systems | | | | | | | | | | | | | | | | | | | | | | |
| 1.a. Existence of IT systems | P,R | N | P | N | | P | | R | N | | | | | N | R | | R | S,R | P | | N | N |
| 1.b. Types of controls | | | R | N | | P | | | N | | | | | N | R | | | S,R | | | | |
| 2. Monitoring Systems | | | | | | | | | | | | | | | | | | | | | | |
| 2.a. Types of controls | | | | N | S | | | | N | | | | | N | R | | | S,R | | | | N |

Note: The term "rules" means any sort of requirements independently of how they are set. Positive responses given in the table does not necessarily mean the rules /requirements are expressly addressed in the Member State, the nature of the answers may therefore vary from one Member State to another.

| | | D.2. Functions and their role | | | | | | | | | | | | | | | | | | | | | |
|--|--|-------------------------------|----|----|-----|----|----|----|----|----|----|----|----|----|-----|----|----|----|-------|-----|----|----|----|
| | | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK |
| 1. Compliance function | | | | | | | | | | | | | | | | | | | | | | | |
| 1.a. Existence of compliance function | | O | N | O | N | S | | | R | O | | | | R | | | | R | | | O | N | |
| 1.b. Organisational independence from operational functions | | O | N | | N | S | | | R | | | | | | | | | R | | | O | N | |
| 1.c. Organisational independence from other control functions | | O | N | | N | | | | R | | | | | | | | | | | | O | N | |
| 1.d. Direct access to management board | | O | N | O | N | S | | | R | O | | | | | | | | R | | | O | N | |
| 1.e. Necessary resources and direct access to all information | | O | N | O | N | S | | | R | | | | | | | | | R | | | O | N | |
| 1.f. Definition of function responsibilities | | O | N | O | N | S | | | R | O | | | | R | | | | R | | | O | N | |
| 1.g. Staff remuneration policies | | | | | P,N | | | | | O | | | | | | | | | | | O | N | |
| 1.h. Proportionality issues | | | N | | N | S | | | | | | | | | | | | R | | | O | N | |
| 2. Internal audit function | | | | | | | | | | | | | | | | | | | | | | | |
| 2.a. Existence of Internal Audit function | | P | N | P | P,N | S | P | | P | O | | | | | P | R | | R | P,S,R | P,S | O | N | |
| 2.b. Organisational independence from operational functions | | P | N | P | N | | P | | P | O | | | | | S,O | R | | R | P,S,R | P,S | O | N | |
| 2.c. Organisational independence from other control functions | | P | N | P | N | | | | P | O | | | | | S,O | | | | P,S,R | P,S | O | N | |
| 2.d. Direct access to management board | | P | N | O | N | S | P | | R | O | | | | | S,O | R | | R | P,S,R | P,S | O | N | |
| 2.e. Necessary resources and direct access to all relevant information | | | N | O | N | S | P | | | O | | | | | S,O | | | R | P,S,R | P,S | O | N | |
| 2.f. Staff remuneration policies | | | | | P,N | | | | | | | | | | | | | | | | O | N | |

Note: The term "rules" means any sort of requirements independently of how they are set. Positive responses given in the table does not necessarily mean the rules /requirements are expressly addressed in the Member State, the nature of the answers may therefore vary from one Member State to another.

| D.4. External controls and performance measurement and compensation mechanisms | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|----|---------|----|-----|----|----|----|----|----|-----|----|----|----|-----|----|----|----|-------|----|----|----|----|
| | | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK |
| 1. External controls | | | | | | | | | | | | | | | | | | | | | | | |
| 1.a. Existence of External controls | | | P,S,R,N | P | P,N | | | | P | P | P,S | P | | R | P,N | R | | | P,S,R | P | P | P | N |
| 2. Performance measurement and compensation mechanisms | | | | | | | | | | | | | | | | | | | | | | | |
| 2.a. Rules on performance measures of internal staff | | | | | P,N | | | | | O | | | | R | | | | | | | | N | N |
| 2.b. Rules on performance measures of external service providers | | | | | N | | | | P | | | | | S | | | | | | | | | N |
| 2.c. Rules on remuneration structure for sales staff | | | | | P,N | | | | | | | | | | | | | | | | | | |
| 2.d. Existence of a compensation committee | | | | | | | | | | | | | | | | | | | | | | | |
| 2.e. Rules on compensating advisers/managers | | | | | P,N | | | | | | | | | R | | | | | | | | | N |

| D.5. Business continuity planning e D.6. Investment Policy | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|-----|----|----|-----|----|----|----|-------|----|----|----|----|----|----|-----|----|----|-------|-----|----|----|----|
| | | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK |
| 1. Business Continuity planning | | | | | | | | | | | | | | | | | | | | | | | |
| 1.a. Existence of Business Continuity Plan | | P | N | P | N | | P | | | | | | O | R | P | S,R | | R | | | | | N |
| 1.b. Testing | | | | | | | P | | | | | | O | R | S | S,R | | | | | | | |
| 1.c. Outsourced activities | | | N | | N | | P | | P,S,R | P | | | O | R | S | S,R | | | | | | | |
| 2. Investment policy | | | | | | | | | | | | | | | | | | | | | | | |
| 2.a. Prior evaluation of investment policy | | S | S | R | S,N | S | P | S | P,S,R | P | | P | S | R | S | P,S | P | | P,S,R | P,S | P | | N |
| 2.b. Proper execution of investment policy | | P,S | S | P | S,N | S | P | S | P,S,R | P | | P | S | R | S | S | P | | P,S,R | P,S | P | R | |

Legend:

- Has RM rules
- Does not have RM rules
- P: Primary Legislation
- S: Secondary Legislation
- R: Regulation issued by Supervisor
- N: Non Binding Supervisory Guidance
- O: Other Format

Note: The term "rules" means any sort of requirements independently of how they are set. Positive responses given in the table does not necessarily mean the rules /requirements are expressly addressed in the Member State, the nature of the answers may therefore vary from one Member State to another.

IV.3. Form of supervision of management oversight and internal controls rules

| E.1. Supervisory practices on Section C - Management Oversight and Culture | | | | | | | | | | | | | | | | | | | | | | |
|--|---------|-------|-----|---------|-------|----|----|---------|-------|-------|----|----|----|-------|-------|-------|-------|---------|---------|-------|-------|-----|
| | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK |
| C.1. Management Board responsibilities | | | | | | | | | | | | | | | | | | | | | | |
| C.1.1. Definition of tasks and responsibilities | O | E,F | O | R,O,T | O | | | R,O,F | O,F | O | | O | | R,O | O | | O,T | R,O,F | | R,O,F | O,F | T |
| C.1.2. Management board ultimate responsibility | O | E,F | O | R,E,O | O | | | | O,F | O | | O | | R,O,F | O | O | | R,E,O,F | R,E,O,F | O | O,F | |
| C.1.3. Written documentation of Management board | O | E,F | O | O,T | O | | | R,O,F | O,F | O | | O | | R | O | O,T | O,T | E,O | | O | O,F | T |
| C.1.4. Developing and maintaining adequate internal | O | E,F | O | R,O | R,O | | | R,O,F | O,F | E,O | | O | | R,O,F | O | | | O | R,E,O | O | O,F | F,T |
| C.2. Lines of responsibility and accountability | | | | | | | | | | | | | | | | | | | | | | |
| C.2.1. Strategy and planning of IORP's activities | O,F | E,F | O,F | R,O,T | O | | | R,O,F | O | O | | O | | R,O | O | R,O | O | R,E,O,F | O,F | | O,F | T |
| C.2.2. Organisational structure of the IORP | O | E,F | O | R,O,T | R,E,O | | | R,O,F | O,F | O | | O | | R,O,F | O | O | O,T | F | E,O | R,O | O,F | T |
| C.2.3. Capital planning | R,F | R,E,F | F | R,E,O,T | O | | | | O | R,O | | O | | R,O,F | O,F | O | O | R,E,F | R,E,O,F | R,O | R,O,F | R |
| C.2.4. Accounting and record keeping | E,O | R,E,F | O,F | R,E,O,T | O | | R | R,O,F | R,O | E,O | | O | | R,E,O | R,O | O,F | O,T | R,E,O,F | R,E,O,F | O | O,F | T |
| C.2.5. Adequate and effective management information | O,F | E,F | O | R,O | O | | | R,O,F | O | E,O | | O | | R,O | O | | O,T | O | E,O | | O,F | T |
| C.2.6. Protection of material and financial assets | R,E,O,F | E,F | O,F | R,E,O | R,O | | E | R,E,O,F | O | E,O,T | | O | | R,E,O | O | E,O,F | O,T | R,E,O,F | R,E,O,F | R,O | O,F | T |
| C.2.7. Regular internal review of the internal control system | E | E,F | E,O | R,O | R,O | | | R,O,F | O | E,O | | O | | R,O | O | O | O,T | | R,E,O | | O,F | T |
| C.3. Fit and proper requirements | R | R,E,F | O | R,E,O,T | R,O | | | | O | R | | O | | R,O,F | R,O,F | O,F | T | R,O,F | R,F | R,O | R,O,F | R,T |
| C.4. Conflicts of interests | | | | | | | | | | | | | | | | | | | | | | |
| C.4.1. Written policies on conflicts of interest | | E,F | O | O | | | | R,E,O,F | O | O | | | | R,O,F | | | O,T | O | R,E,O,F | O | O,F | T |
| C.4.2. Disclosure to the parties concerned | | E,F | O | E,O | | | | R,O,F | | O | | | | O,F | | | | O | | | O,F | T |
| C.4.3. Identification and recording of conflicts that could arise | | E,F | O | E,O | | | | | E,O | | | O | | O,F | | R | R,O,T | R,F | R,E,O,F | O | O,F | T |
| C.4.4. Elimination of conflicts of interest | | E,F | O | E,O | R,E,O | | | | R,O,F | T | | | | O,F | | R,O | O | R,F | E,F | O | O,F | T |
| C.5. Risk Culture | E,O,F | E,F | O,F | R,O | O | | E | | | O | | | | R,O,F | O | | | | | | O,F | T |

Legend:

| | | | |
|---|---|--------------------------------------|----------|
| P Rules supervised | R: Regulatory reporting & analysis | O: On-site inspections | T: Other |
| P Rules not supervised | E: External validation / use of experts | F: Off-site surveys and surveillance | |

Note: Supervision of the rules/requirements can be achieved via regular reporting and/or inspections and/or through less regular reporting and/or on an ad hoc basis where a risk is highlighted as a concern to the supervisor. The answers in this survey regarding supervision are not explicit to which approaches are adopted in MS. Additionally, the non-regular requests for information have been categorized under different forms of supervision with some MS using "Regulatory Reporting" and other using "Off-Site surveys and Surveillance" or even "Other".

| E.1. Supervisory practices on Section D - Internal Controls | | | | | | | | | | | | | | | | | | | | | | |
|---|-------|-------|-----|---------|---------|----|-----|---------|---------|-----|----|-----|----|---------|-----|-------|-------|---------|---------|-----|-----|----|
| | AT | BE | BG | DE | ES | HU | IE | IT | LV | LI | LT | LU | MT | NL | NO | PL | PT | RO | SI | SK | SE | UK |
| D.1. Contents and implementation of an IC system | | | | | | | | | | | | | | | | | | | | | | |
| D.1.1. Existence of IC mechanisms or systems | E,O | E,F | E,O | R,O | O | | | R,O,F | O,F | E,O | | O | | R,O,F | O | O | O,T | O | E,O,F | O | O,F | T |
| D.1.2. Administrative and accounting procedures | E,O | E,F | O | R,O | O | | | R,O,F | O | E,O | | O | | R,O,F | O | O | O,T | R,O,F | E,O,F | O | O,F | T |
| D.1.3. Reporting arrangements at all levels | O,F | E,F | O | R,O | | | R | R,O,F | O | E,O | | O | | R,O,F | O | | O | R,O | E,O,F | O | O,F | |
| D.1.4. Written policies regarding IC systems | O,F | E,F | O | O | R,O | | | | O,F | O | | O | | R,O,F | O | O | O,T | O | E,O | O | O,F | T |
| D.1.5. Periodical review of the IC system | O | E,F | O | R,O | R,O | | | R,O,F | O | O | | O | | R,O,F | O | | R,O,T | | E,O,F | O | O,F | T |
| D.1.6. Management Board approval | | E,F | O | R,O | O | | | | O | O | | O | | R,O,F | O | O | O,T | R,E,O | E,O,F | O | O,F | T |
| D.1.7. Compliance with legislation and regulation | O | E,F | O | O | O | | | O,F | R,O,F,T | O | | O | | R,O,F | O | | O,T | O | R,E,O,F | O | O,F | T |
| D.1.8. Monitor and report | O,F | E,F | O | R,O | R,O | | | R,O,F | R,O,T | O | | O | | R,O,F | O | | R | O | R,E,O,F | O | O,F | |
| D.1.9. Proportionality | | E,F | | R,O | O | | | R,O,F | | O | | O | | R,O,F | O | | O,T | | | | O,F | T |
| D.2. Functions and their role | | | | | | | | | | | | | | | | | | | | | | |
| D.2.1. Compliance function | R,O,F | R,E,F | O | R,E,O | O | | | R,O,F | O | | | O | | R,O,F | | | O,T | | | O | O,F | T |
| D.2.2. Internal audit | | R,E,F | O | R,O | O | | | R,E,O,F | O | | | O | | R,O,F | O | | O,T | R,E | E,O,F | O | O,F | T |
| D.3. IT and monitoring systems | | | | | | | | | | | | | | | | | | | | | | |
| D.3.1. IT systems | O | R,E,F | O | R,E,O,T | | | | R,O,F | O | | | O | | R,O,F | O | | R,O,T | O | E,O | O | O,F | T |
| D.3.2. Monitoring systems | O | E,F | O | R,E,O | O | | | R,O,F | O | | | O | | R,O,F | O | | R,O,T | O | | | O,F | T |
| D.4. External controls and performance measurement and | | | | | | | | | | | | | | | | | | | | | | |
| D.4.1. External controls | R | F,T | F | R,E,O | | | | R,O,F | O,F,T | R,T | | O | | R,E,O,F | R,O | | R,O,T | | E,F | R,O | O,F | T |
| D.4.2. Performance measurement and compensation mechanisms | | | | R,E,O | | | | R,O | | | | O | | R,O,F | | | O | | | | O,F | T |
| D.5. Business continuity planning | | R,E,F | O,F | R,O,T | | | | R,O | O | | | O | | R,O,F | O | | O,T | O | | | O,F | T |
| D.6. Investment policy | R,O,F | R,E,F | O,F | R,E,O,T | R,E,O,F | | R,E | R,O,F | R,E,O,F | O | | R,O | | R,O,F | O,F | R,O,F | R,O,T | R,E,O,F | R,O,F | O | O,F | R |

Legend: P Rules supervised R: Regulatory reporting & analysis O: On-site inspections T: Other
 Rules not supervised E: External validation / use of experts F: Off-site surveys and surveillance

Note: Supervision of the rules/requirements can be achieved via regular reporting and/or inspections and/or through less regular reporting and/or on an ad hoc basis where a risk is highlighted as a concern to the supervisor. The answers in this survey regarding supervision are not explicit to which approaches are adopted in MS. Additionally, the non-regular requests for information have been categorized under different forms of supervision with some MS using "Regulatory Reporting" and other using "Off-Site surveys and Surveillance" or even "Other".

IV.4. Characteristics of occupational pensions framework and the regulatory and supervisory practices on supervision of management oversight and internal controls rules

| MS | Legal form of IORP | Character of Supervision | Risk Sharing Type | Section C - MO Culture rules | Section D - IC rules | Section E - Supervision |
|----|--------------------|--------------------------|--------------------|------------------------------|----------------------|-------------------------|
| AT | LP | MRBS | DC1 | 74% | 62% | 74% |
| BE | LP | RBS | DB1 | 77% | 74% | 97% |
| BG | LP | MRLS | DC1 | 89% | 56% | 94% |
| DE | LP | MRBS | DB2 ^(*) | 97% | 95% | 100% |
| ES | CB | MRBS | DC3 | 80% | 56% | 76% |
| HU | LP | | | 37% | 46% | |
| IE | TB | RLS | DB1 | 23% | 5% | 15% |
| IT | LP | MRLS | DC1 | 54% | 67% | 76% |
| LV | LP | | DC1 | 86% | 72% | 88% |
| LI | LP | MRLS | DB1 | 49% | 21% | 79% |
| LT | LP | | | 20% | 10% | |
| LU | LP | MRBS | DB1 | 46% | 36% | 88% |
| MT | TB | | | 61% | 38% | |
| NL | LP | RBS | DB2 | 86% | 59% | 100% |
| NO | LP | MRBS | DB2 | 66% | 59% | 82% |
| PL | LP | MRLS | DC1 | 46% | 15% | 47% |
| PT | CB | MRLS | DB1 | 80% | 56% | 88% |
| RO | WLP | MRLS | DC1 | 71% | 51% | 79% |
| SI | LP | MRLS | DC2 | 77% | 44% | 74% |
| SK | LP | MRLS | DC1 | 60% | 66% | 74% |
| SE | LP | MRBS | DC4 | 57% | 72% | 100% |
| UK | TB | RBS | DB1 | 77% | 44% | 91% |

Legend Legal Form of IORP:

LP = legal personality
WLP - Without legal personality
TB - Trust Base
CB - Without LP contract Based

Legend Character of Supervision

RBS - Risk Based System
MRBS - Mainly Risk Based System
MRLS - Mainly Rules Based System
RLS - Rules Based System

Legend Risk Sharing Type

DB 1 - Sponsor bears all risks
DB 2 - IORP bears all risks
DC 1 - Participant bears all risks
DC 2 - IORP bears investment risk in accumulation
DC 3 - Sponsor bears investment risk in accumulation
DC 4 - IORPs bear all risks

(*) - In Germany, there are the risk sharing types DB 1 (12%) and DB 2 (88%). However, due to the subsidiarity principle (Subsidiaritätsprinzip) the sponsoring undertaking has to ultimately bear the risks for all types of implementing occupational retirement provisions.