EUROPEAN COMMISSION

Brussels, XXX

[…]

(2013) XXX draft

**COMMISSION IMPLEMENTING REGULATION (EU) No …/..**

**of [ ]**

**COMMISSION IMPLEMENTING REGULATION (EU) No …/..laying down implementing technical standards with regard to the reporting of national provisions of prudential nature relevant to the field of occupational pension schemes according to Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision**

**of [ ]**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/41/EC of the European Parliament and of the Council of 3 June of 2003 on the activities and supervision of institutions for occupational retirement provision and in particular Article 20(11) thereof.

Whereas:

1. Member States shall report to the European Insurance and Occupational Pensions Authority (hereinafter “EIOPA”) their national provisions of prudential nature relevant to the field of occupational pension schemes which are not covered by the reference to national social and labour law in Article 20(1) of Directive 2003/41/EC (hereinafter “national prudential provisions”). The requirements laid down in this Regulation do not affect Member State competences as provided for in Directive 2003/41/EC with regard to the national social and labour law applicable to institutions for occupational retirement provision (hereinafter “IORPs”).
2. EIOPA shall make the information reported under this Regulation available on its website to create a centralised source of information at EU level on national prudential provisions.
3. It is acknowledged that Member States may have provisions applicable to occupational pension schemes in areas such as company law, trust law and insolvency law that extend beyond national prudential provisions. The reporting obligation under this Regulation is not intended to provide an exhaustive list of all the legal and regulatory rules under which occupational pension schemes operate.
4. In accordance with Article 4 of Directive 2003/41/EC, Member States may choose to apply the provisions of Articles 9 to 16 and Articles 18 to 20 of Directive 2003/41/EC to the business of occupational retirement provision of insurance undertakings which are covered by Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance. Member States that availed themselves of this option do not apply Article 7 first subparagraph, Article 8 and 17 of Directive 2003/41/EC to the business of occupational retirement provision of insurance undertakings. Therefore, the range of reported national prudential provisions applicable to these insurance undertakings is different from those applicable to occupational pension schemes.
5. In order to ensure uniform reporting, this Regulation provides a template to be used when competent authorities transmit the requested information to EIOPA. To enable ease of access and comparability of the information transmitted, the template list corresponds to the relevant provisions of Directive 2003/41/EC. The template also facilitates the reporting of national prudential provisions which are not captured in the list, in a separate field titled “Other”.
6. In some Member States, there is more than one structural type of IORPs (e.g. Pensionskassen and Pensionsfonds in Germany). Competent authorities should report their names and indicate the national prudential provisions applicable to the different structural types of IORPs, where relevant.
7. In some Member States, national prudential provisions do not extend to the whole territory of the relevant Member State (e.g. the UK). Therefore competent authorities should indicate in the template whether their national prudential provisions extend to different territories within their Member State and the territorial extent of the reported provisions.
8. Information on national prudential provisions needs to be kept up to date without imposing a disproportionate burden on competent authorities and therefore reporting is limited to once a year. To increase the consistency of the disclosure of the information, the date to which the reporting refers is fixed at 1 March and the reports should be transmitted to EIOPA by 30 June. Competent authorities may update that information between reporting dates on a voluntary basis.
9. To ensure that information on national prudential provisions is available shortly after the entry into force of this Regulation, irrespective of the reporting date set in this Regulation, the first transmission should happen within 6 months after the entry into force of this Regulation.
10. As specified in Recital 32 of Directive 2010/78/EC (Omnibus I), the technical standards drafted by EIOPA should be without prejudice to the competences of Member States with regard to prudential requirements on such institutions as provided for in Directive 2003/41/EC.
11. This Regulation is based on the draft implementing technical standards submitted by EIOPA to the Commission.
12. EIOPA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Occupational Pensions Stakeholder Group established by Article 37 of Regulation (EU) No 1094/2010.

HAS ADOPTED THIS REGULATION:

**Article 1**

**Subject-matter**

1. This Regulation lays down the procedures to be followed and the formats and templates to be used by competent authorities when transmitting and updating the national provisions of prudential nature relevant to the field of occupational pensions schemes which are not covered by the reference to national social and labour law in Article 20(1) of Directive 2003/41/EC (hereinafter “national prudential provisions”).

**Article 2**

**Reporting procedures**

1. Competent authorities shall transmit the information on national prudential provisions to EIOPA within six months since the entry into force of this Regulation (“first transmission”) and by 30 June of each calendar year subsequent to the year in which that six month period ends (“annual transmissions”).
2. The first transmission shall relate to national prudential provisions which are effective on the date this Regulation enters into force. The annual transmissions shall relate to national prudential provisions which are effective on 1 March in the relevant calendar year.
3. Competent authorities may transmit updated information on their national prudential provisions to EIOPA at any time (“voluntary transmission”).

**Article 3**

**Reporting format and templates**

1. Competent authorities shall report and update their national prudential provisions using the template provided in the Annex to this Regulation and they shall indicate the following:
   1. the name of the competent authority, the name of the Member State and the date of transmission to EIOPA,
   2. whether it is a first, a voluntary or an annual transmission,
   3. whether the transmission relates to insurance undertakings as referred to in Article 4 of Directive 2003/41/EC and the type of the insurance undertaking,
   4. whether there is more than one structural type of IORP in the Member State and if so, the names of the structural types and the national prudential provisions applicable to them,
   5. whether the reported provisions extend to different territories within a Member State and if so, the territorial extent of the reported provisions,
   6. references to the respective number, title of the section(s) and official names of the acts and other relevant instruments, if applicable,
   7. a hyperlink to the relevant section of the website containing the full text of the acts and other relevant instruments, where available.
2. Where in a Member State there are national prudential provisions which are not captured in the template list, the relevant competent authority shall indicate those provisions in the category “Other” in the template.
3. Competent authorities shall submit completed templates to EIOPA in an electronic format.

**Article 4**

**Entry into force**

1. This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [ ]

*[For the Commission*

*The President]*

*[On behalf of the President]*

*[Position]*

**ANNEX**

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Template on the national provisions of prudential nature relevant to the field of occupational pension schemes** | | | | | | | | | | | |
| Name of a competent authority | | | | Name of a Member State | | | | | Date of transmission to EIOPA | | |
|  | | | |  | | | | |  | | |
| Report relates to business of occupational retirement provisions of insurance undertakings as referred to in Art. 3 (1) (c)  (please mark x) | | | | | Yes |  | There is more than one structural type of IORPs in our jurisdiction as referred to in Art. 3 (1) (d)  (please mark x) | | | Yes |  |
| No |  | No |  |
|  |  |  |  |
| If yes, please provide the type of the insurance  undertaking as referred to in the national legislation: | | | | | | | If yes, please provide their names and make clear if different national prudential provisions apply to different structural types of IORPs. | | | | |
|
| Type of a report  (please mark x) | | | a) first transmission - Art. 2(1) and Art. 2(2) | | |  | Different territorial extent of the reported provisions  as referred to in Art. 3 (1) (e)  (please mark x) | | | Yes |  |
| b) voluntary transmission - Art. 2(3) | | |  | No |  |
| c) annual transmission - Art. 2(1) | | |  | If yes, please indicate the territorial extent of each of the reported provisions. | | | | |
|  | | | | | |  |
|  | |  | | | |  |
|  | |  | | | |  |  | | | | |
| **Code** | **Item** | | | | | | | **Corresponding provisions in IORP Directive 2003/41/EC** | | | |
| 10 | Activities of an institution | | | | | | | Art. 7 | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 20 | Legal separation between sponsoring undertakings and institutions for occupational retirement provision | | | | | | | Art. 8 | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 30 | Conditions of operation | | | | | | | Art. 9 | | | |
| 31 |  | | | | | | | Art. 9 (1) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 32 |  | | | | | | | Art. 9 (2) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 33 |  | | | | | | | Art. 9 (3) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 34 |  | | | | | | | Art. 9 (4) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 35 |  | | | | | | | Art. 9 (5) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 40 | Annual accounts and annual reports | | | | | | | Art. 10 | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 50 | Statement of investment policy principles | | | | | | | Art. 12 | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 60 | Information to be provided to the competent authorities | | | | | | | Art. 13 | | | |
| 61 |  | | | | | | | Art. 13 (1) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 62 |  | | | | | | | Art. 13 (2) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 70 | Powers of intervention and duties of the competent authorities | | | | | | | Art. 14 | | | |
| 71 |  | | | | | | | Art. 14 (1) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 72 |  | | | | | | | Art. 14 (2) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 73 |  | | | | | | | Art. 14 (3) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 74 |  | | | | | | | Art. 14 (4) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 75 |  | | | | | | | Art. 14 (5) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 80 | Technical provisions | | | | | | | Art. 15 | | | |
| 81 |  | | | | | | | Art. 15 (1) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 82 |  | | | | | | | Art. 15 (2) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 83 |  | | | | | | | Art. 15 (3) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 84 |  | | | | | | | Art. 15 (4) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 85 |  | | | | | | | Art. 15 (5) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 86 |  | | | | | | | Art. 15 (6) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 90 | Funding of technical provisions | | | | | | | Art. 16 | | | |
| 91 |  | | | | | | | Art. 16 (1) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 92 |  | | | | | | | Art. 16 (2) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 93 |  | | | | | | | Art. 16 (3) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 100 | Regulatory own funds | | | | | | | Art. 17 | | | |
| 101 |  | | | | | | | Art. 17 (1) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 102 |  | | | | | | | Art. 17 (2) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 103 |  | | | | | | | Art. 17 (3) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 110 | Investment rules | | | | | | | Art. 18 | | | |
| 111 |  | | | | | | | Art. 18 (1) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 112 |  | | | | | | | Art. 18 (2) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 113 |  | | | | | | | Art. 18 (3) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 114 |  | | | | | | | Art. 18 (4) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 115 |  | | | | | | | Art. 18 (5) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 116 |  | | | | | | | Art. 18 (6) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 117 |  | | | | | | | Art. 18 (7) | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |
| 120 | Management and custody | | | | | | | Art. 19 | | | |
| Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: | | | | | | | | | | |

|  |  |
| --- | --- |
| Other  as referred to in Art. 3(2) | National prudential provisions that are not captured in the list above.  Number, title of the section(s) and official name of the acts and other relevant instruments, if applicable:  Hyperlink(s) to the full text of the national legislation: |