II. SUPERVISORY STRUCTURES FOR PRIVATE PENSION FUNDS IN OECD COUNTRIES

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Background

The study of the supervisory structures for private pension funds is a core activity of the OECD Working Party on Private Pensions (WPPP) and the International Network for Pensions Regulators and Supervisors (INPRS). This study develops a comparative analysis of the institutional environment of private pension funds supervision. It begins with a review of the different types of organisational arrangements according to market structure and the relationship between regulatory and supervisory agencies[1]. It then proceeds to analyse the operational independence, governance, accountability and enforcement capacities of supervisory agencies as well as the internal organisation of the latter. This analysis focuses on the primary supervisors as identified in Appendix 1.

The information presented is based on the responses to a questionnaire on supervisory structures for private pensions (Appendix II.2) provided by twenty OECD countries (Australia, Canada, Czech Republic, Denmark, Germany, Hungary, Iceland, Ireland, Italy, Japan, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom). The responses provide a unique cross-country comparison of the information available on this issue. Further information from other OECD countries, collected from different sources, is also provided. The information is updated until 2003.

Institutional framework of private pension fund supervision

Private pensions are long-term contracts that compromise a sizable share of the worker's income and operate in markets subjected to failures related to asymmetric information, adverse selection and moral hazard. Government

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intervention is crucial to design regulations oriented to avoid systemic crisis and to guarantee the financial and actuarial sustainability of the private pension system. Regulations have to be implemented by supervisory institutions, which ought to be properly staffed and financed, insulated from political pressures — from either the government or the pension industry — and endowed with reasonable enforcement capacities.

Objectives and functions

The main objective of the private pension supervision is to ensure compliance with regulations in order to protect the interests of the members and safeguard the stability of the system. These elements are presented in the stated missions of the majority of the surveyed supervisory agencies, as listed in Table II.1.

Table II.1. Selected OECD Supervisory Agencies' Stated Missions

APRA (Australia)	*"…to establish and enforce prudential standards and practices designed to ensure that, under all reasonable circumstances, financial promises made by institutions we supervise are met within a stable, efficient and competitive financial system".*
OSFI (Canada)	*"…to safeguard policyholders, depositors and pension plan members from undue loss".*
FSA (Denmark)	*"…maintain confidence in the financial sector - both in relation to society and to the individual person - by: ensuring that financial legislation is observed. This includes the prevention of offences that may arise in specific areas, for instance the areas of solvency and liquidity; participating in the elaboration of financial legislation, and collecting and publishing information relating to the financial sector".*
BaFin (Germany)	*"…to ensure that the interests of the insured are adequately safeguarded and that liabilities under insurance contracts can be met at all times (…). The objective of legal supervision is the proper operation of insurance business including observance of the supervisory provisions, provisions concerning the insurance contracts and any other provisions concerning the insured as well as of the legal bases of the operating plan."*
HFSA (Hungary)	*"…to facilitate the smooth operation of the financial markets and promote the protection of clients of financial organizations, and their consumers; to maintain and strengthen confidence in financial markets; to contribute to the transparency of the markets, provide for the improved awareness of consumers and to the regulation of fair competition in the market."*
FSA (Norway)	*"ensure that the institutions it supervises operate in an appropriate and proper manner in accordance with law and provisions issued pursuant to law and with the intentions underlying the establishment of the institution, its purpose and articles of association"*

FME (Iceland)	*"...to ensure that these (parties subject to official supervision) are in accordance with laws, regulations, rules and by-laws governing such activities, and that they are in other respects consistent with sound and proper business practices."*
Pension Board (Ireland)	*"…to promote the security and protection of members of occupational pension schemes and contributors to Personal Retirement Savings Accounts, in accordance with the Pensions Act, 1990; to promote the development of efficient national pension structures; to promote a level of participation in the national pension system which enables all citizens to acquire an adequate retirement income; and to provide information and authoritative guidance to relevant parties in support of pension security, structures and participation".*
COVIP (Italy)	*"…aiming at the safe and transparent management of pension funds and at the appropriate functioning of the supplementary pensions system".*
CONSAR (Mexico)	*"…to protect the interest of the workers and their beneficiaries by an efficient management of their retirement savings."*
PVK (Netherlands)	*"…to ensure that insurers and pension funds fulfill their obligations to policyholders, pension scheme members and pension recipients."*
KNUiFE (Poland)	*"…to protect the interests of members of the funds and members of the employee pension plans."*
Finansinspektionen (FI) (Sweden)	*"…promotion of financial stability and efficiency in the financial sector and promotion of consumer protection goals."*

Source: Replies to the OECD Secretariat questionnaire. In most cases, the quotations are legal provisions or mission statements.

In most surveyed countries, the stated mission is defined in the legislation and is the basis for the organisation of the supervisory agency. It provides guidance for the institutionalisation of values and the creation of corporate culture. A clear definition of objectives and mission is also important for the delimitation of tasks between agencies and for designing supervisory functions.

The objective *"protecting the plan member's interest and safeguarding the stability of the system"* effectively means assuring compliance with regulations to mitigate risks and to guarantee that liabilities under pension contracts are met. Additional concerns arise when pension funds are set up. If plans use existing financial products as funding vehicles, then financial sector supervisors can normally be relied upon to provide adequate protection.

The risks involved in private pension activities are mainly related to the inadequate organisational structure and operation of the pension fund, mismanagement, inaccurate actuarial and asset evaluation, investment portfolio, annuity fund and liquidity mismanagement, improper accounting, high administrative costs and market structure. External risks related to the functioning of financial and insurance markets, to economic performance and to political stability should also be considered.

In order to implement mission statements effectively, it is necessary to establish functions and design an institutional framework with one or more agencies to operate them. Typical supervisory functions include implementing regulation related to: licensing/registration; qualification for tax benefits; compliance to governance rules; contributions and regularity of payment; membership and portability (enrolment process, transfers and compliance); benefits eligibility; financial literacy; conditions and access to plans; investments, asset allocation, performance, minimum capital and reserves; custodian procedures; financial, actuarial and accounting methods; administrative costs, fees and marketing; disclosure procedures; and merger and liquidation processes.

Governments organise institutional structures designed to implement supervisory functions according to the administrative organisation of the state, the distribution of competencies between different levels of government and between institutions, the development of financial markets and services, the features of pension plans and the nature of the regulatory approach applied to these schemes.

Political organisation of the state

In federative or decentralized countries, the action of the central supervisory agency may be quite limited. The Canadian Office of the Superintendent of Financial Institution (OSFI) is responsible for only 8% of the country's regulated pension plans, covering 10% of plan membership. Almost all of Canada's provinces have separate local agencies that are responsible for provincially regulated pension plans within their jurisdictions.

The Australian public servants' superannuation schemes are not implemented under the same rules and supervisory procedures as are applied to the private sector. They are subject to Commonwealth, State or Territory government supervision under their enabling acts. A federative agreement requires these funds to comply with the spirit of the general regulation. In the US, states also have federative autonomy to regulate and supervise pension funds for their public servants.

In Sweden, *Finansinspektionen* (FI) is the primary supervisory agency for all financial institutions, including "friendly societies"[2], but excluding the pension foundations[3] which are monitored by the parties to the agreements.

County administrative boards may supervise occupational plans sponsored by employers seeking to establish a pension foundation according to the region where they are located. Since there are twenty four counties in Sweden, the rules of supervision and practices can vary significantly.

Institutional and functional structure

Private pension supervision involves complex interactions between social security, tax, financial and insurance sectors. Generally, pension fund supervisors are located in an institutional environment, including social and economic institutions such as Ministries of Finance, Labour and Social Security, Central Banks or other financial sector supervisory authorities. Tax authorities also supervise private pensions since they are often in charge of granting tax exemptions. However, with the exception of a few countries (*e.g.* US), tax authorities are not responsible for prudential supervision or for protection of members and beneficiaries' rights.

Supervisors customise their organisation and activities to suit the complexity of the pension fund industry. According to OECD taxonomy, pension funds may support public or private pension plans. From a functional perspective, pension plans may also be mandatory or voluntary, defined contribution (DC) or defined benefit (DB), and occupational or personal. A description of the main characteristics of the surveyed countries' private pension schemes is provided in Appendix 2. Similarly, the structure of supervisory authorities should adequately address the institutional form of the pension funds, designing procedures for autonomous and non-autonomous funds, as well as for group, collective, related members, and individual pension funds.

It is also necessary to distinguish between two main legal forms of autonomous pension funds: pension entities and separate accounts. Pension entities can be trusts, foundations or corporate entities that own and may control the pension fund on behalf of the plan members. They are the most common type of autonomous pension fund in OECD countries. Separate accounts, on the other hand, are autonomous pension funds without legal personality or capacity that are managed by financial institutions (sometimes special-purpose institutions, pension fund managing companies).

Generally, the institutional structure of private pension supervision can be classified into three main approaches according to the extent to which the authority responsible for pension supervision is also competent to supervise other financial institutions: (i) specialized pension model, with one or more agencies dedicated exclusively to pension fund supervision; (ii) partially integrated model, with one agency responsible for insurance and private pension supervision and (iii) integrated model, with one institution responsible for the overall financial sector supervision, including banks, securities, insurance companies and pensions funds. Table II.2 shows how OECD country supervisors currently fit into this classification.

Table II.2. Private Pension Funds Supervisory Structures in OECD Countries

Integrated (Banks, Securities, Insurance Companies, Pension Funds)	Partially Integrated (Insurance Companies and Pension Funds)	Specialized (Pension Funds)
Australia	Belgium(*)	Ireland
Austria	Czech Republic	Italy
Canada	Finland	Japan
Denmark	Luxembourg	Mexico
Germany	Netherlands (**)	Slovak Republic
Hungary	New Zealand	Sweden
Iceland	Poland	Switzerland
Korea	Portugal	United Kingdom
Norway	Spain	United States
	Turkey	

(*) A new integrated agency starts to operate in 2004.
(**) The country is in process to consolidate the financial supervision.
Source: Replies to the OECD Secretariat questionnaire and INPRS database.

Historically, in many countries, private pension supervision has been based either on insurance/financial/pension arrangements linked either directly or indirectly to Ministries of Finance or on specialised arrangements under Ministries of Labour, Social Security and/or Social Affairs.

Ireland, Italy, Japan, Mexico, Slovak Republic, Sweden, Switzerland, the United Kingdom and the United States all organise their supervision around specialised supervisory authorities. This model is characterized by the segregation of supervisory functions and the fragmentation of supervision for different private pension schemes or products. Generally, distinct agencies conduct the supervision of occupational and personal plans and there are more than three institutions involved in the overall process, which reinforces the necessity for effective co-ordination and co-operation mechanisms.

In Ireland, the Pension Board is the primary supervisor for occupational schemes, whilst personal pension plans are overseen by of the Department of Enterprise, Trade and Employment. Japan follows the same model. The Pension Board, linked to the Ministry of Health, Labour and Welfare, supervises most of the occupational pension funds and another agency is in charge of voluntary plans. The Financial Service authority in Japan and the Central Bank in Ireland are also involved in the process related to custodian and investment procedures.

In Italy, COVIP (*Commissione di vigilanza sui fondi pensione*) is the primary pension fund supervisor. It supervises all the new pension funds (closed and open) set up under the new legislation and the pre-1993 "old" autonomous and non-autonomous pension funds internal to undertakings other than banks and insurance companies. The Bank of Italy and the Institute for Private Insurance Surveillance (ISVAP) supervise pension plans instituted as book services respectively within banks and insurance companies. As part of its general supervisory powers, ISVAP also supervises life insurance products that can serve as individual pension plans.

In Mexico, the supervisory functions for personal mandatory plans are divided between the National Institute of Social Security —*Instituto Mexicano de Seguridad Social (*IMSS) — and the National Commission for Retirement Savings System – *Comision Nacional del Sistema de Ahorro para Retiro (*CONSAR). IMSS performs supervisory functions related to: contributions and regularity of payment; membership and portability; benefits eligibility conditions and access to plans. CONSAR is responsible for licensing; compliance with regulations on governance; asset allocation; financial, actuarial and accounting methods; disclosure, merger and liquidation. The Ministry of Finance is in charge of supervising personal voluntary pension plans.

In the United Kingdom, occupational pension funds are subject to surveillance by the Inland Revenue, the Occupational Pensions Regulatory Authority (OPRA), the Pension Compensation Board, the Department of Social Security and the Financial Service Authority (FSA).

The United States has several agencies in charge of the supervision of private pension occupational schemes. The US Department of Labor, Pension and Welfare Benefits Administration (PWBA) primarily supervises the protection of employee benefit rights and fiduciary obligations for corporate and multi-employer voluntary pension plans. The Pension Benefit Guaranty Corporation (PBGC) provides protection for the termination of defined benefit schemes. The Internal Revenue Service (IRS), overseen by the United States Department of Treasury, operates and supervises the tax treatment related to pensions and, in that role, is responsible for the registration (tax qualification) of pension plans.

The partially integrated perspective is in use in a number of OECD countries, namely Belgium, Czech Republic, Finland, Luxembourg, the Netherlands, New Zealand, Poland, Portugal, Spain and Turkey. They have combined the supervision of insurance and pension funds under an integrated agency which is separated from other financial supervision tasks, or which resides in a specific department of the Ministries of Finance, Labour or other ministries. In all these surveyed countries, occupational and personal plans, contracted out under voluntary or mandatory basis, are under the oversight of the same agency. However, in Poland, one possible form of a voluntary occupational pension plan is to establish an agreement with an investment fund. The pension plan is registered by the insurance and pension supervisory body, but the fund itself is supervised by the Securities and Exchange Commission

In Portugal, the Netherlands and Spain, both occupational and personal voluntary pension plans, as well as insurance companies, are supervised by a single agency: the General Directorate for Insurance and Pension Funds *(Dirección General de Seguros y Fondos de Pensiones*), under the Ministry of Economy in Spain, and in the Netherlands by the Pensions and Insurance Supervisory Authority (*Pensioen & Verzekeringskamer)*, an independent Dutch agency with specialised departments. In Portugal, the Portuguese Insurance Institute (*Instituto de Seguros de Portugal – ISP*) is a public autonomous body linked to the Ministry of Finance.

In Poland, there are only voluntary occupational pension programs, which can be established in a form of agreement with life insurance companies, investment funds or in a form of separate employee pension fund. Under certain circumstances, personal (individual) contracts with life insurance companies (unit linked products) or with investment funds, for purposes of practice, may be considered as a personal pension operation but the law does not distinguish them as a separate legal institution. The pension funds are overseen by the Commission of Insurance, and Pension Fund Supervision (KNUiFE).

Recently, some OECD countries have adopted an integrated supervisory perspective in their financial sector, reforming their supervisory framework to build a unified supervisory authority. This process started during the 80's and in early 90's in Scandinavian countries (Norway in 1986; Denmark in 1988; and Sweden in 1991) and in Canada in 1987. These countries had unified their previously specialised agencies in order to adapt the institutional regulatory and supervisory structure to the market structure dominated by financial conglomerates delivering banking, insurance and pensions services and products.

In recent years, Australia (1998) has adopted an integrated approach as part of the pension reform process. Nonetheless, agencies which integrate the supervision of all of the financial sectors into a single organization do not necessarily embrace all of the supervisory functions. Australia has an integrated sector model, but the supervisory functions are divided between the Australian Prudential Regulatory Authority (APRA) and the Australian Securities and Investment Commission (ASIC). APRA is responsible for licensing and prudential supervision of the plan and pension fund rules and investments. ASIC is responsible for pension fund market conduct.

Korea (1999) has also unified its supervisory agencies in a package of measures to strengthen the financial system after the 1997 economic crisis. This pattern was followed by Iceland (1999), which has several financial conglomerates in the market structure and therefore implemented a unified agency.

Hungary established the integrated Hungarian Financial Supervisory Authority (HFSA) in April 2000, consolidating the supervision of banks, credit institutions and co-operatives, financial enterprises, investment funds and service providers, insurers, health and income replacement funds, as well as mandatory and voluntary pension funds. Since 2001, Austria has also established a similar agency in order to adapt the supervision structure to fit the shape of the market, (banks and insurance companies hold the control of several pension funds). Germany was the last OECD country to adopt this integrated model in 2002.

The integrated approach has been proposed as a way to adapt the supervisory framework to the development of financial conglomerates and to address the blurring of differences across financial products. Experts in different products working together in a unified agency would improve the risk assessment taken over by financial conglomerates.

Some surveyed countries argue that the main advantage to moving to a single supervisor is the adoption of an integrated supervisory approach. According to the Australian Delegation's response to the questionnaire: *"the integrated nature of APRA enables its approach to supervision to be more holistic with a view to the operation of the superannuation industry within the context of the broader financial services sector"*.

For the Hungarian Delegation, integrated supervision has led to a comprehensive control activity – *"(…) within this framework, different business lines and transactions can be assessed with the involved partners at the same time. This integrated approach allows for consolidated supervision. The legal* *and supervisory arbitrage of the market players could be limited*". The consolidated supervision can standardize actuarial, accounting and financing parameters for financial entities, thus avoiding differences and inconsistencies of supervision between financial sector as well as addressing discrepancies between regulatory issues. Nonetheless, Hungarian Financial Services Authority (HFSA) representatives remind us that "*an effective integrated supervision requires a coherent and well-developed institutional culture*."

Another argument for financial integration is related to economies of scale and scope, and to the simplification of the system. The Canadian Delegation replied to the questionnaire affirming: "*the simplicity of this system reduces the regulatory cost and burden, while encouraging compliance and new entry*". In fact, the consolidation of various specialized agencies may decrease the overall supervisory administrative cost, thereby increasing efficiency. The integration of supervisory procedures may reduce and simplify the amount of documents usually sent by entities to supervisors; eliminate duplications and authority overlapping; optimise licensing procedures and facilitate the integration between off-site monitoring and on-site supervision. Furthermore, integration would enable the use of joining supporting services that are multiplied in various institutions in the specialised model. A single complaint-handling regime and a single compensation scheme can be established. This would save scarce government human and material resources and reduce operational burden over supervised entities

Additionally, financial supervision decisions require the on-line availability of strategic information. The specialised model may delay data consolidation or reduce the quality of the information, since they are collected and recorded in fragmented databases under different labels. The agencies' integration may improve the information provision efficiency to avoid systemic crisis, identify illegal procedures and safeguard the credibility of the system. Others consider that actual integration is not a prerequisite to achieve these objectives. The Italian Delegation reports, for instance, *"problems due to the separation of supervisory activities over the financial sector between many different bodies may be overcome with a timely and open exchange of information and an effective cooperation"*.

The effectiveness of the integrated approach to financial supervision is a controversial issue which does not benefit from any conclusive evidence. Proponents of financial integration argue that a single agency would work with greater efficiency at a lower cost for supervisors, pension funds and other supervised financial institutions due to "*economies of scale and scope, reduction in the reporting requirements, consistency in the treatment of different sectors, capacity to solve conflicts, accountability, and capacity to* *implement a risk-based supervision model*".[4] Nonetheless, Lumpkin (2002) argues that the effect on costs of the reduction in the number of supervisory agencies remains unclear and the question of whether the organisational structure of supervision needs to mirror the structure of the financial system remains controversial.[5]

The arguments against integration and in favour of the specialised model for private pension supervision are based on the differences between the pension service and product business and other financial business. Pensions are long-term contracts with specific tax treatments and social aspects, which would require a different approach regarding the supervision of their assets, liabilities and risks. This seems to be the case as regards occupational schemes where employment relationship must be considered and where the employer frequently serves as an intermediary between members of the pension plan or fund and the financial institution.

The Italian Delegation reports that a specialised agency can better concentrate expertise and knowledge on the pension funds sector. They raised the following point: "*the supervision on pension funds is carried out from a distinct perspective with respect to the supervision of other financial intermediaries, in order to fully take into account their differences from other financial intermediaries (contractual pension funds are on the buying side of the market for financial services; they are non-profit organizations; they are run on a parity basis by employers and trade unions and their establishment is part of the system of industrial relations).*" In the case of Swedish pension foundations, it is reported that "*the number of supervisory authorities (one for each county) may lead to very diverse supervision, but also to flexibility.*"

In the case of Latin American reforms, Demarco *et al*. (1998) mention that a new specialised agency might be more effective than other arrangements. The authors justify their position in relation to the lack of tradition on the supervision of new products, suspicion on the lack of transparency in pre-existing agencies and the absence of experience on supervising complex interactions which combine capital markets, insurance and social security.[6]

For the Mexican Delegation, the institutional and the functional specialisation are considered an advantage. According to Mexico's reply: "*since CONSAR does not oversee the payment process nor the eligibility of the retirees, it can focus its efforts on the surveillance of specific processes of the pension system. CONSAR has developed state–-of–the–-art technology to oversee the pension funds operation.*"

The particularities of pension fund supervision may explain why Japan, Sweden and the United Kingdom have created unified financial services authorities, excluding the supervision of the occupational pension funds and maintaining segregate agencies dealing with it. In Japan, the Financial Services Authority is in charge of the personal pension plans and the Pension Bureau oversees, for the most part, the occupational scheme. Similarly, the British Financial Services Authority, created in 2000, oversees the marketing of personal pensions, including stakeholder pensions, with particular emphasis on promotion, selling and advice. The specialised agency (OPRA), established in 1995, is the primary supervisor of most of the regulations of the occupational and personal pension schemes. In Sweden, one of the pioneers of the financial services authority consolidation, the responsibility to supervise the pension foundations remain with the county supervisory boards and the FI oversees only the mutual benefit companies offering insurance solutions similar to life insurance.

Moreover, there is a crucial distinction in these countries between the organisational integration of supervisory institutions and the functional integration of supervision procedures. The existence of an integrated supervisory authority does not necessarily imply consolidated supervision. More generally, it should be noted that in most integrated and partially integrated models, the supervision of pensions is actually conducted by a specialised department/division.

In the Netherlands, there is an on-going initiative to reform the supervisory framework by building an integrated agency, but maintaining a specialised approach for the pension funds supervision. In March 2003, the Dutch Parliament decided to merge the Central Bank, responsible for banks and investment institutions, and the Pension and Insurance Supervisory Board (PVK). The integrated agency will be overseen by the Finance Minister, and the pension supervisory body will be politically accountable to the Ministry of Social Affairs and Employment, which is legally responsible for the implementation of the *Pension and Savings Fund Act*. The latter will have extensive powers on the budget process and on the appointment of the governing board for pension supervision.

Specialised agencies can co-ordinate their activities in order to achieve economies of scale, greater efficiency, and eliminate overlapping duties.[7] Therefore, it is important to look beyond the institutional structure of supervision and analyse the distribution of responsibilities and functions not only between authorities and within authorities, but also the co-ordination and co-operation mechanisms between agencies or between departments in the same agency.

A complete survey on the distribution of supervisory responsibilities between agencies is provided in Annex 3. Generally, unified agencies, as for example in Canada, Germany and Sweden, comprise all the supervisory functions related to pension funds, excluding the qualifications for tax benefits, which falls under the responsibility of the tax authorities. On the other hand, in countries with specialized agencies, like Ireland, Italy, the United Kingdom and the United States, the functions and responsibilities for pension fund supervision are divided between several agencies. Australia is an exception because it has adopted an integrated institutional approach for all financial sectors, but the supervisory functions are divided in three specialized agencies.

Co-ordination with other regulatory and supervisory authorities

The surveyed countries reported various levels and arrangements for co-operation, co-ordination and information sharing, as shown in Table II.3. In both specialized and integrated model countries, the procedures vary from informal arrangements and regular meetings to legal provisions establishing obligations to agencies. Agreements or memorandums of understanding are also important as are flexible instruments to promote exchanges and co-operation. The participation of other agencies' representatives in the governance structure of the supervisory agency, *e.g.* in Australia, Germany, Iceland and Poland, is the most complex instance of institutional co-ordination.

Table II.3. Co-Ordination, Co-operation and Information Sharing Mechanisms between Supervisory Agencies in Selected OECD Countries

Australia	Memorandums of Understanding with ASIC, Commonwealth Treasury, Reserve Bank of Australia (RBA – Australia's central bank, ATO, Motor Accidents Authority of NSW (MAA), Private Health Insurance Administration Council (PHIAC) and ACCC. Regular liaison meetings. Legal mandate for information sharing procedures. Governance structure includes members from other agencies.
Canada	No explicit formal co-ordination/co-operation arrangements. There is a legislated committee (Financial Institutions Supervisory Committee - FISC) made up of senior representatives of federal financial regulatory agencies with a mandate to share information in respect of financial institutions
Czech Republic	Co-operation and sharing information agreement between Securities Commission and the Czech National Bank. Sharing information agreement between the Ministry of Finance, Securities Commission and the Czech National Bank.

Germany	No explicit formal co-ordination/co-operation arrangements. Legal mandate for information sharing procedures. BaFin's governance structure includes members from other agencies.
Hungary	Co-ordination and co-operation agreements between the HFSA and The National Tax Authority; Hungarian National Bank; Directorate of Consumer Protection; National Health Insurance Fund; Central Administration of National Pension Insurance.
Iceland	No explicit formal co-ordination/co-operation arrangements. Regular consultative meetings. Legal mandate for information sharing between Central Bank and FME. FME's governance structure includes members from Central Bank.
Ireland	No explicit formal co-ordination/co-operation arrangements. Legal mandate for information sharing with other agencies.
Italy	Legal provision for cooperation and sharing information between authorities according to their respective tasks in order to strengthen the supervisory activity and to avoid duplications. In particular, COVIP and ISVAP cooperate in the analysis of the contracts arranged by pension funds with insurance companies for the payment of annuities and the coverage of biometric risks.
Japan	No explicit formal co-ordination/co-operation and information sharing arrangements, but the rules of each supervisory agency are clearly divided.
Mexico	No explicit formal co-ordination/co-operation arrangements. Sharing information in regular meetings official gazette and annual report.
Netherlands	Council of Financial Supervisors co-ordinate the co-operation and sharing information on the
New Zealand	No explicit formal co-ordination/co-operation arrangements. Information is treated as public documents.
Norway	The FSA has no explicit formal co–ordination/co–operation arrangements with other domestic supervisory agencies, but there are regular meetings with the Ministry of Finance, the Competition Authority, and the Central Bank and (to some extent) the consumer protection authorities and the central tax authorities. Moreover, there is a general Memorandum of Understanding (MoU) between the Central Bank and the FSA.
Poland	KNUiFE 's governance structure includes members from other agencies. Legal mandate for sharing information between KNUiFE, National Bank of Poland, Securities and Exchange Commission.
Portugal	National Council of Financial Supervisors (CNSF - Conselho Nacional dos Supervisores Financeiros)
Spain	Legal mandate for co-ordination, co-operation and information sharing arrangements.

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Sweden	Legal provisions on exchange of views with other authorities on matters decided by a county administrative board that may affect the operations of the other authority. In the case of the Finansinspektionen, there are also provisions regarding exchange of views with the Central Bank in case of systemic or other crises.
Turkey	Legal mandate for co-ordination, co-operation and information sharing between the Undersecretariat of Treasury and the Capital Markets Board and. Banking Regulation and Supervision Agency (BRSA)
UK	Memorandum of understandings and direct co-operation between OPRA, FSA, Revenue and Pension Ombudsman. Legal mandate for information sharing.

Source: Replies to the OECD Secretariat questionnaire.

Australia is a good example in terms of issuing co-operation, co-ordination and information sharing statements. The Memorandums of Understanding signed by various government agencies announces information-sharing activities amongst the various bodies and the division of supervisory activities. This reduces duplication and compliance costs for the industry as well as achieves effective enforcement and compliance outcomes for the industry and the agencies involved. There is a legal obligation for information sharing, and regular liaison meetings are held between APRA and other financial supervisory and industry bodies. Furthermore, APRA's Board includes *ex officio* members from other supervisory authorities.

Canada is an interesting case of federative co-ordination. In the absence of formal explicit national arrangements, provincial and federal supervisors have organised an inter-jurisdictional association of pension supervisory authorities — the Canadian Association of Pension Supervisory Authorities (CAPSA). It discusses pension regulatory issues of common interest and develops policies aimed at simplifying and harmonizing pension laws in the country. Although there are no formal co-ordination/co-operation arrangements between supervisory agencies, there are regular consultative meetings among federal supervisory agencies, and there is co-operation and information sharing among federal and provincial regulators through CAPSA. In addition, under the legislation, the Minister may enter into agreements with the appropriate authority of a designated province respecting the administration, application and enforcement of pension legislation, and the establishment and operation in Canada of an association of pension supervisory authorities.

In the Netherlands, the Council of Financial Supervisors coordinates the actions of PVK, Dutch Central Bank and the Netherlands Authority for Financial Markets. The mission of this council is to coordinate the creation and implementation of consistent rules, regulations and policies in cross-sector areas of financial supervision — areas such as integrity supervision, consumer affairs and financial conglomerates.

In Portugal, the National Council of Financial Supervisors (*Conselho Nacional dos Supervisores Financeiros (CNSF*) institutionalizes and organizes co-operation between the three financial supervision authority representatives: ISP, the Bank of Portugal (banking supervisor, and Securities Market Commission), – and the Securities Market Commission (*Comissão do Mercado dos Valores Mobiliários, CMVM*), which is the securities supervisor). The aim of this body is to allow better communication of relevant information that will permit the coordination of future action and the elimination of conflicts of authority, lacunae in regulations and multiple uses of own funds.

Additionally, it is important to mention the efforts to internationalise co-operation, co-ordination and information sharing between agencies from different countries, and strengthening the national capacity to supervise international financial conglomerates. For example, the Scandinavian countries' financial service agencies have agreements to conduct supervision of financial companies operating in their territories.

Regulatory responsibilities of pension supervisors

In most countries surveyed (Czech Republic, Germany, Hungary, Iceland, Italy, Japan, Mexico, the Netherlands, New Zealand, Poland, Portugal, Spain, Turkey and the United Kingdom), the main regulator is the relevant ministry (generally the ministry of finance or of social affairs). The only exceptions are the integrated agencies in Canada and Denmark and the specialised Irish agency, which are primarily both supervisors and regulators of the private pension system.

In some countries, although the main regulatory power is assigned to the ministries, supervisory agencies hold complementary and supplementary responsibilities on regulations. In Italy, the legislation entrusts the regulatory powers to COVIP, the Ministry of Labour and the Ministry of the Economy. COVIP regulates: accounting procedures and balance sheet schemes; disclosure and transparency; benchmark in the investment performance evaluation; criteria for selecting and appointment of asset managers by contractual pension funds. It also participates in the establishment of standard contracts for asset management and for the relationship between pension funds and insurance companies for the provision of annuities and biometric risks coverage. Finally, it may issue guidelines on all aspects related to the conduct of pension funds. The Portuguese ISP is also responsible for enacting subsidiary regulations and often presents proposals to the Minister of Finance, which holds the primary regulatory responsibility.

In Iceland, the Financial Markets Authority (FME) is endowed with regulatory capacities and it is authorised to issue general directive requests regarding the activities of the parties subject to supervision. The Swedish FI has delegated powers (provided by law or decree) to issue regulations aimed at covering technical details and guidelines. In Australia, APRA is considered to be the main regulator of the superannuation system, despite its not having direct responsibility for supervisory legislation. This function rests with the Federal Department of Treasury. APRA both regulates entities in the superannuation sector and develops the administrative practices and procedures to be applied in performing that regulatory role. This includes the development of regulatory and supervisory policies and relevant prudential standards. Consequently, APRA is perceived by the Australian financial sector as both a supervisory and a regulatory body. Similarly, the Government Actuary in New Zealand has statutory powers to regulate the superannuation scheme.

Germany, Hungary, Mexico, Poland and the UK reported quite limited regulatory powers. In the case of Hungary, when asked if the supervisory authority is satisfied that its powers are adequate in enabling it to fulfill its statutory responsibilities, the HFSA declared that it *"would like to have the authority to write and develop decrees"*. The Dutch PVK applies existing regulation but has its own powers in the form of Regulations, Policy Rules and Recommendations. In Norway, the Ministry of Finance is the main regulator of pension funds. In general, all regulations regarding (the activities of) pension funds are issued by the Ministry. The FSA has only limited regulatory powers. For example, it can issue supplementary regulations regarding pension funds' asset management.

In the Czech Republic, Japan, Spain and Turkey, however, the relevant ministry (the main regulator) is also the main supervisor. In general, the main regulator should be consulted or involved in important supervisory initiatives. In most of the surveyed countries (Canada, Denmark, Germany, Hungary, Iceland, Ireland, Italy, Mexico, New Zealand, Spain, Sweden, Turkey, United Kingdom, United States) the supervisory agencies, whether independent or not, are generally accountable to (or supervised by) the relevant governmental ministry. Ministers are also frequently responsible for the designation of members of the supervisory board.

If main regulatory and supervisory functions are generally performed by different institutions in OECD countries, it is clear that they are interrelated, each category being to some extent involved in the work of another.

Private pension fund supervision and market structure

The private pension market structure and the resources available for supervision vary widely. The supervisory costs are related to a large extent to the regulatory and supervisory approaches, as well as to the characteristics of the pension system. Given the pension scheme's particularities and the institutional diversity, it is difficult to compare accurately the agencies' performance indicators. For example,, the survey shows the cases of Mexico, where 170 employees are in charge of 11 pension funds, and New Zealand, where 808 funds are overseen by three persons (Table 3). This discrepancy is explained mainly by the differences in the regulatory and supervisory approaches.

Mexico adopts quantitative regulations with pro-active supervision. The pro-active model is a labor-intensive and more expensive approach. It requires a frequent activities overview, involving high administrative costs on reporting, recording, monitoring, disclosure and evaluation. In this model, the administrative costs are sensitive to the number of participants. As the Mexican pension scheme is mandatory for all private workers, the system covers some 29.4 million participants, the second largest number of participants in all of the surveyed countries.

New Zealand implemented a prudential self-supervision approach. The Government Actuary runs the registration regime and the pension funds trustees hold the responsibility for nearly all of the supervisory functions, assuring compliance with government rules, regularity of payment, membership and portability, benefits eligibility conditions and access to plans investments, asset allocation, performance, minimum capital and reserves and custodian procedure, administrative cost, fees and marketing, merger and liquidation process. The entire supervisory structure was built under the principles of trustees' freedom of action, responsibility and transparency. Trustees are required to act in the best interests of the scheme members and beneficiaries at all times, in accordance with the trust deed and general law. Nonetheless, a recent report indicates that too much flexibility could cause problems for beneficiaries, and more regulation and standardization would be required on the funding adequacy of the defined benefit schemes, actuarial valuation assumptions and disclosure.

Table II.4. Supervisory agencies' resources and size of the market (2001/2002)

Country	Number of Employees	Number of plans/funds	Participants (thousands)	Assets (€ billion)
APRA (Australia) (1)	-	249 262 funds/plans	24 800	281.5
OSFI - PPPD (Canada) (2)	20	1 195 plans	557	56.1
OSIPF/MF (Czech Republic) (3)	20	14 funds	2 473	1.7
FSA (Denmark) (3)	15	80 funds	720	32.2
BaFin (Germany) (4)	29	156 funds	3 402	70.7
HFSA (Hungary) (5)	-	100 funds	3 407	3.2
FME (Iceland)(6)	7	82 funds	228	7.7
Pension Board (Ireland)	34	99 987plan s	630	44.0
COVIP (Italy)(7)	60	534 funds	1 907	27.7
Pension Bureau (Japan) (6)	30	1 807 funds/plans	14 116	692.6
CONSAR (Mexico)	170	11 funds	29 421	40.8
Government Actuary (New Zealand)	3	808 funds	701	5.1
FSA (Norway) (2)	80	140 funds	264	11.6
KNUIFE (Poland) (3)	208	17 funds	11 060	14.4
ISP (Portugal) (3)	61	412 funds	323	0.4
DGSFP (Spain)	29	917 funds	6 448	49.3
OPRA (UK)	260	103 588 plans	40 000	1 050.0

(1) APRA has 472 employees for all financial sector supervision.
(2) Employment information refers to pension fund supervision. Plans, participants and assets information refers to federal plans.
(3) Employment information refers to insurance and pension funds supervision.
(4) Employment information refers to pension fund supervision.
(5) HFSA has 541 employees for all financial sector supervision.
(6) Employment information refers to pension fund supervision. In addition to Pension Bureau, 8 Regional Bureaus of health and welfare are in charge of supervision of pension funds in each region.
(7) Information on assets, funds/plans and participants refers to those funds/plans supervised by COVIP.

Source: Replies to the OECD Secretariat questionnaire DAFFE/AS/PEN/WD (2002)26 and OECD database.

Risk-based prudential supervision is the only way to deal with a large number of small funds as is the case in Australia, Canada, Ireland and the UK. In Australia, 246 670 funds (99% of the total) have less than five members and supervision is primarily conducted by the tax authority, although there is an on-going initiative to increase APRA's supervisory capacity over small pension arrangements.

Supervisory structures and methods: integration of on-site and off-site supervision

Countries with a single supervisory agency for all financial sectors reported more integration with regard to off-site and on-site supervisory procedures. Australia, Canada, Denmark, Germany have fully integrated both types of supervision. In Italy, Mexico, Spain and UK, where the supervisory agencies are partially integrated or specialized, there are different departments dealing with this the permanent exchange of information and with staff. In Ireland, Japan and New Zealand, there is no regular on-site supervision, but this could change should the need arise. Czech Republic is the only country with a partially integrated agency that reports having completely integrated on and off-site supervision.

In Poland, the Inspection Department, linked to the Office of the Insurance and Pension Funds Supervisory Commission, performs on-site inspection of both insurance companies and pension funds. The Investments Department and the Supervisory Department pursues off-site supervision over both insurance companies and pension funds. There is no formal integration of on-site and off-site supervision but these same departments cooperate closely. Moreover, the internal structure of the Office changed in January 2004, with separate departments for life insurance companies, non-life insurance companies, and for mandatory pension funds and voluntary pension plans. These departments will perform both on-site and off-site supervision.

Each institution supervised by APRA has a dedicated person who is responsible for choosing the most appropriate supervision strategy and building a strong working knowledge of the institution they oversee. The supervision strategy for each institution is designed to project the intensity of supervision required to attend to the issues identified by the risk assessment processes. How long such supervision lasts will vary according to the institution's overall risk profile. In addition to on-site and off-site reviews, APRA's supervisors liaise with external parties that have detailed knowledge of individual institutions, such as external auditors, actuaries and administrators. Supervisory actions are directly linked to specific areas of concern or areas that require further scrutiny, and which have been identified by APRA's risk assessment processes. This framework promotes a more precise concentration of resources on those institutions that exhibit greater risk and subsequently require more intensive supervision.

In Hungary, participants involved in on-site and off-site supervision are divided into departments. The Inspection Department conduct the off-site inspections, continuously examining documentation and other relevant information provided by the funds. The on-site inspections are conducted by the Supervisory Department for Pension Funds. The integration of the on-site and off-site inspections is wide. The information gathered during off-site inspections is used while planning the on-site inspections. Most staff members are involved in both types of supervision. Integration of on-site and off-site supervision is rather straightforward as information flows easily between the two.

In Norway, the responsibilities for on–site and off–site supervision are allocated to separate sections within the FSA’s Finance and Insurance Department. However, the supervisory activities are integrated and, in general, persons from two or three sections participate in the on–site inspections. This is the case especially for on–site supervision of pension funds.

COVIP conducts annual programs of on-site examinations defined by both the inspection unit and the supervisory units, indicating types and number of inspections to be conducted. Besides the annual plan, on-site inspections may be urgently set up as a result of information collected during ordinary off-site supervisory activity. On-site exams may be general or focused on specific aspects. They are prepared by a thorough off–site analysis of the information and documentation available in order to minimize the costs and length of the on-site inspections. They are ordinarily executed by specialized staff together with staff of the supervisory unit that is responsible for the monitoring of the fund to be inspected.

Organization of the Supervisory Agency

In order to protect the interest of the members and safeguard the long-term stability of the system, supervisory agencies must be properly staffed and financed, insulated from political pressures exercised by the government or the pension industry, and endowed with reasonable enforcement capacities. This section analyses the degree of financial, political and operative independence of the supervisory agency as well as the mechanisms used to avoid principal-agent problems.

There are many types of supervisory agencies and their characteristics vary widely. They differ in size, function, rationale for creation, funding, legal and organisational status, internal governance structure, accountability mechanisms and reporting.

Legal status

The majority of OECD countries' supervisory authorities are autonomous bodies, created and regulated by law and that provide institutional stability. According to the features of the national administrative legislation, they can be non-departmental public bodies, such as the United Kingdom's Occupational Pension Regulatory Authority (OPRA), institutes, superintendence, agencies, commissions or boards. They are created as isolated institutional structures with complete or partial legal identity.

Dependent structures, on the other hand, are vertically integrated into the Ministries as secretaries, departments or directorates linked to Central Banks, Ministries of Finance, Labour, Social Security, Social Affairs or other ministries. This is the case of the Czech Department of Insurance and Pension Funds under the Ministry of Finance and the Pension Bureau of the Japanese Ministry of Health, Labour and Welfare. Only five countries have formally dependent supervisory structures: Czech Republic, New Zealand, Japan, Spain and Turkey.

The formally independent agencies have a different governance structure, a distinct control environment and some management autonomy. In OECD countries, they have been created to improve efficiency and effectiveness of government entities focusing on client needs. These agencies may have more policy independence and continuity, incorporating the private sector and civil society in the decision making process.

In Australia, APRA is a statutory authority with the legal status of a corporate body with perpetual succession that has relative autonomy from the Commonwealth Government. APRA is the unique agency that is ultimately accountable directly to the Parliament and to regulated industries. APRA regularly consults with industry regarding its prudential supervisory approach and levying structure, however it is not strictly accountable to these industry groups and entities. APRA is accountable to the Commonwealth Parliament via the following means: (i)Regular appearances before parliamentary committees, Senate estimates hearings and an annual review by the House of Representatives Committee on Economics, Finance and Public Administration; (ii) Annual financial and performance audits conducted by the Australian National Audit Office; and (iii) tabling of an annual report in the federal Parliament.

Table II.5. Legal Status and Accountability of Selected OECD Supervisory Agencies

	Legal Status	Accountable to:
APRA (Australia)	Statutory authority formally independent	Commonwealth Parliament and supervised industries
OSFI (Canada)	Office of the Government of Canada formally independent	Ministry of Finance
OSIPF (Czech Republic)	Body formally dependent	Ministry of Finance
FSA (Denmark)	Government body formally independent	Minister for Economic Affairs
BaFin (Germany)	Federal institution formally independent	Ministry of Finance
HFSA (Hungary)	Legal entity formally independent	Parliament
FME (Iceland)	State authority formally independent	Minister of Commerce
PENSION BOARD (Ireland)	Statutory Body formally independent	Ministry for Social and Family Affairs
COVIP (Italy)	Autonomous public institution formally independent	Ministry of Labour and the Ministry of the Economy
PENSION BUREAU (Japan)	Public body formally dependent	Ministry of Health, Labour and Welfare
CONSAR (Mexico)	Public entity formally independent	Ministry of Finance
PVK (Netherlands)	Independent governmental agency	Ministry of Finance and Ministry of Social Affairs and Employment
Gov. Actuary / ISU (New Zealand)	Public body formally dependent	Ministry of Economic Development.
FSA (Norway)	Government agency formally independent	Ministry of Finance
KNUiFE (Poland)	Public entity formally independent	Council of Ministers
ISP (Portugal)	Public body formally independent	Ministry of Finance
DGSFP (Spain)	Public body formally dependent	Ministry of Economy
FI (Sweden)	Government agency formally independent	Government
UT (Turkey)	Public body formally dependent	Ministry of State
OPRA (UK)	Non Departmental Public Body formally independent	Prime Minister

Source: Replies to the OECD Secretariat questionnaire.

The German BaFin operates within the ambit of the Ministry of Finance as a legal body which is functionally and organisationally separate from the Ministry in its decision-making and the exercising of its functions and powers. BaFin's independence and accountability is addressed in its enabling legislation. The Ministry of Finance exercises supervisory control via an Administrative Council and is required to ensure that BaFin executes its tasks according to the law and in an effective and adequate way. For this purpose, in exceptional cases, the Ministry may give instructions to the agency. Regularly, BaFin consults the Ministry regarding new regulations, guidelines or other fundamental policy matters.

However, the independent legal status of the supervisory agency is neither a necessary nor a sufficient condition to guarantee its institutional insulation and autonomous operation. There are several institutional mechanisms that can be used to avoid or, at least minimise, external interference — both from the government and from the pension industry — in the control of compliance with regulations. These mechanisms are related to the financing of the agency, human resource policy, criteria to nominate and remove directors, mandate, constraints to the movement of the workforce from the government to the market and vice versa, disclosure and enforcement capacity.

Financing

In the majority of surveyed countries, supervisory agencies are financed exclusively by levies charged to supervised entities. This is the case of some formally independent agencies as APRA (Australia), OSFI (Canada), HFSA (Hungary) and ISP (Portugal). There are also many countries with mixed arrangements combining general budget and fees paid by private sector as CONSAR (Mexico) and OPRA (UK). Formally, dependent public bodies are always funded by the general budget. COVIP is the only case of a formally independent agency that depends exclusively on the government transfers, but they plan in the near future to activate a contribution from the pension industry. The Italian Delegation reported that "*a levy on pension funds is needed because public funds are not sufficient to carry out effectively the required tasks*". In Sweden, both FI and county administrative boards are financed indirectly by the private sector because levies on supervised entities are part of the general revenue and the supervisory agencies receive resources from the general budget.

Public budgets are political allocations of resources made under fiscal constraints. Sometimes this process can limit the ability of the supervisory agency to remain up to date technologically and professionally with developments in the private pension market. A market-oriented approach to the financing of the supervision is likely to be more effective in guaranteeing resources for the agency and avoiding political pressure from the government.

Moreover, the private pension fund supervision is a service often provided to high-income groups. Under these circumstances, the general budget financing would appear as a perverse cross-subsidy transfer imposed on all taxpayers. According to basic principles in public finance, those who benefit should be the ones who pay the taxes. Therefore, the direct or indirect participation of the pension industry covering the expenses of the supervisory activities could be identified as a good practice.

Table II.6. Financing the Supervisory Agency

General Budget	Mixed (Government and Supervised Entities)	Supervised Entities
Czech Republic	Mexico	Australia
Italy	New Zealand	Canada
Japan	Sweden	Denmark
Spain	United Kingdom	Germany
Turkey		Hungary
		Iceland
		Ireland
		Netherlands
		Poland
		Portugal
		Norway

Source: Replies to the OECD Secretariat questionnaire.

When the financing is exclusively based on private fees, however, there is a “captured agency” risk. Supervised entities affected by agencies’ decisions and policies could influence the budgetary process bargaining which shapes supervisory procedures and policies primarily to their benefit at the expense of the participants or government. In order to avoid the supervisory “capture” it is important to have a well defined budget implementation process so as to avoid interference by the pension industry in the supervisory activities, conflicts of interests, and to ensure that their independence is not compromised by any funding arrangements.

In Australia, levies imposed on institutions regulated by APRA are determined through a consultative process between APRA, ASIC, ATO, industry and the Commonwealth Treasurer, although the latter ultimately determines the fees. Levies are spread across all the supervised industries — banks, credit unions, building societies, general insurance, reinsurance, life insurance, friendly societies, and superannuation funds, and are paid into the Commonwealth Consolidated Revenue Fund. The overall budget for APRA is determined by its Board in consultation with the Commonwealth Treasurer and takes into account the resources required to conduct effective supervision for the forthcoming year for each industry under supervision.

In Hungary, the HFSA supervisory fee is calculated out of the payments of the members and employers' contributions and is regulated by law. The HFSA budget is determined by the budgetary law and submitted to Parliament. The frame numbers are calculated by the HFSA, according to the documentation accepted by the Government, relating to the planning of the central budgetary system. In Canada, OSFI is financed by a levy on plans based on the number of plan members, with a set minimum and maximum amount payable annually.

In Poland, the financial annual plan of the supervisory body is included in the state budget, but the cost is completely covered by the entities supervised. The Portuguese ISP is financed by fees charged on the undertakings subject to its supervision. The agency is also financed by incomes from the sale of assets and from services provided, as well as from rights over the former, by returns on assets and income from its activities, returns on financial investments, subsidies, donations or contributions from Portuguese or foreign entities, costs of proceedings for infringements and breaches of regulations and by any other income or return to which it is entitled under the law, under a contract, or in any other manner.

In Norway, the costs of supervision are distributed among the various groups of financial institutions according to the extent of the supervision based on the size of the institution's total assets at the beginning of the year. Nonetheless, the Ministry stipulates for each year a minimum and a maximum amount which can be levied on the individual institution in each group. Levying shall be carried out by FSA, but shall be approved by the Ministry."

Supervisees also finance the Dutch PVK through an apportionment system. Pension funds and insurance companies pay a statutory contribution according to size and the PVK budget requirements. Annually, PVK's Governing Board, based on the Executive Board's proposal, submits a budget for the approval of the Ministries of Finance and of Social Affairs and Employment.

Criteria for nominate directors

Besides the appropriate funding, the criteria used to nominate agency directors, establish their mandates and regulate the relationship between them and the private sector, are also issues relevant to the analysis of the institutional independence of the supervisory authority.

In some countries, directors are nominated by political authorities and can be replaced without any restrictions. In other jurisdictions, the names of the directors have to be submitted to Parliament or to specific councils. They are required to have experience, an established reputation, a university degree and mandates that protect them from political pressure.

Table II.7. Supervisory Agencies: Appointing Directors

	WHO APPOINTS?	LEGAL SPECIFIC REQUIREMENTS	MANDATE
Australia	Federal Treasurer	No	5 years
Canada	Governor in Council	No	7 years
Czech Rep.	Minister of Finance	No	No
Denmark	Prime Minister	No	No
Germany	President	No	No
Hungary	Parliament upon Prime Minister proposal	Yes – high academic qualification in relevant fields (political sciences, law, economics, state administration, finance and accounting) and at least five years of managerial (executive) working experience acquired in a financial organization or in public administration in the regulation or controlling of financial organizations, or equivalent working experience acquired abroad.	6 years
Iceland	Board	Yes – a university degree and extensive knowledge and experience in the financial market	4 years
Ireland	Board and Minister of Social Affairs	No	5 years
Italy	Government	Yes – members of the Board must be chosen among experts in the field and be of undisputed integrity and independence	4 years

	WHO APPOINTS?	LEGAL SPECIFIC REQUIREMENTS	MANDATE
Japan	Minister of Health, Labour and Welfare	No	No
Netherlands	Royal decree upon Minister of Finance and Minister of Social Affairs and Employment proposal	Yes – members of the Boards should be independent, have confidence of the supervised institutions and have outstanding ability in the field of finance, management and socio-economics.	6 years for Governing Board and 5 years for Executive Board
Mexico	Ministry of Finance	Yes – have renowned experience in economics, finance, law or social security. Have no money or family links with the shareholders, the first or second-tier employees of the industry participants subject to CONSAR's supervision. Must have never been prohibited to trade or work in the Mexican financial system or in the government and be recognized as a highly ethical person.	No
New Zealand	Ministry of Economic Development	Yes – must be an actuary.	No
Norway	Formally the King in Council, but in practice the Ministry of Finance	No	6 years (renewable for more 6 years)
Poland	Prime Minister	Yes – minimum four years experience in financial, insurance or banking sector of industry and proper educational background as a mathematician, lawyer or economist. It refers only to the Chairman of the Commission (KNUiFE). The other members of the Commission are representatives of public bodies (Minister of Finance, Minister of Social Affairs, Securities and Exchange Commission, Office for Protection of Competition and Consumers).	5 years
Portugal	Council of Ministers	Yes – recognized ability, independence and competence.	5 years

	WHO APPOINTS?	LEGAL SPECIFIC REQUIREMENTS	MANDATE
Spain	Ministry of Economy	Yes – public servant with high qualification	No
Sweden	Swedish Government	No	6 years
Turkey	Prime Minister	Yes – public servant with minimum 12 years	No
UK	Board	No	No

Source: Replies to the OECD Secretariat questionnaire.

In Australia, Canada, Ireland, Iceland, Italy, Hungary, Netherlands, Portugal, Poland and Sweden, the supervisory agencies' heads have mandates ranging from four to seven years. Mandates are important institutional tools to avoid political interference and instability in the agencies and assure policy continuity. The appointment can be terminated during the mandate, generally for reasons as set out in the regulations; these include misbehaviour, incapacity, corruption and conflicts of interests.

In Germany, the mandate is not defined in legislation, but since the nominated persons are political civil servants, a removal from office is possible only within the narrow restrictions of sections. Normally, the head retires on grounds of age. Removal because of disciplinary proceedings is also possible.

In other countries, the decision concerning the permanence of agencies' directives falls within the discretionary powers of the high officials. In general, formally dependent agencies are more vulnerable to political instability.

Human resources and procurement policies

Supervisory agencies need the flexibility to operate human resources policy in order to be able to pay competitive salaries, in line with those paid by pension funds, or at least competitive with other agencies. It is fundamental that the agency is able to compete with pension fund managers for scarce human resources.

Furthermore, it would be desirable to have some flexibility in the procurement procedures. This issue is related to the legal status of the supervisory body and to the type of work contract given to employees. Departments linked to Ministries are generally less independent than separated agencies.

APRA is a case of complete autonomy regarding human resources policy and procurement procedures. The Board determines the terms and conditions of appointment, although this is subject to general public service guidelines. Private sector remuneration is constantly monitored to ensure that the authority's remuneration is competitive. APRA has reached a remuneration level comparable with the general private and public sector and is currently addressing parity with the finance market. APRA is not required to follow the procurement guidelines of the Federal administration, but they are considered on a reference basis.

Table II.8. Pension Fund Supervision Agencies in Selected OECD Countries: Human Resources and Procurement Policies

	Autonomy to define salaries	Autonomy to contract and fire staff	Autonomy on procurement procedures
Australia	Yes	Yes	Yes
Canada	Partial	Partial	No
Czech Republic	No	No	No
Denmark	Yes	Partial	No
Germany	Partial	Partial	No
Hungary	Partial	Partial	Partial
Iceland	No	No	No
Ireland	Partial	No	No
Italy	Partial	Partial	No
Japan	No	No	No
Mexico	Partial	No	No
New Zealand	No	No	No
Norway	Partial	Partial	Partial
Poland	Partial	Partial	Partial
Portugal	Yes	Yes	Yes
Spain	No	No	No
Sweden	Yes	Yes	Yes
Turkey	No	No	No
United Kingdom	Yes	No	No

Source: Replies to the OECD Secretariat questionnaire.

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The ISP (Portugal) also has total autonomy to manage human resources policy as long as it is in line with the budget approved by the Minister of Finance. Private sector workers' rules are applied to the labour contracts and the agency is not required to follow the procurement procedures of the national administration.

The FSA of Norway has the autonomy to define salaries (within limits set by the budget), and to contract and fire staff without prior approval from the Ministry of Finance. However, FSA employees are in legal terms "ordinary" state employees, and the FSA cannot take actions contradictory to acts and agreements of civil service.

Italy, Mexico and Poland are examples of partial autonomy for human resources policy. In Italy, COVIP has autonomy to define policy concerning the level of salaries and the structure of careers for its employees. However, the level of salaries for the different qualifications is linked to other public authorities. In Mexico, the Ministry of Finance sets the level of salaries, but the career structure of the employees depends on each department of CONSAR. General rules concerning all civil servants apply to the supervisory authority on hiring, firing and salaries. In Poland, the Minister of Finance shall specify the rules of KNUiFE employees' remuneration taking into consideration salary levels paid in the supervised institutions.

Agencies with financial and human resources management autonomy are able to pay higher salaries compared to the private sector or, at least, they are able to offer similar or better employment term and conditions. It means that they have more capacity to recruit and retain qualified workers. Except in the case of Ireland, all autonomous agencies financed by levies on the supervised agencies reported relative good salary conditions compared to the private sector. Despite its autonomy, the Irish Pension Board is subject to the pay scales that operate within the public sector. In the last year, a benchmarking exercise has been completed in order to correct distortions. Although not specific to the Pension Board, it has recommended increases in the salary scales to ensure a level of parity with the private sector.

The Italian COVIP, although formally independent is financed by the general budget. It also reported that the terms and conditions of employment currently offered are, in general, lower than those available to employees in the private sector. This agency has a certain degree of autonomy in defining the level of salaries and the structure of the careers of its employees. However, the level of salaries for the different qualifications is linked to other public services. In Canada, OSFI offers terms and conditions of employment similar to those of the Government, which, in some instances, are more generous than the private sector (*e.g.* vacation and other types of leave, maternity benefits, etc.). But, unlike private sector employers, public agencies are not in a position to offer any type of at-risk compensation plans (*e.g.* stock option or profit-sharing) that could have a significant impact on the direct compensation.

In the Danish Financial Services Authority (Finanstilsynet), the level of remuneration is largely determined by collective agreements between the Ministry of Finance and the relevant trade unions of civil service employees. *Finanstilsynet* may design its own structure of careers for its employees, within the limits set by these agreements.

Autonomy of human resources policy provides more flexibility and dynamism to design and implement training programs informing staff of new supervisory technologies and approaches. APRA has training programs reflecting a risk-based supervision approach. In Canada, OSFI conduct a training program oriented to encourage the use of the skills needed to implement a risk-focused approach to supervision; ensuring that supervisors receive the knowledge required to keep pace with recent and expected changes in the Financial Services Industry; integrated training program with on-the job responsibilities; and fostering an environment for self-directed learning. In Italy, there are regular training initiatives set up together with other supervisory authorities. However, most of the supervision skills are developed directly in the field as methods and procedures are still in the process of being established.

Occasional staff movements from private to public sector, and vice versa, are desirable to exchange experiences and views between supervisor and supervised. It is necessary, however, to establish strict regulations on information disclosure and conflict of interests. These regulations are likely to be more effective than prohibitions. It is also interesting to have a mixed composition of staff, combining personnel from other agencies, from the private sector as well as public servants from the supervisory field.

In Australia, there are no restrictions on movement into the superannuation industry. However, there are provisions on confidential information disclosure. Ninety per cent of employees leaving APRA join the private financial sector. Thirty per cent of APRA's staff was previously employed by its organizations which preceded it, including the Insurance and Superannuation Commission. The remainder of the staff is drawn from within the finance sector (*e.g.* banking, superannuation, insurance), accountants, graduates and other government agencies such as ASIC and the ATO.

Table II.9. Staff of Supervisory Agencies: Private Sector X Public Sector

	Terms of employment: public x private sector	Restrictions for movements from public to private sector	Frequency of movements from public to private sector
Australia	Similar	No restrictions, but penalties for inside information disclosure	Frequently
Canada	Agency	Yes – one year of prohibition to work in supervised entities	Occasionally
Czech Rep.	Private sector	No	Rarely
Denmark	Similar	No restrictions for movement, but penalty for inside information disclosure	Occasionally
Germany	Agency for middle management and private sector for high level	No	Occasionally
Hungary	Agency	No	Occasionally
Iceland	Similar	No	Never
Ireland	Private Sector	No	Rarely
Italy	Private Sector	No	Rarely
Mexico	Similar	No	Occasionally
NZ	Private Sector	No	Occasionally
Norway	Private Sector	No	Occasionally
Poland	Similar	Yes – one year of prohibition for the chief management to work in supervised entities	Occasionally
Portugal	Similar	No	Rarely
Spain	Private sector	No	Rarely
Sweden	Agency salaries are lower, but its terms of employment are often better	No	Rarely
Turkey	Private Sector	No	-
UK	Similar	No	Rarely

Source: Replies to the OECD Secretariat questionnaire.

In Canada, former employees shall not, within a period of one year after leaving the office, accept an appointment to a Board of Directors of, or employment with, an entity with which they had official dealings during a period of one year immediately prior to their departure. They shall not make any representations for, or on behalf of, any other person or entity relative to OSFI. Occasionally, there are former supervisors employed by pension industry. The main source of recruitment for the pension supervisory group is the industry, with the exception of the policy role, which is often filled by public sector employees, and actuarial expertise, which comes from actuarial consulting firms and the insurance industry.

In Italy, COVIP's staff comes from other supervisory authorities (5%), government departments (50%) and the private sector (45%). BaFin operates under an open recruitment policy and the staff is mainly from the private sector. In the past, the main source of the HFSA's staff was the public sector (other supervisory agencies, Ministry of Finance, government departments).Today, however, the number of staff coming from private sector is increasing. There is also a growing number of new entrants to the labour force who choose HFSA to be their first employer. This can be considered as a comparative advantage for entry afterwards into the private labor market.

In Norway, the salaries are, for most professionals, higher in the private sector than in the public sector. This largely explains why movements from public to private sector are quite frequent (that is, occasional). There are no restrictions on such movements, but civil servants are legally obliged not to reveal inside information after having left office.

Dispute settlement procedures

Generally, in formally dependent agencies, superior authorities, such as Ministers or Vice-Ministers, have direct power to approve, revise, cancel, pursue or intervene in any act of the supervisory body linked to the ministry (Table II.9).

In some formally independent agencies, such as OSFI (Canada) and BaFin (Germany), Ministers have the final authority on some matters related to public policy. For example, OSFI's Superintendent is required to report to the Minister on the administration of statutes falling within OSFI's jurisdiction. He is responsible for providing certain approvals and taking specified action under these statutes. In certain instances, ministerial approval or action is required when operating decisions have public policy implications. In BaFin, the Minister of Finance exercises his authority indirectly though the Administrative Council.

Table II.10. Who Can Revise Agencies' Decisions and Acts?

Australia	Administrative Appeals Tribunal and Federal Court
Canada	Minister of Finance
Czech Republic	Court of Justice
Denmark	Court of Justice
Germany	Minister of Finance and Administrative Council
Hungary	Court of Justice
Iceland	Appeals Committee
Ireland	Court of Justice
Italy	Court of Justice
Japan	Minister of Health, Labour and Welfare
Mexico	Appeals Committee and Court of Justice
Netherlands	Court of Justice
New Zealand	Court of Justice
Norway	Ministry of Finance
Poland	Administrative Court
Portugal	Court of Justice
Spain	Court of Justice
Sweden	Administrative Court or Swedish Government (depending of the type of decision)
Turkey	Ministry of State
United Kingdom	Court of Justice

Source: Replies to the OECD Secretariat questionnaire.

APRA (Australia) has substantial powers for perform its functions. Although ultimately accountable to the federal government, APRA's operations, including day-to-day supervision of superannuation entities, is largely independent from the government. In the event that the Commonwealth Government disagrees with APRA's policies, the dispute may be settled by agreement with the Commonwealth Treasurer, and failing this, by order of the Commonwealth Governor-General. In certain circumstances, APRA may only act with the Treasurer's written consent. Powers to grant financial assistance to funds also resides with the Treasurer. The legislature has the power to change the agencies' procedures through amendments to the regulations and disallowance of associated regulations under which APRA operates, as well as those it administers. The Minister may also give directions on the performance or exercise of its functions or powers. In addition, certain decisions are defined as “reviewable decisions”. A person affected by a “reviewable” decision may request reconsideration of the decision. If APRA confirms or varies the decision upon receipt of such a request, the decision is reviewable by the Administrative Appeals Tribunal. Federal Courts may also review an administrative decision made by APRA. In Portugal, all supervisory powers are delegated by legislation to ISP and no superior authority can revise its procedures and decisions.

The FME (Iceland) has considerable powers in its supervisory operations. Firstly, the FME decides which supervisory projects are executed in the pension fund market as well as which methods are used in the execution of these projects. Secondly, the FME has unlimited access to information, data and valuables from pension funds. Thirdly, the FME has various effective resources under its supervision, such as the permission to grant a certain time period to a pension fund in order to rectify a situation considered to be unsatisfactory, to call and direct a Board meeting of a pension fund, to subject a pension fund to daily fines if it does not respond to the demands, and to announce general directive requests. However, the Minister of Finance grants operating licenses for pension funds, confirms changes of pension funds statutes, and appoints a special supervisory party of a pension fund based on FME’s recommendations. Supervised parties may refer FME’s decisions regarding their rights and responsibilities to a special Appeals Committee. Rulings of the Appeals Committee are final at the administrative level and cannot be referred to the Minister of Commerce.

The Mexican CONSAR has technical autonomy and executive faculties to take decisions regarding the participants of the pension system. Such is the case of an administrative intervention of a pension fund, a removal of license, etc. The agency must report to the Ministry of Finance about the decisions it takes in a timely fashion.

In Italy, almost all supervisory powers are delegated to the supervisor authority that holds the responsibility for final approval of actions. In some cases (applications of sanctions and pension funds, compulsory winding-up, for example) the Ministry of Labour, according to COVIP’s recommendations, adopts the action. The agency is entrusted with reasonable capacities to fulfil its statutory responsibilities. However, sanctioning is now restricted to certain specific irregular behaviour and should be extended to a wider range of cases. Some *ex ante* authorizations could be overcome and more generous funding should be provided for.

Governance boards

In agencies with a high degree of financial, political and operational independence, it is important to design mechanisms to mitigate principal-agent problems. Institutional independence may incite the people who are placed in control over resources to use these resources to feather their own nests at the expense of those whose interests they are supposed to be serving. The most effective mechanisms implemented by the countries that have been surveyed are related to the establishment of boards, auditing and disclosure policies.

As public institutions, pension supervisory agencies are submitted to external auditing. In all of the surveyed countries, the national audit offices periodically review the financial statements. Additionally, parliaments may require further examination.

The majority of the surveyed countries are governed, advised or supervised by boards (Box 9). These boards include high-level authorities, officials from other agencies, representatives of members and supervised entities and from Legislative and Judiciary Branches. They are important institutional locus for external surveillance of the agencies' activities and performance, co-ordination with other government areas, social control and priorities setting. The agencies without boards are those formally dependent on the ministries, excepting Canada, and are governed by single directors.

Some agencies adopt governing boards with extensive strategic decision-making power on the development of policies, requesting and providing information, ensuring commitment to core values and compliance with legal and financial requirements. They may even appoint the agencies' directors. Frequently, ministers are responsible for designating board members. There are also administrative boards involved directly in the agency's management and advisory boards that do not have any decision-making power.

In Australia, following the introduction of the *Australian Prudential Regulation Authority Amendment Act 2003*, APRA has between three and five executive members who oversee the operation of APRA and who are appointed by the Governor-General on the advice of the federal Treasurer. The new regulations changed the composition of APRA's board, which used to comprise nine members, with representatives from the private sector, RBA and ASIC.

In Denmark, the Minister for Economic Affairs sets up the Financial Business Council. It is comprised of eight members appointed for four years: a chairman; deputy chairman; a representative for Denmark National Bank; a consumer representative; a representative for commercial interests; a representative for the mortgage-credit institutions; a representative for Danish banks and a representative for insurance companies and pension funds. The Financial Business Council makes decisions regarding supervisory matters of general public importance or that entail significant consequences to financial undertakings and financial holding companies. It also advises the Danish Financial Supervisory Authority on issuing regulations and assists the Danish Financial Supervisory Authority on its disclosure activities.

Table II.11. Governance of Supervisory Agencies

Agencies oversighted by boards	Agencies without boards
Denmark	Australia
Germany	Czech Republic
Hungary	Canada
Iceland	Spain
Ireland	Japan
Italy	New Zealand
Mexico	Poland
Netherlands	Turkey
Norway	
Portugal	
Sweden	
UK	

Source: Replies to the OECD Secretariat questionnaire.

In Germany, the Administrative Council monitors the BaFin's management and supports the execution of its duties. The President is obliged to keep the Administrative Council regularly informed of the conduct of his management activities. The Administrative Council consists of the Chairman and his Deputy, who is seconded by the Federal Ministry of Finance, and 19 representatives from public and private institutions. BaFin also possesses an Advisory Board comprising 24 members.

In Hungary, the Supervisory Council is an advisory body with 15 members. The President of the HFSA chairs the sessions and appoints the council members based on consultations with the Minister of Finance for one-third of members and with the professional associations for two-thirds of members representing the supervised entities. The members of the council are professionals with outstanding theoretical knowledge and practical experience. The Supervisory Council comments on the issues related to HFSA's strategic and regulatory role and development. The members are appointed for a period of three years.

In Iceland, the FME has a Board of three members appointed by the Minister of Commerce for a term of four years. One board member is appointed on the recommendation of the Central Bank. The Minister appoints the Chairman of the Board and decides on the members' remuneration. The Board should orient the focus of the Financial Supervisory Authority's work and monitor its activities. Major decisions are presented to the Board for approval or rejection on a majority-voting basis. A special consultative committee composed of representatives from the supervised parties operates in conjunction with the FME. The committee is an arena for parties under supervision, including pension funds, to further their views on the procedures and operations of the supervisory agency. The consultative committee does not have decision-making power. The FME's executives hold meetings with the consultative committee at least twice a year.

In Ireland, there is a Representative Board of 17 members. While all its members are appointed by the Minister for Social and Family Affairs, the Board must be comprised of representatives nominated by trade unions, employers, the Government, industry and beneficiaries. Decisions tend to be taken on a consensus basis.

In Italy, the COVIP's Board includes the Chairman and four members. They are appointed by decree of the President of Italy, subject to the advice of the competent Parliamentary Commission, in accordance with the decision adopted by the Council of Ministers and with the designation made by the Ministry of Labour in agreement with the Ministry of the Economy. The decisions of the COVIP Board are taken by majority.

The Dutch PVK has a Governing and an Executive Board composed of at least three members and five at the most. Each appointment is made for a period of five years. The Executive Board takes decisions by majority voting. There are no specific criteria of representation.

In Mexico, there is an Administrative Council with representatives of other official authorities dealing with social security and the financial sector. In Poland, there is a board of members with a Chairman and two deputies. In Poland, according to the new Act on Insurance and Pension Supervision and the Ombudsman for the Insured, which came into force since 1 January 2004, the Commission shall be under the competence of the Ministry of Finance. In

Sweden, the Finansinspektionen (FI) board consists of up to twelve members without any specific criteria of representation. The members are appointed by the Swedish Government. In the county administrative boards, the board consists of nine members under the same conditions as FSA.

In Norway, the Board of the FSA is comprised of five members. In addition, the Central Bank is represented in Board meetings by an observer. The FSA Board members are appointed by the government (*i.e.* the Ministry of Finance) for a term of four years. The decisions of the Board are made by majority vote. In order to be able to make decisions at least three Board members have to present in the meeting. The rules of procedure have been established for the activities of the FSA's Board. These rules (last revised in June 2003) comprise, *inter alia*, a detailed list of matters to be considered by the Board.

In the UK, there is a board with a Chairman and nine other part time members broadly representative of employees, employers and sections of the pensions industry. The members are appointed by government Ministers. Decisions should be taken on majority basis, but usually they are taken by unanimity.

In Portugal, the ISP has a Consultative Committee and an Audit Committee. The Consultative Committee works on matters related to strategic guidelines and co-ordination with other agencies. The Audit Committee controls the financial management of the ISP. It analyses the budget, annual report and annual accounts. Both bodies may take decisions on a majority basis.

Disclosure policies

Supervisory agencies should work in a completely transparent environment, frequently reporting their main actions and activities, providing disclosure of information to members, enterprises and pension fund administrators. Agencies may disclose information to the general public on a regular basis. All surveyed countries produce annual reports regarding the agencies' activity, statistics and analysis of the pension fund sector. This information is available on websites containing press releases, publications, penalties applied, lists of managers disqualified, guidance, and reports of board's meetings.

OSFI (Canada) prepares an annual report on its operations to the Minister, who should present it to each House of Parliament (House of Commons and Senate). Additionally, each year OSFI must present its Report on Plans and Priorities that provides increased levels of detail on a business line basis and contains information on objectives, initiatives and planned results, including links to related resource requirements over a three-year period. The report is tabled in Parliament by the President of the Treasury Board. OSFI also submits an annual report on the administration of the Pension Benefits Standards and the statistics regarding the total allocation of invested pension assets, the distribution of plan membership and assets by plan type, and the source of funds of federally registered plans.

Finanstilsynet (Denmark) is required to submit a report on its activities once a year. The agency discloses notifications, technical assumptions, decisions, executive orders and directives to entities and recommendations made. BaFin (Germany) publishes an annual report, a monthly official bulletin containing legal and administrative principles, circulars, guidance notes, and other information transmitted directly to the entities. The Government Actuary (New Zealand) also prepares an annual report to Parliament, which is available on line and in paper form for interested parties. Statistics are available during the year for interested parties. In Sweden, FI and the county administrative board have to submit annual and semi-annual reports to the Swedish government.

While observing confidentiality policies, the HFSA (Hungary) is entitled to disclose some of its resolutions in the Financial Gazette and on Internet. In the Financial Gazette, the HFSA regularly (quarterly and annually) discloses the list of entities holding operating licenses issued by the HFSA, as well as the list of foreign supervisory authorities with which the HFSA has concluded co-operation agreements based on mutual recognition. The agency also prepares annual and quarterly reports.

The FME (Iceland) discloses an annual account as well as an annual report of its main activities in each financial sector. Once a year, representatives of parties undertaking supervision activities are invited to a meeting where the main activities as well as trends and outlooks in each market of the financial sector are recapitulated. The website contains news and press releases, descriptions of activities, information on consumer services, complaints committees for financial issues, reports and discussion papers. The agency publishes annual pension fund yearbook containing information from the annual accounts of pension funds and special report on pension funds investments for the respective year. The Norwegian FSA submits an annual report on its (supervisory) activities. The annual report contains separate chapters covering the individual supervised sectors.

COVIP (Italy) statistical data are regularly collected by COVIP on a quarterly and yearly basis. For each fund, the information collected is mainly referred to in the following categories: members, contributions, NAV, performance of pension funds and portfolio managers, asset allocation, income and expenditures. COVIP produces an annual report describing the structure and the most important features of the private pension system, along with the regulatory and supervisory activity carried out during the previous year. In addition, the principal statistical information is made available quarterly on the website. ISP (Portugal) elaborates an annual report published in the Official Journal and also a quarterly review.

Conclusion

This survey reviewed the different types of institutional organisation of the private pension funds supervision in OECD countries. It argues that supervisory structures for pension funds are a function of the state political and administrative organisation (federalism, unitary, centralised, decentralised); characteristics the pension scheme (mandatory, voluntary, occupational, personal, DC or DB); market structure (number of funds/plans, type of fund/plans, market concentration degree) and regulatory and supervisory approach (qualitative, prudential, quantitative, self-supervision, re-active, pro-active).

Three private pensions supervisory structure models have been identified: (i) specialised pension model, with one or more agencies dedicated exclusively to pension fund supervision; (ii) partially integrated model, with one agency responsible for insurance and private pension supervision; and (iii) integrated model, with one institution responsible for the overall financial sector supervision, including banks, securities, insurance companies and pensions funds.

In countries with integrated financial authorities (Austria, Germany, Hungary), the main arguments in favour of integration are related to the economies of scale and scope, authority overlapping, consistency between supervisory objectives in different sectors, efficiency and transparency of the information flow and institutional adjustment to the expansion of financial conglomerates. Nonetheless, there are countries with unified agencies for the financial sector and segregated agencies for occupational pension plans (Japan, Sweden and the UK). In addition, there are countries with integrated agencies and specialised functions (Australia) and countries where the power of the unified agency is limited by federalism (Canada). In countries with specialised agencies, the survey showed some institutional fragmentation with several agencies sharing the responsibility of the pension supervision according to the product and function (Italy, Mexico and the US). The main argument in favour of specialisation is the particularity of the private pension contracts with

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specific tax treatments and social aspects, which would require a different approach regarding the supervision of their assets, liabilities and risks. This seems to be the case as regards occupational schemes where employment relationships must be considered and where the employer frequently serves as an intermediary between the plan or fund members and the financial institution.

This survey also showed that different specialized institutions can co-operate and co-ordinate their activities in order to achieve economies of scale, greater efficiency and eliminate overlapping duties as long as they are clearly defined. In this sense, both integrated and specialised models could achieve the same results in terms of efficiency and effectiveness.

Despite the diversity and complexity of the national institutional structures, the first "good practice" raised in the discussion is that the private pension supervisory framework should be clearly designed. Each agency involved in the process should have a well-defined mission statement, objectives and responsibilities. Co-ordination, co-operation and information sharing arrangements should be encouraged in order to avoid authority overlapping, promote economies of scale and scope, and improve the overall information quality and availability.

The survey also showed that supervisory agencies should be properly staffed and financed, insulated from political pressures coming from the government or the pension industry, and endowed with reasonable enforcement capacities.

Several institutional features that could contribute to the design of the supervisory agency were also analysed. Preferably, institutions should possess operational independence, with autonomy and resources to conduct a human resources policy that can offer salaries (including benefit rights and other social packages) and terms of employment that are competitive to those in private sector. Moreover, supervised entities should participate in the financing of the supervisory agency though a transparent budgetary process. The heads of the agencies should be appointed for a pre-defined term. Situations which could lead to early termination should be specified in a transparent manner.

Additionally, supervisors should be endowed with adequate powers and its decisions may be ultimately revoked only by them or by administrative and judicial courts. Regulations should address conflicts of interest situations and employment of former supervisors in the private sector should be protected against disclosure of confidential information and create mechanisms to avoid the capture of the agency.

It is also important to design institutional mechanisms to avoid principal–agency risks. Supervisory agencies should be overseen by boards with representatives of all the sectors involved or affected by the supervisory process (government, entities, participants) and should frequently disclose their actions, as well as information on the private pension system.

NOTES

1. In this text, the term “supervisory agency” is used in a broader sense to qualify the institution directly responsible for the supervision, including department, directorate, superintendence, secretariat, authority, non-departmental body, commission and all other specific national legal denominations.

2. These institutions are a kind of mutual benefit society offering insurance solutions similar to traditional life insurance.

3. These institutions are pledges for employer’s pension commitment. Founded by employers their sole purpose is to safeguard pensions. The sponsor holds all responsibilities, including financial risks related to asset allocation and decisions on the amount and periodicity of the contributions.

4. Rocha, R., Richard Hinz and Joaquim Gutierrez (1999), p.11.

5. Lumpkin, S. (2002), pp. 84-85.

6. Demarco, G. and R. Rofman, with E. Whitehouse (1998), pp. 3-4.

7. See Lumpkin, S. (2002), pp. 85-92.

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Annex II.1. Primary Supervisor For Pension Funds

	Supervised private pensions schemes	Pension funds supervisory agencies	Primary supervisor
Australia	Occupational and personal, both mandatory and voluntary plans (voluntary and compulsory superannuations funds)	Australian Prudential Regulation Authority (APRA) Australian Securities and Investment Commission (ASIC) Australian Tax Office (ATO)	Australian Prudential Regulation Authority (APRA) for all superannuations funds www.apra.gov.au
Canada (1)	Occupational voluntary plans	Office of the Superintendent of Financial Institutions (OSFI) Canada Customs and Revenue Agency (CCRA) Provincials Pensions Supervisory Authorities	Office of the Superintendent of Financial Institutions (OSFI) for federal pension plans www.osfi-bsif.gc.ca Provincials Pensions Supervisory Authorities for pension plans
Czech Republic	Personal voluntary plans	Ministry of Finance / Office of the State Supervision in Insurance and Pension Funds (MF/OSIPF), Securities Commission (SC), Depository Banks (DB) Ministry of Labour and Social Affairs (MLSA)	Ministry of Finance / Office of the State Supervision in Insurance and Pension Funds (MF/OSIPF)
Denmark	Occupational mandatory plans and personal voluntary plans	Financial Supervisory Authority (FSA)	Financial Supervisory Authority (FSA) www.ftnet.dk
Germany	Occupational and personal voluntary plans	Financial Supervisory Authority (BaFin)	Financial Supervisory Authority (BaFin) www.bafin.de
Hungary	Occupational and personal, both mandatory and voluntary plans	Ministry of Finance (MF) Hungarian Financial Supervisory Authority (HFSA) Tax Authority (TA)	Hungarian Financial Supervisory Authority (HFSA) www.pszaf.hu
Iceland	Occupational mandatory plans and personal voluntary plans	Ministry of Finance (MF) Financial Supervisory Authority (FME) Internal Revenue Directorate (IRD)	Financial Supervisory Authority (FME) www.fme.is

	Supervised private pensions schemes	Pension funds supervisory agencies	Primary supervisor
Ireland	Occupational and personal voluntary plans	Pension Board (PB) Revenues Commission (RC) Central Bank (CB) Department of Enterprise, Trade and Employment (DETE)	Pension Board (PB) for occupational pension plans www.pensionsboard.ie Department of Enterprise, Trade and Employment (DETE) for personal pension plans
Italy	Occupational and personal voluntary plans	Pension Funds Supervision Commission (COVIP) Stock Market and Securities Commission (CONSOB) Bank of Italy ISVAP	Pension Funds Supervision Commission (COVIP) for occupational and personal www.covip.it
Japan	Occupational and personal voluntary plans	Ministry of Health, Labour and Welfare (MHLW) / Pension Bureau Financial Services Agency (FSA)	Ministry of Health, Labour and Welfare (MHLW) / Pension Bureau for occupational plans www.mhlw.go.jp
Mexico	Personal mandatory and voluntary plans	Ministry of Finance (MF) National Commission for the Retirement Saving System (CONSAR) Mexican Institute of Social Security (IMSS)	National Commission for the Retirement Saving System (CONSAR) for mandatory personal pension plans www.consar.gob.mx Ministry of Finance (MF) for voluntary personal pension plans
Nether-lands	Occupational, voluntary plans (some industry-wide plans are mandatory) Personal, voluntary plans	Pension and Insurance Supervisory Commission (PVK) Dutch Central Bank and the Netherlands Authority for Financial Markets	Pension and Insurance Supervisory Commission (PVK) www.pvk.nl
New Zealand	Occupational and personal voluntary plans	Gov. Actuary at the Insurance and Superannuation Unit (ISU) of the Minister of Economic Development	Gov. Actuary at the Insurance and Superannuation Unit (ISU) www.isu.govt.nz

	Supervised private pensions schemes	Pension funds supervisory agencies	Primary supervisor
Norway	Occupational and personal voluntary plans (Occupational plans are mandatory if a plan is established by his/her employer)	Financial Supervisory Authority – Kredittilsynet Ministry of Finance	Financial Supervisory Authority – Kredittilsynet www.kredittilsynet.no
Poland	Occupational voluntary plans and personal mandatory and voluntary plans	Commission of Insurance and Pension Fund Supervision (KNUiFE)	Commission of Insurance and Pension Fund Supervision (KNUiFE) www.knuife.gov.pl
Portugal	Occupational and personal voluntary plans	Portuguese Insurance Institute (ISP)	Portuguese Insurance Institute (ISP) www.isp.pt
Spain	Occupational and personal voluntary plans	General Directorate for Insurance and Private Pension Plans (DGSFP)	General Directorate for Insurance and Private Pension Plans (DGSFP) www.dgsfp.mineco.es/dgsfp
Sweden	Occupational mandatory and personal voluntary plans	Finanasinspektionen (FI) County administrative boards	Finanasinspektionen (FI) for friendly societies County administrative boards for pension foundations www.fi.se
Turkey	Occupational and personal voluntary plans	Ministry of Finance (MF) Under-secretariat of Treasury (UT) Capital Markets Board (CMB)	Under-secretariat of Treasury (UT) Capital Markets Board (CMB) for pension mutual funds
UK	Occupational and personal, both mandatory and voluntary plans	Occupational Pensions Regulatory Authority (OPRA) Financial Service Authority (FSA) Inland Revenue (IR)	Occupational Pensions Regulatory Authority (OPRA) www.opra.gov.uk

(1) In Canada, the OSFI is responsible for federal pension plans. Provinces have separate provincial agencies that are responsible for provincially regulated pension plans within their jurisdiction - Columbia Pension Standards Branch (www.labour.gov.bc.ca/psb/); Alberta Labour, Employment Pensions (www.tras.gov.ab.ca/business/pensions/); Saskatchewan Justice, Pension Benefits Branch (www.saskatchewan.gov.sk.ca/pensions/); Manitoba Pension Commission (www.gov.mb.ca/labour/pen/); Financial Services Commission of Ontario (www.ontarioinsurance.com); Régie de Rentes du Québec (www.rrq.gouv.qc.ca); New Brunswick, Office of the Superintendent of Pensions (www.gov.nb.ca); Nova Scotia Pension Regulation Division (www.gov.ns.ca/enla/pensions/) and Newfoundland /Labrador Insurance and Pensions Division (www.gov.nf.ca/gsf/cca/ip).

Annex II.2. Questionnaire on Supervisory Structure For Private Pension Funds

1. Supervision of Private Pension Funds: Functions and Responsibilities

1.1. What bodies/agencies are involved in the supervision of private pension funds?

1.2. Which of these agencies is the primary supervisor? Does it differ by type of plan (occupational vs. personal, mandatory vs. voluntary)?

1.3. Please identify the institutional body responsible for the following functions related to the supervision of pension funds:

a) Licensing/registration

b) Qualification for tax benefits

c) Compliance to governance rules

d) Contributions and regularity of payment

e) Membership and portability (enrolment process, transfers and compliance)

f) Benefits eligibility conditions and access to plans

g) Investments, asset allocation, performance, minimum capital and reserves

h) Custodian procedures

i) Financial, actuarial and accounting methods

j) Administrative cost, fees and marketing

k) Disclosure procedures referring to members and beneficiaries, potential members and accounts

l) Merger and liquidation process

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1.4. Please describe any explicit co-ordination and co-operation arrangements between pension fund supervisors and other supervisory bodies, including those in charge of banking, insurance and securities supervision.

1.5. What provisions exist for the pension fund supervisory agency to share information with other parties (*e.g.* central bank, other supervisors)?

1.6. Does the primary pension supervisor have any regulatory authority? If yes, please describe? If not, what entity is the principal regulator?

1.7. Does the pensions supervisory body produce any statistics and/or research? If yes, what types of information and studies are produced and how are they made available?

1.8. What are the main problems and the main advantages of the supervisory framework?

1.9. Is there any on-going initiative to reform the supervisory framework? If yes, please describe it and provide the justification for the proposed changes.

1.10. Please provide available information concerning supervised entities for the year 2001:

a) Number of participants (active workers, beneficiaries and dependents) of the supervised pension scheme

b) Number of supervised pension funds or plans, by type

c) Fund revenues of the supervised entities in domestic currency.

d) Reserves of the supervised entities in domestic currency.

2. Political, Institutional and Operational Independence of the Supervisory Body

2.1. What is the legal status of the supervisory body?

2.2. Does the supervisory authority have a board that oversees the operation of the authority? If yes, what is the composition of the Board? (*e.g.* number of members, criteria of representation) How are the members appointed? How are decisions taken (unanimity, majority voting, qualified majority voting, etc.)?

2.3. To whom or to what institution is the supervisory authority ultimately accountable to? What are the main means of reporting the authority's activities?

2.4. How is the supervisory body financed?

2.5. Who determines the overall budget?

2.6. Is the pension industry required to contribute to the financing of the costs of supervision?

2.7. Do the funding arrangements limit the supervisory agency's independence?

2.8. Do the funding arrangements provide the supervisory body with sufficient resources?

2.9. How is the head of the supervisory body (and the other directors) appointed?

2.10. Are there any minimum professional requirements for the head of the supervisory body?

2.11. How is the head (and the other directors) of the supervisory body removed?

2.12. How long is the mandate of the head of the supervisory authority?

2.13. Are there any restrictions for the movement of professionals from the supervisory body into the pension industry? Is there a minimum period between the departure from the supervisory authority and subsequent hiring by the supervised entity or pension plan?

2.14. How often are pension fund supervisors employed within the pension industry once they leave their service as supervisors? (Never, rarely, occasionally or frequently?)

2.15. Does the supervisory authority have autonomy to manage the human resource policy concerning the level of salaries and the structure of careers for its employees?

2.16. How do the terms and conditions of the employment currently offered by the supervisory authority compare with those available to staff in the private sector?

2.17. Is the supervisory body under to the same rules on hiring and firing employees applied to the federal administration?

2.18. Is the supervisory body under the same procurement procedures applied to the federal administration?

2.19. Which national authorities, if any, control and audit the activities of the supervisory body?

2.20. Does legislation delegate all supervisory powers to the supervisory body or does a superior authority retain final approval of certain actions (*e.g.* intervention in a pension fund, removal of license, etc)?

2.21. Can any superior administrative authority change the decisions and procedures of the supervisory body?

2.22. Please describe the disclosure policy of the supervisory authority (*e.g.* annual reports, releases, etc).

2.23. Is the supervisory authority satisfied that its powers are adequate in enabling it to fulfill its statutory responsibilities?

3. Organisational Structure and the Performance of the Supervisory Agency.

(Please address the following questions to the primary supervisor. If the supervisory authority is not specialised, please address the following questions to the department of the authority that supervises pension funds)

3.1. How many directorates/departments/units in the supervisory authority are in charge of the supervision of pension funds and what are the main tasks of each one? Please provide the organizational chart of the agency.

3.2. What is the total number of staff employed by the supervisory authority?

3.3. In broad terms, what proportion of the staff is involved in:

a) Front-line supervision activities (*e.g.* on-site and off-site supervision, licensing, enforcement, intervention and termination

b) Supervisory support functions (*e.g.* statistics, studies, legal and economic analysis)

c) Corporate services (*e.g.* administration, human resources, budget, etc)

3.4. How many actuaries are working in the supervisory body?

3.5. How many lawyers are working in the supervisory body?

3.6. How is the integration of off-site and on-site supervision managed?

3.7. How much was the annual budget of the supervisory body for 2001? Please provide the information in domestic currency.

3.8. Is there any participation of pension fund industry's representatives or members' representatives in the supervisory structure? If so, how does it operate?

3.9. Does the supervisory agency have a stated mission statement and/or statement of values?

3.10. What has been the main source of supervisory staff? (*e.g.* other supervisory agencies; other government departments, private sector)

3.11. Does the agency have flexibility and capacity to establish its own corporate culture? What steps has the agency taken to promote it?

3.12. What training programs have been established to develop supervisory skills of the staff?

Annex II.3. Distribution of Supervisory Responsibilities

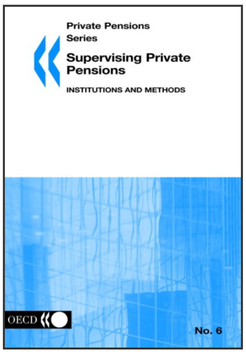
Supervisory responsibilities related to the implementation of regulation on: **a)** licensing/registration; **b)** qualification for tax benefits; **c)** compliance to governance rules; **d)** contributions and regularity of payment; **e)** membership and portability (enrolment process, transfers and compliance); **f)** benefits eligibility conditions and access to plans; **g)** investments, asset allocation, performance, minimum capital and reserves; **h)** custodian procedures ; **i)** financial, actuarial and accounting methods; **j)** administrative cost, fees and marketing; **k)** disclosure procedures referring to members and beneficiaries, potential members and accounts; and **l)** merger and liquidation.

	a	**b**	**c**	**d**	**e**	**F**	**g**	**h**	**i**	**j**	**k**	**l**
Australia	APRA	ATO	ASIC ATO	ATO APRA	ATO APRA	ATO APRA	APRA	APRA	APRA	ASIC	ASIC	APRA
Canada	OSFI	CCRA	OSFI	OSFI	OSFI	OSFI	OSFI	OSFI	OSFI	Plan Sponsor	OSFI	OSFI
Czech Republic	MF / OSIPF	MF / OSIPF	MF / OSIPF	MF / OSIPF	MF / OSIPF	MF / OSIPF	MF / OSIPF	MF / OSIPF	MF / OSIPF	MF / OSIPF	MF / OSIPF	MF / OSIPF
Denmark	FSA	TA	FSA	FSA	FSA	FSA	FSA	FSA	FSA	FSA	FSA	FSA
Germany	BaFin	TA	BaFin	BaFin	BaFin	BaFin	BaFin	BaFin	BaFin	BaFin	BaFin	BaFin
Hungary	HFSA	HFSA	HFSA	HFSA	HFSA	HFSA	HFSA	HFSA	HFSA	HFSA	HFSA	HFSA
Iceland	MF FME	IRD	FME	IRD FME	FME	FME	FME	FME	FME	FME	FME	FME
Ireland	PB	TA	PB	PB	PB	PB	Na	Na	PB	Na	PB	PB
Italy	COVIP, BI, ISVAP, CONSOB	Auto-matic	COVIP	na	COVIP	COVIP	COVIP	COVIP BI	COVIP	COVIP CONSOB	COVIP CONSOB	COVIP

	a	b	c	d	e	F	g	h	i	j	k	l
Japan	MHLW	MHLW	MHLW	MHLW	MHLW	MHLW	MHLW	FSA	MHLW	MHLW	MHLW	MHLW
Mexico	CONSAR	MF	CONSAR	IMSS	IMSS	IMSS	CONSAR	CONSAR	CONSAR	CONSAR	CONSAR	CONSAR
New Zealand	GA	na	Na	Trustees	Trus-tees	Trus-tees	Trus-tees	Trustees	Trus-tees	Trustees	Trustees	Trus-tees GA
Norway	FSA	TA	FSA	FSA	FSA	FSA	FSA	FSA	FSA	FSA	FSA	FSA
Poland	KNUiFE	KNUiFE	KNUiFE	KNUiFE	KNUiFE	KNUiFE	KNUiFE	KNUiFE	KNUiFE	KNUiFE	KNUiFE	KNUiFE
Spain	DGSFP	TA	DGSFP	/DGSFP	DGSFP	DGSFP	DGSFP	DGSFP	DGSFP	DGSFP	/DGSFP	/DGSFP
Sweden	FI	TA	FI	FI	FI	FI	FI	FI	FI	FI	FI	FI
Turkey	UT	MF	UT	UT	UT	UT	UT CMB	CMB	UT CMB	UT	UT CMB	UT CMB
UK	OPRA	IR	OPRA	OPRA	OPRA	Indus-trial Tribu-nals	OPRA	na	OPRA	FSA	OPRA	OPRA

Supervisory responsibilities related to the implementation of regulation on: **a)** licensing/registration; **b)** qualification for tax benefits; **c)** compliance to governance rules; **d)** contributions and regularity of payment; **e)** membership and portability (enrolment process, transfers and compliance); **f)** benefits eligibility conditions and access to plans; **g)** investments, asset allocation, performance, minimum capital and reserves; **h)** custodian procedures ; **i)** financial, actuarial and accounting methods; **j)** administrative cost, fees and marketing; **k)** disclosure procedures referring to members and beneficiaries, potential members and accounts; and **l)** merger and liquidation.

TABLE OF CONTENTS



From:

Supervising Private Pensions: Institutions and Methods

Access the complete publication at:

https://doi.org/10.1787/9789264016989-en

Please cite this chapter as:

Pinheiro, Vinicius Carvalho (2005), “Supervisory Structures for Private Pension Funds in OECD Countries”, in OECD, *Supervising Private Pensions: Institutions and Methods*, OECD Publishing, Paris.

DOI: https://doi.org/10.1787/9789264016989-3-en