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Commission Implementing Regulation (EU) No 643/2014 of 16 June 2014 laying down implementing technical standards with regard to the reporting of national provisions of prudential nature relevant to the field of occupational pension schemes according to Directive 2003/41/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 643/2014

of 16 June 2014

laying down implementing technical standards with regard to the reporting of national provisions of prudential nature relevant to the field of occupational pension schemes according to Directive 2003/41/EC of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision[(1)] and in particular the fourth subparagraph of Article 20(11) thereof,

Whereas:

(1) Directive 2003/41/EC requires Member States to report to the European Insurance and Occupational Pensions Authority (EIOPA) their national provisions of prudential nature relevant to the field of occupational pension schemes which are not covered by the reference to national social and labour law in Article 20(1) of that Directive (hereinafter 'national prudential provisions'). The requirements laid down in this Regulation do not affect Member State competences as provided for in Directive 2003/41/EC with regard to the national social and labour law applicable to institutions for occupational retirement provision.

(2) It is appropriate for EIOPA to make the information reported under this Regulation available on its website to create a centralised source of information at Union level on national prudential provisions.

(3) It is acknowledged that Member States can have provisions applicable to occupational pension schemes in areas such as company law, trust law and insolvency law that extend beyond national prudential provisions. The reporting obligation under this Regulation is not intended to provide an exhaustive list of all the legal and regulatory rules under which occupational pension schemes operate.

(4) In accordance with Article 4 of Directive 2003/41/EC, Member States may choose to apply the provisions of Articles 9 to 16 and Articles 18, 19 and 20 of that Directive to the business of occupational retirement provision of insurance undertakings which are covered by Directive 2002/83/EC of the European Parliament and of the Council[(2)].

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Member States that availed themselves of this option apply a range of national prudential provisions to insurance undertakings that is different from those applicable to occupational pension schemes. For the Member States that follow this option, the reporting obligation should also include information regarding the assets and liablilities referred to in the second paragraph of Article 7 of Directive 2003/41/EC.

(5) In order to ensure uniform reporting, a template should be provided for competent authorities to use when transmitting the requested information to EIOPA. To enable ease of access and comparability of the information transmitted, the template list should correspond to the relevant provisions of Directive 2003/41/EC. The template should also facilitate the reporting of national prudential provisions which are not covered in the list, being of a prudential nature but not directly linked to the transposition of Directive 2003/41/EC.

(6) Given the fact that Union law does not harmonise the structures of institutions for occupational retirement provision, there are numerous structures in which retirement provision is organised across the Member States. Competent authorities should report the names of those institutions and indicate the national prudential provisions applicable to the different structural types, where relevant.

(7) The reporting obligation imposed on competent authorities as regards solvency margins and the guarantee fund as laid down in Articles 17a to 17d of Directive 2003/41/EC, is accommodated in the reporting template through Article 17(2) of that Directive.

(8) In some Member States, national prudential provisions do not apply to the whole territory of the relevant Member State. Therefore, competent authorities should indicate in the template whether their national prudential provisions apply to different territories within their Member State, and the territorial scope of the reported provisions.

(9) Information on national prudential provisions needs to be kept up to date without imposing a disproportionate burden on competent authorities. Therefore, the reporting should be limited to once a year. To increase the consistency of the disclosure of the information, the date to which the reporting refers and the date for the transmission of the information to EIOPA should be fixed. Competent authorities should be able to update that information between reporting dates on a voluntary basis.

(10) To ensure that information on national prudential provisions is available shortly after the entry into force of this Regulation, the first transmission of information should take place within six months from its entry into force.

(11) As specified in Recital 32 of Directive 2010/78/EU of the European Parliament and of the Council[(3)], the technical standards drafted by EIOPA should be without prejudice to the competences of Member States with regard to prudential requirements on such institutions as provided for in Directive 2003/41/EC.

(12) This Regulation is based on the draft implementing technical standards submitted by EIOPA to the Commission.

(13) EIOPA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and

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benefits and requested the opinion of the Occupational Pensions Stakeholder Group established by Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council[(4)],

HAS ADOPTED THIS REGULATION:

Article 1

Reporting procedures

1 Competent authorities shall transmit the information on national prudential provisions to EIOPA for the first time within six months from the entry into force of this Regulation and then annually, by 30 June of each calendar year subsequent to the year in which that six month period ends.

2 The first transmission shall relate to national prudential provisions which are in force on the date this Regulation enters into force. The annual transmissions shall relate to national prudential provisions which are in force on 1 March of the relevant calendar year.

3 Competent authorities may transmit updated information on their national prudential provisions to EIOPA at any time on a voluntary basis.

Article 2

Reporting format and templates

1 Where competent authorities report and update their national prudential provisions, they shall use the template provided in the Annex indicating the following:

a the name of the competent authority, the name of the Member State and the date of transmission to EIOPA;

b whether it is a first, a voluntary or an annual transmission;

c whether the transmission relates to insurance undertakings as referred to in Article 4 of Directive 2003/41/EC and the type of that insurance undertaking;

d whether there is more than one structural type of institution for occupational retirement provision in the Member State and if so, the names of the structural types and the national prudential provisions applicable to them;

e whether the reported provisions apply to different territories within a Member State and if so, the territorial scope of those reported provisions;

f references to the respective official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable;

g a hyperlink to the relevant section of the website containing the full text of the acts and other relevant instruments, where available.

2 Where in a Member State there are national prudential provisions which are not covered by the template list set out in the Annex, the relevant competent authority shall indicate those provisions in the category 'Other' in the template.

3 Competent authorities shall submit completed templates to EIOPA in electronic format.

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Article 3

Entry into force

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

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

Done at Brussels, 16 June 2014.

For the Commission

The President

José Manuel BARROSO

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ANNEX

Template regarding the national provisions of prudential nature relevant to the field of occupational pension schemes

Name of a competent authority	**Name of a Member State**	**Date of transmission to EIOPA**

Report relates to business of occupational retirement provision of insurance undertakings as referred to in Article 2(1)(c) (please mark x)	Yes		There is more than one structural type of institutions for occupational retirement provision in our jurisdiction as referred to in Article 2(1)(d) (please mark x)	Yes	
	No			No	
If yes, please provide the type of the insurance undertaking as referred to in the national legislation:			If yes, please provide their names and make clear if different national prudential provisions apply to different structural types of institutions for occupational retirement provision.		
Type of a report (please mark x)	a) first transmission — Article 1(1) and Article 1(2)		Different territorial extent of the reported provisions as referred to in Article 2(1)(e) (please mark x)	Yes	
	b) voluntary transmission — Article 1(3)			No	
	c) annual transmission — Article 1(1)				
			If yes, please indicate the territorial scope of each of the reported provisions.		

Code	**Item**	**Corresponding provisions in Directive 2003/41/EC**
10	Activities of an institution	Article 7
	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
20	Legal separation between sponsoring undertakings and institutions for occupational retirement provision	Article 8