Risk management regulation for Pensionskassen

(Pensionskassen-Risikomanagementverordnung – PK-RIMAV)

Full title

Regulation of the Financial Market Authority (FMA) on minimum standards for the risk management of Pensionskassen (PK-RIMAV; Risk management regulation for Pensionskassen)

Original Version: Federal Law Gazette II No. 360/2006

Amendment: Federal Law Gazette II No. 145/2015

Preamble/Promulgation clause

Based on Article 25 para. 9 of the Pensionskassengesetz (PKG; Pensionskasse Act), published in Federal Law Gazette no. 281/1990, last amended by federal act published in Federal Law Gazette I no. 141/2006, the following shall be determined by regulation:

Text

General Provisions

Article 1. This Regulation lays down minimum standards for structuring risk management of investments made by Pensionskassen in investment and risk sharing groups. The Regulation aims at putting suitable management, control and checking processes in place for each investment and risk sharing group.

Risk management and asset liability management

Article 2. (1) The Pensionskasse must have a risk management system in place which continually records, measures and controls the risks entailed with the investment. In this context, the risk profile of the entire assets of the investment and risk sharing group shall be considered. With regard to the selection of its risk management methods, the Pensionskasse shall take account of the current state of scientific and technical knowledge.

(2) The risk management shall comprise strategies, risk management techniques and internal control mechanisms. The risk management is to be performed based on a risk management process which includes:

1. risk policy;
2. risk identification;
3. risk analysis;
4. risk assessment;
5. risk management;
6. risk monitoring;
7. risk documentation; and
8. reporting.

This risk management process must be implemented as a continual process in the form of a closed cycle in each investment and risk sharing group in accordance with the type, scope and level of risk of the investments and pension commitments.

(3) The risk management shall be carried out with the help of IT systems.

(4) The findings from risk management shall be taken into account with regard to the selection of investments, with regard to their being divided between different investment categories, as well as in relation to the monitoring of their performance. The risks shall be assessed, taking the entire assets and liabilities into account.

(5) The requirements of the Regulation apply to the management of all risks of relevance to the investments made by a Pensionskasse. These include, in particular:

1. market risks;
2. interest rate risks;
3. credit risks including sovereign and issuer risks;
4. liquidity risks;
5. operational and technical risks; as well as
6. associated risk concentrations.

Risk policy

Article 3. (1) Every Pensionskasse shall determine and justify the circumstances for its risk management based on the risk policy defined.

(2) For the investments, quantifiable and possibly also non-quantifiable target figures shall be set for each investment and risk sharing group, taking into account overall assets and liabilities in accordance with the actual obligations resulting from pension commitments and with due regard for the risk-bearing capacity pursuant to Article 8.

(3) The risk policy, and the target figures in particular, shall be continuously checked and adapted, if necessary.

Risk identification

Article 4. (1) The risk identification process must guarantee that risks relating to the investment of assets are detected systematically and at an early stage. Risks shall be identified from the standpoint of the Pensionskasse as well as the beneficiaries, in conjunction with the defined target values.

(2) The risks identified pursuant to para. 1 shall be classified with regard to their significance.

(3) The information required shall be collected using a routine and standardised process.

(4) Based on suitable risk indicators, an early-warning mechanism shall be established.

Risk analysis and risk assessment

Article 5. (1) The Pensionskasse shall perform risk analyses and risk assessments with regard to the investment. The reciprocal effects between the various risks shall be taken into account. With regard to the frequency of its risk assessments, the Pensionskasse shall consider the type of assets and the planned holding period, the liquidity requirements and the current market situation.

(2) The acquisition of an asset shall be permissible only if the investment risk related to it may be subjected to the risk management, assessed and analysed.

(3) The investment risk shall be investigated for each investment and risk sharing group and matched with risk indicators and limits.

Risk models

Article 6. (1) The Pensionskasse shall use risk models for its risk analyses and risk assessments, with the help of which statements on the respective risk situation and risk development of all risks that have been classified as significant pursuant to Article 4 para. 2 can be derived and which are incorporated into the risk management process.

(2) The risk models shall be checked at least once a calendar year for their power of forecast or statistical significance.

(3) If a risk model is significantly changed, the calculations shall be done at least once using the former and the changed model assumptions in parallel.

(4) The results of the risk models must be adequately taken into account for the investment decisions.

(5) In addition to the persons working in the field of the risk management of the investment, at least one member of the management board as well as the actuary also must be appropriately knowledgeable about the risk models used.

(6) By using suitable models and parameters and by taking into consideration the principles of the investment policy and the internal limits that has been set, it shall at least be possible to calculate for each investment and risk sharing group in particular the loss potential of the invested assets and the probability of as well as the expected amount of any reduction in entitlements or benefits, as well as any obligation by the employee to make additional payments until the end of the current financial year, and in any case to also assess and document the effects for the bearer of risk for at least three years.

(7) The actuary shall as a minimum examine the appropriateness of the models and the parameters used pursuant to para. 6 with regard to the benefit obligations arising from the pension company contracts.

(8) Scenario analyses which do not only consider more or less probable but also exceptional scenarios, and which are tailored to the respective bearers of the risk, shall be regularly performed.

Risk management

Article 7. (1) The Pensionskasse shall consider the risk analysis and risk assessment results for its risk management.

(2) The Pensionskasse shall adjust the risk management process to changing circumstances. The effectiveness and the appropriateness of the risk management process shall be continuously checked, taking account of the risk-bearing capacity and the investment strategy.

Risk-bearing capacity

Article 8. (1) The investment risks shall be regarded from the viewpoints of the beneficiaries, the employers and the Pensionskasse.

(2) The decision whether the risks entailed with the investment can be accepted or should be avoided, minimised or transferred shall be reached based on an analysis of the risk-bearing capacity for the respective bear of the risk.

(3) The amount of the volatility reserve and its expected performance shall be considered for determining the risk-bearing capacity.

(4) It shall be guaranteed that the payment obligations can be met at any time. For this reason, it shall be continuously monitored to what extent the Pensionskasse is in a position to cover any arising liquidity needs. In particular, the Pensionskasse must be able to fully meet all accepted, conditional and unconditional delivery and payment obligations in connection with derivatives.

Limits

Article 9. (1) Within the scope of risk management, limits shall be determined, which shall in any case be assessed with regard to their risk potential, and shall be brought into line with the risk-bearing capacity. In particular with regard to derivative products, a maximum loss potential must be determined, taking account of any offsetting positions.

(2) The determined limits shall be continuously monitored by a unit that is independent of the investment or directly by the management board.

(3) Processes and appropriate measures to be deployed in the event of limits being exceeding shall be defined in advance. In the event of a limit being exceeding, compliance with the measure deployed shall be documented.

Risk monitoring

Article 10. (1) The risk management measures taken shall be monitored. The Pensionskasse shall regularly conduct target-performance comparisons between the actual risk situation and the risk situation defined on the basis of risk-policy principles and make necessary adaptations. Early-warning mechanisms shall help guarantee that changed risk situations are recognised in a timely fashion and that necessary measures can be derived from them.

(2) The IT systems used to handle the risk management and the related IT processes must ensure the integrity, availability, authenticity and confidentiality of the data. The suitability of the IT systems shall be checked at regular intervals.

Internal guidelines

Article 11. The structuring of the investment and risk management process shall be defined in writing in the form of relevant internal guidelines for each investment and risk sharing group. These guidelines shall be approved by the management board in writing. In the case of there being significant changes to the investment and risk management process, the guidelines shall be required to be amended without delay.

(2) The Pensionskasse shall ensure that the investment and the risk management of the investment are performed on the basis of these guidelines. The level of detail of the guidelines shall correspond to the type, scope and risk level of the investments.

(3) The current version of the guideline must be made available to the employees concerned at all times.

(4) The structure of the guidelines shall in particular contain the following aspects:

1. Guarantee function: compliance with all of the defined rules of investment and risk management shall be guaranteed.
2. Verifiability function: The description of the investment and risk management process serves as a basis for verifying proper implementation.
3. Accountability function: the management board is able to prove that it has complied with its obligations.

(5) The guidelines shall in particular contain the following items:

1. Investment policy and risk policy principles, which include the objectives of the investment and risk management process and the risk-bearing capacity;
2. Organisational structure of the areas for investment and risk management, including regulations concerning competencies and responsibilities;
3. Regulations concerning the structuring of the investment and risk management process, including a list of measures and decisions as well as escalation procedures;
4. Methods for risk identification, risk analysis, risk assessment, risk management and risk monitoring, including an overview of the investment and risk models;
5. Measures for the reduction of dependency upon external credit ratings pursuant to Article 25 para. 11 PKG as well as criteria for cancelling the definition of assets as permanent investments pursuant to Article 23 para. 1 no. 3a PKG;
6. Development of investment and risk documentation and reporting;
7. Derivation of strategic target figures and limits;
8. Regulations that guarantee adherence to the statutory investment provisions, the Regulation and internal provisions based on this Regulation;
9. Regulations concerning remuneration and incentive systems in investment and risk management;
10. IT systems;
11. Definitions of terms;
12. Declarations on the investment policy principles pursuant to Article 25a PKG;
13. Scope, entry into force.

Documentation

Article 12. (1) Any business and controlling documents of risk management relevant to investment decisions shall be written in a way that is easily verifiable by third-party experts and they shall be kept.

(2) The Pensionskasse shall keep the business and controlling documents of risk management relevant to investment decisions in an orderly fashion for seven years; after this period for such a time as is required for pending court or official proceedings in which the Pensionskasse has party status. The stipulated period shall start with the end of the calendar year during which the document was drawn up.

(3) The following items shall be documented at least for each investment and risk sharing group:

1. Investment;
   a) investment categories and diversification;
   b) assumed risks pursuant to Article 2 para. 5;
   c) extent of the limits given, including their utilisation, and exceeding of limits and measures taken in particular;
   d) development and evaluation of the risk and income;
   e) risk-bearing capacity;
   f) target/actual performance comparisons of the target figures;
   g) Investment in derivatives for the hedging of price risks or the reduction of investment risks: quantitative proof of the risk mitigating effect within the risk evaluation for the entire time horizon of the planned usage, as well as proof, that no additional significant risks arise from usage. This proof must be provided in the case of investments in the direct portfolio as well as within investment funds, real estate funds and alternative investment funds (AIFs), upon which the Pensionskasse has significant influence. The significant influence of the Pensionskasse can be assumed in the case of investment funds, real estate funds and AIFs,
      aa) which are managed by undertakings affiliated to the Pensionskasse,
      bb) in which the Pensionskasse holds more than 20% of the assets of the fund,
      cc) whose investment policy or decision the Pensionskasse may otherwise be able to influence;
   h) Investment in derivatives for simplify efficient management: quantitative proof that the risk profile created does not deviate significantly from a risk profile that is permissible where derivatives are not used, as well as proof of the efficiency of all the derivative-based components of the portfolio as a whole with the risk monitoring for the entire time horizon of their planned use. This proof must be provided in the case of investments in the direct portfolio as well as within investment funds, real estate funds and AIFs, upon which the Pensionskasse has significant influence. The significant influence of the Pensionskasse can be assumed in the case of investment funds, real estate funds and AIFs,
      aa) which are managed by undertakings affiliated to the Pensionskasse,
      bb) in which the Pensionskasse holds more than 20% of the assets of the fund,
      cc) whose investment policy or decisions the Pensionskasse may otherwise be able to influence.
   i) investments in securities that are not traded on regulated markets;
2. responsibility of the management for risk management and the investment;
   a) results and implications of the risk analyses for the investment decisions;
   b) changes to the significant assumptions and parameters on which the processes to measure the risk are based;

c) performance record of the risk manager;

d) development of the provision for risks, taking account of the risk-bearing capacity;

e) adherence to and checking of the internal guidelines;

3. Advisers and fund managers;

a) selection of managers;

b) quality assurance;

c) performance measurement;

d) services performed;

4. Custodian;

a) reporting frequency;

b) valuation of the assets;

c) services performed;

5. Liquidity situation and extent of liquidity risk;

6. Cases of damage in connection with operational and technological risks entailed with the investment, causes for and extent of the damage, countermeasures taken and measures to prevent damage in future.

Reporting

Article 13. (1) The risk reporting shall be done in a clear and meaningful manner; apart from a description, it shall also contain an assessment of the risk situation as well as of the measures realised and planned.

(2) Significant changes to the risk situation shall be reported to the management board and the competent decision-makers without delay.

(3) The management board shall brief the supervisory board on the risk situation in the form of a written risk report at least quarterly.

(4) If there are no relevant changes with regard to the facts already presented in previous risk reports, the current report may refer to this information.

Fields of responsibility

Article 14. (1) The risk management process as well as the related tasks, responsibilities and communication channels shall be clearly defined and coordinated. The management board shall regulate the employees' fields of responsibility, powers of attorney and authorities to sign and keep an appropriate record of them.

(2) The management board shall approve the internal guidelines as well as all amendments made to them.

(3) Functions which serve to effect the risk management of the investment shall be separated organisationally from functions actually performing the investment.

Staffing

Article 15. (1) The quantitative and qualitative aspects of human resources with respect to risk management shall be oriented in particular towards the investment strategies as well as the risk situation.

(2) The Pensionskasse shall appoint a responsible risk manager and a deputy, who are tasked to coordinate the risk management and risk reporting.

(3) Persons entrusted with risk management must have the necessary knowledge and qualifications with respect to risk management, depending on their tasks, competencies and responsibilities.

(4) Suitable training and education programmes shall ensure that the employees' level of qualification corresponds to the current state of scientific and technical knowledge. These measures shall be documented.

(5) The Pensionskasse shall ensure that the absence or leaving of employees does not lead to sustained disruptions in the risk management process.

Outsourcing of risk management tasks

Article 16. (1) The Pensionskasse may outsource the tasks of risk management.

(2) Risk management activities may only be outsourced based on a written outsourcing contract, which ensures adherence to supervisory provisions, and to Article 25 PKG and this Regulation in particular. Outsourcing of risk management activities shall be immediately notified to the FMA including submission of the outsourcing contract.

(3) The Pensionskasse must have an effective, direct right to inspect books and records and to give instructions vis-à-vis those entities to which risk management tasks have been outsourced. Extensive rights to inspect and examine all business documents of the said external risk management must be ensured for the FMA and the statutory auditor; moreover, it must be ensured that the FMA is also able to exercise its supervisory powers, in particular those pursuant to Article 33 PKG, vis-à-vis those entities to which risk management tasks have been outsourced.

(4) The Pensionskasse shall appoint an internal representative, who is responsible for ensuring the orderly performance of outsourced risk management.

Article 17. (repealed)

Syndicated investment and risk sharing group

Article 18. The provisions of this Regulation shall apply on a consolidated basis for syndicated investment and risk sharing groups.

Entry into effect and repeals

Article 19. (1) The title of the Regulation as well as Article 17 para. 3 in the version of the Regulation published in Federal Law Gazette II no. 145/2015 shall enter into effect upon expiry of the day of publication.

(2) Article 17 including its heading shall be repealed on 21 July 2015.

(3) Article 2 para. 4, Article 4 including the heading, the headings for Article 5, Article 6 paras. 1 and 6 to 8, Article 8 para. 2, Article 9 paras. 1 and 3, Article 11 including the heading, Article 12 para. 3 no. 1 points g, h and i as well as no. 2 point e, Article 14 para. 2 and Article 18 including the heading in the version of the Regulation published in Federal Law Gazette II no. 145/2015 shall enter into effect on 1 January 2016.