

While this translation was carried out by a professional translation agency, the text is to be regarded as an unofficial translation based on the latest official Guidelines no. 9684 of 17 December 2004. Only the Danish document has legal validity.

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Guidelines on market discipline and reporting of regulations for the own funds' part of the realised results in life-assurance companies and lateral pension funds (nationwide occupational pension funds)

Guidelines no. 9684 of 17 December 2004

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Under section 20(1), no. 3 of the Financial Business Act, life assurance companies and lateral pension funds (nationwide occupational pension funds) are required to notify the regulations applied for the calculation and distribution of the realised results to policyholders and other beneficiaries under insurance contracts. According to section 21(1) of the Act, the regulations notified must be adequate and reasonable, and subsection (2) stipulates that the regulations notified for calculation and distribution of the realised results must be accurate and clear and lead to a reasonable distribution.

The realised results for insurance contracts with bonus rights according to the contribution principle are to be distributed among the beneficiaries in relation to how said beneficiaries have contributed to the results. The contribution principle should be divided into the calculated contribution principle, which pertains to the distribution of the results among the owners and the policyholders, and the distributed contribution principle, which pertains to the distribution among the policyholders mutually. The Executive Order on the Contribution Principle lays down the contribution principle.

Section 4(2) of the Executive Order on the Contribution Principle stipulates that undertakings are to notify the regulations applied for the calculation of the part of the realised results that accrues to its own funds. The returns on special bonus provisions (type B) should be treated like own funds. It appears from section 4(3) of the Executive Order that the undertakings, when notifying under subsection (2), must divide the own funds' part of the realised results into one part related to the return on own funds (investment return), and a part reflecting the extent of the risk incumbent on own funds (return on risk). In the notification an explanation must be given of how the notified return on risk is reasonable in relation to the risk incumbent on own funds.

If notifications regarding the own funds' part of the realised results follow these guidelines, the Danish FSA will not, as a rule, request further reasons and elaborations. If notifications do not follow these guidelines, the Danish FSA will carry out the usual review as to whether the regulations notified are adequate and reasonable to the policyholders and other beneficiaries under the insurance contracts.

If the own funds and special bonus provisions (type B), because of inadequate realised results, have been allocated less than called for under the principles, the undertaking is entitled to correct this situation in the distribution for future years. The amount expected to be added to the own funds and special bonus provisions (type B), apart from what the principles otherwise would imply, is designated "the shadow account" in these guidelines, cf. section 111 of the Executive Order on Financial Reports for Insurance Companies and Lateral Pension Funds (Nationwide Occupational Pension Funds).

1. The own funds' part of the realised results

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The notification of the own funds' part of the realised results must be divided into an investment return in the form of the return on the investment assets attached to own funds, and a return on risk corresponding to the extra return that may be allocated to own funds as a consequence of the risk incumbent on own funds.

2. Investment return on the investment assets attached to own funds

The investment return on the investment assets attached to own funds should be calculated as the return before tax on yields of certain pension scheme assets (key figure N1) on joint investment with the policyholders. If own funds are allocated the return on assets not included in joint investment with the policyholders, this must be stated.

3. Return on risk

I. Market discipline

In order for an undertaking to be covered by sufficient market discipline under these guidelines, said undertaking must, before the beginning of the year, report a comparable return on risk for own funds or special bonus provisions (type B) respectively.

II. Reporting of return on risk

In the reporting, the return on risk for own funds and special bonus provisions (type B) respectively must be indicated as the annual extra return the policyholders could achieve if own funds and special bonus provisions (type B) respectively did not require compensation for the risk incumbent on them. The return should be calculated in relation to the expected provisions for life-assurance for the year and collective bonus potential for insurance contracts covered by the Executive Order on the Contribution Principle. The provisions for life-assurance must be calculated before any reduction of potential bonuses on paid-up policy benefits.

In the calculations, the undertaking must employ a time horizon which is relevant in relation to the characteristics of the insurance portfolio.

In the reporting, the undertaking must account for the calculation assumptions backing the size of the extra return reported. As a starting point, the assumptions may be divided into two overall groups:

- Given risks for the undertaking
- The undertaking's policies and strategies

The risks given for the undertaking must, as a minimum, cover the financial, biometric and cost-related risk. If the undertaking finds that other circumstances given for the undertaking are of importance to the return on risk, the extent of this plus a reason for the effect on the size of the return on risk must be stated in the report.

The undertaking's policies and strategies include for example the undertaking's investment and reinsurance strategy. In addition, the undertaking's bonus policy and other regulations reported will be of importance for the reported return. The undertaking must also include in the calculations principles for application of a shadow account, cf. section 4 of these

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Guidelines. The undertaking must include other strategies and policies which will be of importance for the size of the reported return.

Moreover, the report must contain the following amounts:

- a) the amount expected to be transferred to the shadow account at the end of the year, and
- b) the part of the amount mentioned in a) which cannot be expected to be added in subsequent years.

The amounts in a) and b) must be divided into the amounts pertaining to own funds and the amounts pertaining to special bonus provisions (type B).

III. Change in return on risk

An undertaking may not, during the year, report changes to the risk on own funds if the undertaking is to be covered by sufficient market discipline under these Guidelines. The reason for the return on risk must be renewed every year. This requirement only entails considering whether a previous reason is still justifiable.

IV. After the year-end

No later than eight days after approval by the board of directors of allocation of any profits and of the financial statements, the undertaking must report the realised return on risk for own funds and special bonus provisions (type B) respectively.

4. Application of a shadow account

In its report, the undertaking must indicate how the shadow account is treated on an ongoing basis, including its return and when the own funds and special bonus provisions (type B) respectively are credited with amounts from the shadow account.

5. The own funds' part of the realised results

The undertaking's reported regulations regarding the own funds' part of the realised results must clearly stipulate the size of this part. This does not prevent the undertaking from deciding in a specific situation to waive fully or partially its calculated part of the realised results in relation to the reported regulations. It will not later be possible to transfer to the own funds the difference between the own funds' calculated part of the realised results and the part thus allocated to own funds. Similarly, the undertaking may, in a specific situation, decide to waive fully or partially amounts which, according to the reported regulations, are placed in a shadow account. It will not later be possible for own funds to obtain such waived amounts.

The Danish Financial Supervisory Authority, 17 December 2004

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