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RÉPUBLIQUE FRANÇAISE

CNOCP
Conseil de normalisation des comptes publics

Opinion no. 2016-01 of 14 April 2016 on the accounting treatment for pensions in the financial statements of entities operating pension schemes

On 14 April 2016, the Public Sector Accounting Standards Council (CNOCP) adopted the present opinion on the accounting treatment for pensions in the financial statements of entities that operate pension schemes.

1. Background

1.1. Social security: concepts of schemes, branches and social security entities

Social security **schemes** share the following features:

- Provisions that apply to a given group of beneficiaries and that set the benefits to which these beneficiaries have an objective right; those benefits are funded mainly – but not exclusively – by contributions collected from these beneficiaries and their employers in the reporting period;
- An administrative structure for managing social protection and involving representatives of those affiliated to the schemes.

As regards its structure, a single scheme may manage a number of various social security benefits: old-age pensions, sickness-maternity-disability-death benefits, benefits covering work-related accidents and occupational diseases and benefits for families.

The social security system comprises a general scheme organised in four **branches** in relation to the four types of above-mentioned benefits. Entities from all four branches are tasked with paying out the benefits. In addition, a separate entity is responsible for centralising and collecting contributions.

The **social security entities** operationalise the legislation and regulations governing their activities, as set by the annual Social Security Budget Acts or by ordinary acts. Except on rare occasions, each entity is connected to a single scheme, but the provision of benefits and the collection of contributions for one same scheme may be carried out by a number of entities or be entrusted to third party organisations (e.g. URSSAF for the collection of social contributions earmarked to fund the old-age benefits of the social security general scheme).

1.2. Funding of compulsory statutory pension schemes

Several types of revenue are used to fund pension schemes:

- Social security contributions paid by employees and employers;
- Taxes and duties (payroll tax, *forfait social* (reduced social security contribution on profit-sharing payments), social levies on income from capital, C3S[1] etc.);
- Financial transfers: demographic offsetting, offsetting contributions or benefits by the FSV[2] for instance.

For the majority of the schemes under review, and besides one-off debt redemption measures by the Social Security Debt Redemption Fund (CADES) which have been decided on several occasions by legislation to cover certain accumulated deficits, financial mechanisms have been introduced to address inequality (in particular, demographic inequality): financial integration into the general scheme (scheme for the self-employed, scheme for agricultural workers, scheme for religious denominations, etc.), central government financing of the deficit (CPRPSNCF[3], schemes for mining workers, CRPRATP[4]), affiliation to the general scheme (CNIEG[5]).

[1] C3S: Corporate Social Solidarity Contribution (currently being phased out).

[2] FSV: Old-Age Solidarity Fund, itself financed by a fraction of the general social security contribution (CSG) and by taxes and duties.

[3] CPRSNCF: SNCF Social Welfare and Pension Fund.

[4] CRPRATP: RATP Staff Pension Fund.

[5] CNIEG: National Pension Fund for the Electric and Gas Industries.

Very few schemes are not covered by these mechanisms (CNRACL[6], CNAVPL[7], CRPCEN[8]).

Supplementary pension schemes are mainly funded by contributions. The ARRCO[9] and the AGIRC[10] also receive transfers from the UNEDIC (French unemployment insurance scheme) and the FSV, whereas the supplementary scheme for non-salaried farmers receives taxes and duties. In addition, the main supplementary schemes build up reserves by investing any surpluses on the financial markets. They use these reserves and the resulting financial revenue as financing sources when their balance is negative. This has been the case for the AGIRC and the ARRCO[11] since 2008.

1.3. Legal sources

Article 11 of the preamble to the Constitution of 1946, located upfront the Constitution of 1958, states: "[The Nation] *shall guarantee to all, notably to children, mothers and elderly workers, protection of their health, material security, rest and leisure. All people who, by virtue of their age, physical or mental condition, or economic situation, are incapable of working, shall have to the right to receive suitable means of existence from society*".

Article L.111-1 of the Social Security Code (CSS)[12] refers to this principle of national solidarity as the cornerstone of the social security system. The same article specifies that the guarantees provided by the social security to workers and their families are exercised by compulsory affiliation to a scheme.

Article 1 of the Pension Reform Act no. 2003-775 of 21 August 2003 provides that "*the Nation solemnly reasserts the choice of a repartition pension system which is central to the social contract which unites*

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6 CNRACL: National Pension Fund for Local Authority Employees.

7 CNAVPL: National Pension Fund for Self-Employed Workers.

8 CRPCEN: Social Welfare and Pension Fund for Notaries' Clerks and Employees.

9 ARRCO: Supplementary Pension Scheme for Private-Sector Employees.

10 AGIRC: Supplementary Pension Scheme for Private-Sector Executives.

11 Source: COR (Pension Guidance Board) annual report, June 2015.

12 The Social Security Code does not apply to supplementary schemes such as AGIRC/ARRCO.

generations". This provision is reiterated in the 2010 and 2014 Pension Reform Acts, and has now been added to Article L.111-2-1 of the Social Security Code.

As regards social security pensions, the concept of the Nation's guarantee for having access to "*suitable means of existence*" is set forth, in particular, in Article L.111-2-1 which lays down the goals of the pension system. It actually articulates the notion of repartition and the objective of inter- and intra-generational solidarity; it details the ways the system is financed through the use of "*fairly distributed contributions* […]".

Lastly, according to Article L.351-1 of the Social Security Code, the French pension system guarantees a pension to all beneficiaries who apply for retirement as from the age mentioned in Article L.161-17-2 of the same code. The purpose of this provision is to link the act of taking one's pension to the act of filing an application.

1.4. Repartition mechanism

In France, all compulsory statutory basic and supplementary pension schemes are managed under a repartition system[13].

Under this type of system, in any given year, retirement benefits are paid out of contributions made by contributing employees in the same year. Employees' and employers' compulsory contributions, supplemented by transfers from taxes and duties, allow for the payment of pension benefits due for the year. Workers' contributions only finance the pensions of current retirees and not their own future pensions. Their pensions will be paid by future employees under the inter-generational solidarity principle.

By affiliation to a scheme and owing to their contributions, workers acquire rights to their future pension. Its amount is not set *ex ante* and may vary due to legislative or regulatory reform, even after the pension has been taken (e.g. in the event of changes to pension indexing rules).

As reiterated by the Court of Justice of the European Communities[14], compulsory affiliation ensures the financial equilibrium of social security

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[13] Besides, for instance, the specific case of the Additional Retirement Scheme Institution for the Civil Service (ERAFP) which has a "*répartition provisionnée*" system, whereby the Scheme is obliged to permanently cover all its commitments with assets of at least the same amount.

[14] Regularly reasserted since its Poucet and Pistre judgment of 17 February 1993 (C-159/91 and C-160/91, Rec. p. I-637, point 13).

schemes based on the repartition mechanism. This core concept differentiates social security schemes from private schemes with voluntary affiliation.

The notion of financial equilibrium represents an objective with constitutional value. It was flagged up in 1997 by the Constitutional Council[15] and derives from paragraph 19 of Article 34 of the Constitution according to which "*Social Security Financing Acts shall lay down the general conditions for the financial equilibrium thereof*", and Constitutional Bylaw no. 2005-881 of 2 August 2005 which provides that the Social Security Budget Act determines, annually and for the coming year, in an faithful manner, the general conditions for the financial equilibrium of the social security system[16].

To date, the Constitutional Council has not handed down a decision of censure based solely on an objective with constitutional value. Nevertheless, based on this objective, the Council may have expressed reserves that weigh heavily on the scope of certain legislation. In the case at hand, it estimates that the legislator cannot, within Social Security Budget Acts[17], transfer to the CADES resources that were previously allocated to social security schemes and their operating entities without offsetting the effect on those entities for the coming year[18].

2. Objective

The purpose of this Opinion is to set forth the nature of the rights and obligations of entities operating pension schemes in France and to draw consequences on the accounting for pensions.

In France, compulsory basic and supplementary schemes are essentially repartition schemes, the main features of which are described in section 1.4 above.

A pension scheme has no legal personality. It is characterised by a series of rights and obligations implemented by one or more entities that operate the pension scheme. These entities are tasked with serving the pension

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[15] Constitutional Council decision no. 97-393 DC of 18 December 1997.

[16] Article LO.111-3 - I-C-2°.

[17] The scope of which does not include supplementary schemes such as AGIRC/ARRCO.

[18] Constitutional Council decision no. 2010-616 DC of 10 November 2010.

payments for the financial year in line with effective regulations; they present their financial statements accordingly. Under their operational guidelines, the rights and obligations of those entities are principally limited to a financial year.

3. Scope of the Opinion

Besides the standard applying to central government civil servants[19], there are currently no requirements as to the accounting in the reporting period for pension benefits from compulsory basic and supplementary schemes due in future periods to private sector employees and public sector staff who are not central government civil servants[20].

Consequently, this Opinion encompasses compulsory basic and supplementary pension schemes for private sector employees and public sector staff who are not central government civil servants.

4. Main provisions

The Public Sector Accounting Standards Council notes that the repartition system is committed to share with beneficiaries resources available in future reporting periods; however, only the commitment to share resources available in the present reporting period is a present obligation of the entities that operate those schemes.

The Council concludes that the repartition system means that there is no present obligation in relation to pension benefits beyond the annual financial year for the entities that operate the pension schemes, whether these schemes are basic or supplementary. Consequently, these entities do not recognise liabilities for the future payments of pension benefits.

This Opinion is issued without prejudice to recommendations that the CNOCP may elaborate to provide further information, the nature of which has not yet been determined and which could concern the forward-looking

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19 The issue of the pensions of central government civil servants is addressed in Standard 13 – “Commitments to be disclosed in the notes to the financial statements” of the Central Government Accounting Standards Manual.

20 “Public sector staff who are not central government civil servants” are local government civil servants and hospital civil servants, as well as non-established staff working for public employers.

financial equilibrium of pension schemes, based on financial forecasts of payments for future pension benefits and of resources allocated to their financing. For this reason, the Council recommends continuing work to identify the appropriate vehicle to provide this information, its frequency and the level of aggregation at which it would be relevant.

5. Classification of the change

This Opinion does not alter current practices for recognising entities operating pension schemes' rights and obligations.

6. Effective date

The CNOCP proposes that the Opinion should be effective immediately.