Code of the Dutch Pension Funds
The mission of the Federation of the Dutch Pension Funds is to represent the interests of the Dutch pension funds optimally and to enhance the development of the Dutch pension system.

On behalf of more than 350 pension funds, the Federation of the Dutch Pension Funds represents the interests of 5.8 million members, 2.7 million pensioners and 8.6 million deferred members.

Approximately 85% of the working population is enrolled in a collective pension fund. Collectively, the pension funds linked to the Federation of the Dutch Pension Funds manage approximately 950 billion euros (at the end of Q4 2012).

The Federation of the Dutch Pension Funds is a cooperation between the umbrella organisations for company pension funds (OPF), pension funds for liberal professions (UvB) and industry-wide (VB) pension funds.

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The Labour Foundation [Stichting van de Arbeid], founded in 1945, is the national consultative body of the central organisations of both employers and employees in the Netherlands. The Labour Foundation represents: the Confederation of Netherlands Industry and Employers [Vereniging VNO-NCW], the Royal Dutch Association of Small and Medium-Sized Enterprises [Koninklijke Vereniging MKB-Nederland], the Dutch Federation of Agriculture and Horticulture Organisations [Federatie Land- en Tuinbouworganisatie Nederland or LTO-Nederland], the Netherlands Trade Union Confederation [Federatie Nederlandse Vakbeweging or FNV], the Confederation of Christian Trade Unions in the Netherlands [Christelijk Nationaal Vakverbond or CNV], and the Trade Union Federation for Intermediate and Higher Employees [Vakcentrale voor Midden-groepen en Hoger Personeel, or MHP].

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Foreword

The publication you are currently reading is the Code of the Dutch Pension Funds (hereinafter: the Code). This Code has been compiled by the Federation of the Dutch Pension Funds and the Labour Foundation who have, in so doing, set standards for ‘good pension fund governance’. Currently, the level of public interest in pension funds is making it essential for them to pay more attention to their standards of governance. Endeavours to optimise the quality of pension fund governance must be made more transparent by pension funds. As far as the pension funds are concerned, this Code replaces the Principles of Good Pension Fund Governance, which the Labour Foundation published in 2005.

The Code does not exist in isolation but forms part of the entire system of existing legislation and regulations. In addition, the recommendations, covenants and Codes of the Federation of Dutch Pension Funds and the Labour Foundation give direction to the concept of governance: what does good pension fund governance entail and how do those involved supervise this?

It relates to intention, not to the letter
The factor determining the effectiveness of the Code is the way in which the pension funds interpret the intention of the Code – not the degree to which they abide by the letter of the Code (i.e. simply treat it as a box ticking exercise). The value is in dialogue and considered decision-making in respect of the subjects in this Code. This means it is possible to deviate from the standards provided this is done so in a well-considered way.

The Code is not set in stone
This Code provides an important step towards the further development of the theme ‘good pension fund governance’. However, the playing field in which the Code operates is constantly changing. Consequently, it is important to follow developments of pension funds, legislation and regulations, as well as society as a whole. Changes in this context may necessitate that, in the course of time, the Code will need to be revised or developed in greater detail.

The Code comes into effect on 1 January 2014.
Acknowledgement

Finally, we would like to thank everyone for their cooperation and commitment. Numerous people have been willing to participate in round-table sessions (with interest groups) and expert meetings about the development of the Code. The meetings with the pension funds also contributed significantly to this Code. We hope that the sector will make use of the Code expeditiously.

On behalf of the Federation of the Dutch Pension Funds

G.P.C.M. Riemens
Managing Director

The Hague, September 2013

On behalf of the Labour Foundation

J.M.A. Mobren
Secretary
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Introduction

In the last few years, pension funds (and their trustees) have regularly been subject to criticism. They are having to deal with increased life expectancy and low interests rates, which means they have to reserve more money while their funding ratios are under pressure. In addition, they have been confronted by a global financial crisis rendering their investments unstable. In addition, the expectations of stakeholders have also become a point of attention. As a consequence, more attention is being paid to the performance of those who manage pension funds.

What is the purpose of this Code?
It is important that pension funds continue to improve the way they operate and enhance their transparency. The purpose is to ensure that stakeholders are confident the pension funds are managing the money entrusted to them well, and that balanced account is being taken of the interests of all those involved. The Federation of the Dutch Pension Funds and the Labour Foundation have, therefore, written this Code of the Dutch Pension Funds. Through this Code, we hope to make the relationships within the pension funds and communication with the stakeholders more transparent, and to contribute to the strengthening of ‘good pension fund governance’. The Minister of Social Affairs and Employment challenged us to do this in the legislative proposal: Strengthening the governance of pension funds [Versterking bestuur pensioenfondsen].

Whose shoulders bear this Code?
This Code is not an aim in itself, but a means to support the performance of Dutch pension funds. Furthermore, the Code should ensure the level of trust in pension funds rises; the trust of stakeholders in particular and of society in general. Expertise, commitment and effective cooperation form the basis of good pension fund governance. And good pension fund governance does not only relate to a fund’s board of trustees but to all the bodies in the fund.

The sector has compiled this governance code itself. This is essential, because commitment from those who play a role in pension funds is vital. The pension fund sector and the social partners involved in
the establishment of pension agreements feel it is their responsibility to ensure the sector performs better. This Code and a Monitoring Committee should contribute to this.

To whom does the Code apply?
The Code is intended for all pension funds with registered offices in the Netherlands. If necessary, the Code makes a distinction between different board models: the joint model, the independent model and the one-tier board model (mixed model).¹

What is in the Code?
In the Code, we consider the role of the board of trustees, the accountability body (verantwoordingsorgaan, hereinafter: the VO), the stakeholders’ body (belanghebbendenorgaan, hereinafter: the BO) and internal supervision. The Code also covers themes such as integral risk management, remuneration, diversity and sustainable investment.

In addition, the Code includes recommendations regarding arrangements for the appointment, dismissal and terms of office of trustees and members of other bodies.

Reader’s reference: how is the Code structured?
This Code first explains a number of principles on which the Code is based. Section two then sets out the standards for general themes, while section three specifies the standards in respect of the structure and organisation of the management and internal supervision. The annexes provide an overview of each board model, as well as the appointment and dismissal procedures governing the management and internal supervision of each model.

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¹ See annex 1 for an overview of the board models.
1  Background to the Code
Background to the Code

In the Netherlands, provisions for the population’s future are arranged in the so-called ‘three pillar system’, consisting of the state pension [AOW], supplementary collective pensions and private individual insurance products. This system ensures a good pension provision for members, deferred members and pensioners. It is essential that the pension funds in the second pillar are strong and future proof; the standards in this Code are intended to contribute to this goal.

Before we consider the standards in detail in sections two and three, we will first explain exactly what a pension fund is (1.1), how the Code will contribute to good pension fund governance (1.2) and how compliance with the Code is to be monitored (1.3). At the end of this section, there is an explanation of the role of the Monitoring Committee (1.4).

1.1 What are the characteristics of a pension fund?

Pension funds are private not-for-profit institutions regarded as employment-conditions related financial institutions. The responsibilities are divided among the parties who determine the employment conditions and the boards of trustees of the pension funds. The pension funds administer the pension schemes which are determined by those responsible for the employment conditions or, in the case of professions, by the liberal professionals.

As far as pension funds are concerned, the interests of their stakeholders are always paramount. Consequently, in every board model, stakeholder representatives play an important role. Pension funds have to weigh up the interests of all stakeholders in a balanced way. Ultimately, the (representatives of) stakeholders can express their opinion in this respect. Unlike other sectors, all the stakeholders are involved with the pension funds.

In addition to the social objective, with the corresponding essential role of stakeholders within the funds, pension funds are also financial
institutions subject to high requirements in respect of the degree of expertise of the trustees and the quality of the organisation. The Code takes account of both aspects.

Pension funds are long-term collaborative arrangements entered into by various stakeholders. In this context, the most important function of pension funds is to ensure good financial control and a balanced weighing of interests. Only then will the principal objective be realised: to provide an income for old age, occupational disability and death. A condition for the continuity of any pension fund is that its stakeholders are confidant the pension fund is taking its duties seriously and performing these duties well.

1.2 What should the Code achieve?

The Code focuses on the three functions of ‘good pension fund governance’: management, supervision, and accountability in respect of what the pension fund has planned and realised. A clear division of responsibilities with a system of checks and balances between the functions is essential. Once a pension fund achieves a balance between the managerial, supervisory and accountability functions, it will be possible to optimally administer the pension agreement. A precondition in this context is that all the dealings of the pension fund are ethical and transparent.

Diversity in the composition of pension fund bodies is also essential. The participation of people from a variety of backgrounds and with a wide range of skills ensures a broader perspective within the management, supervision, and accountability which will, in turn, contribute to the quality of the total pension fund governance. Moreover, ensuring the diversity of the various bodies does justice to the representativeness and profile of the stakeholders.

A good balance must be achieved within the administrative process. In this context, boards of trustees should, given their ultimate responsibility, engage in talks with their VOs or BOs. This also applies to internal supervisors who should enter into arms-length dialogue with their boards of trustees.
By means of the Code, we hope to influence the conduct of trustees, internal supervisors and stakeholders with an accountability role. Naturally, this relates to integrity, but transparency in respect of the method of working and remuneration is also of the essence. Having good checks and balances in place is evidence of a critical attitude towards trust and shared objectives.

The Code assumes the boards of trustees have an overall steering function. That does not only imply that, within pension funds, the board of trustees always bears ultimate responsibility for all the decisions taken, irrespective of whether these have been outsourced to a pension administrator or an asset manager, but also that the board actively manages and is in control of the pension fund. The Code devotes attention to the importance of having effective internal control of processes and information flows. We also hope the Code will stimulate debate within and between the various bodies of pension funds and between pension funds and the organisations to which they outsource their duties.

1.3 How is the Code to be complied with?

The Code is legally enshrined. The standards in the Code are a supplement to legislation and regulations. The substance of important themes such as ‘suitability’ has, for example, already been specified in legislation and regulations. Consequently, the Code provides the more procedural aspects of such themes. While it is true that the standards in the Code are guiding principles, the Code allows space for individual responsibility for pension fund governance in respect of the policy choices a fund makes. The objective of the Code is to stimulate awareness of ‘good pension fund governance’ amongst trustees, members of internal supervisory bodies, VOs and BOs; the Code relates to a ‘state of mind’.

Pension funds may, therefore, comply with this Code in accordance with the ‘apply or explain’ principle. This means a pension fund must apply

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3 The Dutch corporate governance code has demonstrated that detailed transparency provisions are of no value, as they merely contribute to the so-called tick-the-box mentality. This can cause the clarity of information to become obscured, particularly in relation to trustees’ remuneration.
the Code’s standards or, in its annual report, it must explain why it is not applying a particular standard (or not applying it in its entirety). Thus, it is possible to deviate from a standard provided there is a good reason for doing so. As the Code applies to all types of pension funds, the way in which a pension fund applies the standards depends in part on its activities and other specific characteristics. The type of pension fund, the governance structure ⁴, or the type of pension scheme (DB or DC) can all differ, but also, for example, the size of the assets and/or the number of members.

1.4 What is the role of the Monitoring Committee?

In addition to compiling this Code, the Federation of the Dutch Pension Funds and the Labour Foundation have also established a Monitoring Committee. This committee is responsible for overseeing compliance with the Code. The Monitoring Committee consists of independent experts who are interested in the governance of the pension fund sector. In addition, an expert from the sector holds an advisory position in the committee. Together they are responsible for the following:

- ensuring the Code is up-to-date and practicable;
- carrying out an annual assessment of whether and to what extent pension funds comply with the standards of the Code;
- drawing attention to developments;
- making recommendations about adjustments to the Code;
- offer a report of its findings to the Federation of Dutch Pension Funds and the Labour Foundation, and submitting it to the State Secretary of Social Affairs and Employment.

To carry out these responsibilities, the Monitoring Committee may make use of advisors in specific areas. The Monitoring Committee is financed by the sector to the extent funding is not provided for by the Dutch government.

The Monitoring Committee annually assesses how pension funds are complying with the Code and publishes its findings in a report. This

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⁴ The joint model, the independent model and the one-tier board model (mixed model)
report also contains information about any developments the committee wants to draw attention to and recommendations about potential adjustments to the Code.

1.5 Pensions Ombudsman
A Pensions Ombudsman has been appointed to duly handle complaints procedures and dispute settlements. The pension fund industry finances the Pensions Ombudsman, insofar the Dutch Government does not provide funding. Pension providers that are not pension funds may affiliate with the Pensions Ombudsman upon voluntary contribution to its funding.

1.6 Pension Fund Self-regulation Trust
On behalf of the pension fund industry, the Pension Fund Self-regulation Foundation is responsible for financing the Pensions Ombudsman and Monitoring Committee (of the Dutch Pension Fund Code). In order to provide funding, pension funds that are active in The Netherlands pay a compulsory contribution to the Foundation. The Foundation’s annual budget and annual report are available upon request.
2 General themes
2.1 Duties and method of working of the Board of Trustees

On behalf of all the pension fund’s stakeholders, the board of trustees will administer the pension scheme with due diligence: it will take up, accept and manage the scheme, it will invest the fund’s money, pay out the pensions and provide information to stakeholders. The board always bears the ultimate say in and responsibility for the work undertaken by its pension fund.

Clarification
‘Due diligence’ covers both the collective responsibility of the board as a whole and that of an individual trustee.

The stakeholders include members, deferred members, other beneficiaries, pensioners and the employer, as stipulated in article 105 of the Pensions Act and article 110b of the Occupational Pension Scheme (Obligatory Membership) Act.

If the board has outsourced all or part of the administration, it should ensure it can still substantiate complete board responsibility for the administration. To this end, the board should make effective agreements about what duties should be undertaken by the service provider on behalf of the pension fund. Periodically, the board assesses whether the service provider is performing in a way that makes it desirable for the board to continue outsourcing. More information about this can be found in section 2.8.

The board of trustees will make unambiguous agreements about the scope for its policy framework. It will make these agreements with the employer, the social partners or the association for liberal professions which have placed the pension scheme with the pension fund.

Clarification
The board administers the pension agreements as agreed in the negotiations on the terms of employment or in the association for liberal professions. Before the board acts on these agreements, it will assess them in the light of legislation – including section 102a of the Pensions Act – with respect to financial solidity and feasibility (including ease of
interpretation). In this context, the board is aware of its position and responsibilities. If the result of the assessment is negative, the board must take a positive stance and make every effort to cooperate with the parties involved in establishing the terms of employment or the association for liberal professions to find a solution which is acceptable for all parties.

3 The board of trustees will adopt a mission, vision, and strategy and bear responsibility for ensuring a clear and documented policy and accountability cycle. In addition, the board will periodically assess the effectiveness of its policy and make adjustments where necessary.

4 The board of trustees will ensure there is a contingency procedure so it can take action in emergency situations.

   Clarification
   The contingency procedure relates to the decision-making, both in respect of the organisation and its powers. Consider in this respect procedures, potential mandates, division of duties, communication, and practical matters such as accessibility (lists of telephone numbers), replacements, et cetera.

5 The board of trustees must guarantee that the members of the board are able to operate independently and critically vis-à-vis both those they represent and each other.

   Clarification
   When taking decisions each member of the board will act independently vis-à-vis those he or she represents (this only applies if the member holds a seat representing the employer, employees or pensioners). He or she will act in the interests of all the stakeholders in the fund. A balanced decision-making process should take account of the short and long term effects of measures on members, pensioners, deferred members, other beneficiaries and the employer (or employers). To ensure a balanced decision-making process, the board guarantees that the members are independent vis-à-vis one another and can operate critically. However, this may not alter the fact that a board member
should consider the individual interests of different stakeholder groups and raise these interests in a transparent fashion.

6 The board of trustees will be collectively responsible for ensuring its own well-functioning; the chairperson is responsible for monitoring this. On behalf of the board, the chairperson is the first contact for internal supervisors, the VO and the BO regarding matters related to the performance of board members. The chairperson should monitor the balanced weighing up of all the interests in the decision-making process, just as he or she should in the decision-making and advice procedures.

Clarification
In addition to each member’s general responsibility for the board’s good performance, the chairperson has a specific role in this respect. In case of an inverse mixed model\(^5\), then naturally, as a member of the non-executive part of the board, the chairperson is not involved with the separate internal supervision.

7 The board of trustees will fulfil its duties in a transparent (open and accessible) manner. This should ensure that stakeholders are able to gain insight into the information, considerations, and arguments on which decisions and actions are based.

Clarification
The transparent way of working should be demonstrated by communication about policies, decisions, and the realisation of policy objectives. Moreover, working transparently means the board is prepared to enter into dialogue with stakeholders, via their representatives in the VO or the BO.

8 Regarding decision making, the board of trustees must clearly stipulate based on which considerations it has taken decisions - partly to ensure account is always being taken of a balanced weighing of interests.

\(^5\) See annex 1 for an overview of board models.
Clarification

Transparency in decision-making will not alter the fact that the board’s discussions prior to decision-making (the formation of an image and judgement) are of a confidential nature; this confidentiality is essential to promote the openness of board level discussions.

The board must ensure that before decisions are taken, all relevant aspects have been given due consideration. In addition, the board must ensure it is fully aware of the impact of its decisions on the various stakeholders, in part due to the risks which play a role in this context.

The board of trustees will weigh up the recommendations of the supervisory board or the visitation committee. If the board does not wish to abide by the recommendations it must explain its reasons why.

Clarification

The findings of internal supervisors are given much importance, but the board has ultimate responsibility.

2.2 Duties and method of working of the stakeholders’ body

On behalf of all the stakeholders, the stakeholders’ body (BO) will undertake its duties with due diligence.

The BO guarantees that the members of the body are able to operate independently and critically vis-à-vis both those they represent and each other.

Clarification

When undertaking his or her duties, each member of the board will act independently vis-à-vis those he or she represents. He or she will act in the interests of all the stakeholders in the fund. A balanced decision-making process should take account of the short and long term effects of measures on members, pensioners, deferred members, other beneficiaries and the employer (or employers).
The BO will monitor whether the board of trustees is administering the implementation agreement or the implementation regulations and the pension regulations correctly. The BO will also monitor whether the board is weighing the interests of the various stakeholder groups in a balanced way.

The BO will take action if it is of the opinion that the board of trustees is not performing adequately.

Clarification
In this context, please also refer to standard 45.

2.3 Duties and method of working of internal supervision

Internal supervision will be fulfilling its supervisory task such that it contributes to the effective and efficient performance of the pension fund and helps to ensure the pension fund’s business operations are managed well and ethically.

Clarification
Despite the supervisory tasks of the supervisory board and the visitation committee, the board of trustees bears the ultimate responsibility. The supervisory duties of the non-executive board members in a mixed model form part of their integral board duties.

Part of the duties of the internal supervisors is to monitor compliance with this Code.

The supervisory board acts as the board of trustees’ consultation partner.

Clarification
Good supervision requires good insight. The supervisory board acquires this insight through its dialogue with the board. In a mixed

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6 The term internal supervision is used to refer to the supervisory board, the visitation committee, and the non-executive board members in a mixed model. In other cases, we explicitly refer to the supervisory board or the visitation committee.
model, the non-executive board members acquire this insight through dialogue with the executive board members.

2.4 Accountability

The board of trustees will provide insight into its policies, decision-making procedures, decisions, and the realisation of policies.

In its annual report, the board of trustees must unambiguously and clearly describe the mission, vision and strategy of the pension fund. In addition, it should describe whether and the extent to which the pension fund has achieved its objectives.

The board of trustees is accountable for the policy it conducts, the actual outcome of that policy, and the policy choices it will potentially make for the future. In doing so, the board weighs the various interests of the groups involved in the pension fund. In addition, the board provides insight into the long and short term risks confronting stakeholders in relation to the agreed level of ambition.

Clarification

The accountability referred to and the insight into the risks should always be included in its annual report, but may also be communicated to the stakeholders in different ways.

In its annual report, the board of trustees must report the costs of administering the pension scheme.

Clarification

With costs we mean the integral administration costs in outline, to which we make a distinction between the costs of pension management, the costs of asset management and the transaction costs. For reference purposes, the method included in the ‘Recommendations regarding administration costs’ issued by the Federation of the Dutch Pension Funds provides an example of this.
In its annual report, the board of trustees will report the degree of compliance with the code of conduct and this Code, as well as providing an evaluation of the board’s performance.

In respect of accountability, the board of trustees will maintain a dialogue with the VO or the BO.

**2.5 Integral risk management**

The board of trustees will promote and safeguard a culture in which risk awareness is self-evident. In addition, it will be responsible for the adequate organisation of integral risk management.

*Clarification*

The board of trustees will define a suitable risk strategy and a suitable risk policy, including the risk-taking propensity. The board will periodically update both this strategy and policy and communicate this to all the stakeholders.

The board of trustees will take explicit account of the risks and risk management when determining policy and taking decisions. The board will keep a record of how it assesses risks.

**2.6 Communication and transparency**

The board of trustees will be responsible for an adequate communication policy. At a minimum, this policy must ensure personal pension information is easily accessible. In addition, the policy should promote pension awareness among stakeholders and stimulate dialogue with stakeholders concerning current and future policy.

*Clarification*

The principle governing the communication policy should be the need stakeholders have for information. What does he or she want to know? The information relates to the ups and downs of the pension fund and any relevant changes. Personal pension information should provide a stakeholder with a clear and realistic image of his or her pension (including any indexation ambition) or the capital that he or she has accrued in the pension fund. The information should also cover the risks
that could arise as well as contribute to the stakeholder’s insight into his or her entire financial situation.

The board of trustees will assess the effectiveness of the used means of communication; it will do so periodically but at least once every three years.

2.7 Sustainable investment

The board of trustees will lay down its considerations concerning sustainable investments and ensure these are available to stakeholders. In this regard, the board will also take account of good corporate governance.

Clarification
On the basis of article 135, subsection 4, of the Pensions Act, the Board of Trustees is responsible for ensuring the investment policy includes an explanation of how the fund takes account of the environment and climate, human rights and social relationships. In addition - within the framework of the corporate governance code - it is also appropriate for pension funds as investors to promote good corporate governance in the undertakings in which they invest.

In determining its policy, the board of trustees will take account of the fund’s liabilities. In addition, account must also be taken of its responsibilities vis-à-vis stakeholders to ensure an optimal return at an acceptable level of risk.

The board of trustees must ensure that the stakeholders support the choices being made regarding sustainable investment.

Clarification
Regarding the sustainable investment policy, it is essential that support is created through dialogue with the VO or BO.

2.8 Administration, outsourcing and costs

The board of trustees is responsible for everything undertaken by, on behalf of, or for the pension fund. Due to this responsibility, the board
must have a vision of the administration of the activities of the pension fund and determines the requirements with which the administration must comply. The board will also determine an acceptable level of costs.

The board of trustees will stipulate the manner of administration for which it has opted and the considerations which formed the basis for this decision. The board will ensure this information is available to stakeholders.

The board of trustees will ensure it has insight into the chain of outsourcing.

**Clarification**

The ultimate responsibility of the board of trustees, as stipulated in standard 1, applies regardless of whether the outsourcing is arranged via the services of third parties, via outsourcing to third parties or via outsourcing by third parties to yet other parties.

The board of trustees will ensure an unambiguous and explicit allocation of duties and roles between the board and the administration, as well as suitable and adequate steering and audit mechanisms in respect of the administration of the activities of the pension fund.

The board of trustees will ensure that the remuneration policy applicable to parties to whom duties are outsourced does not encourage them to take greater risks than those acceptable to the fund. To achieve this aim, the board will include this in the agreements made on conclusion or extension of the outsourcing agreement or - if applicable - via its shareholder’s position.

**Clarification**

By ‘ensure’ we mean, for example, that the remuneration policy adopted has already been part of the selection process.

A restrained remuneration policy involves taking account of balanced relationships regarding the level of remuneration or performance-related pay. It will guarantee that the board weighs these factors up
and deems the policy to be responsible given the expected returns or other performances.

When outsourcing duties, the board of trustees will include adequate measures in the agreement with the service provider to cover the eventuality that the service provider, or a third party introduced by it, does not perform satisfactorily, and/or fails to comply with the agreement and/or causes damage/loss due to an action or omission.

The board of trustees should ensure the service providers have a whistleblower procedure. If a whistleblower procedure is in place, those who are financially dependent on the service provider can report any irregularities within the organisation without their endangering their position. This could relate to irregularities of a general, operational and/or financial nature.

Annually, the board of trustees will critically assess the quality of the administration and costs incurred and will call the service provider to account if agreements are not, or insufficiently, complied with.

2.9 Role of auditors and actuaries

If an auditor or an actuary has to undertake non-audit work, the board of trustees will issue a separate instruction to this effect. In doing so, the board will consider whether the non-audit work should be undertaken by the auditor, the actuary, or by the office which also audits the annual accounts.

At least once every four years, the board of trustees will assess the performance of the auditor and actuary. The board will discuss the outcome of these assessments with the auditor or actuary. The board will also inform the internal supervisors and the VO or BO of the outcome of these assessments.
2.10 Complaints and disputes

The board of trustees must be open to criticism and learn from its mistakes.

Clarification

The board of trustees must be prepared to listen to the stakeholders and third parties. It will periodically analyse its mistakes and assess its decisions and policy; in addition it must provide a good complaints procedure (see also standard 41 below).

The board of trustees must ensure there is an adequate complaints and disputes procedure, which is easily accessible to stakeholders. In its annual report, the board will elaborate on the way complaints have been dealt with and set out any ensuing changes to the schemes or processes.

2.11 Reporting irregularities

2.11.1 General

The board of trustees will ensure that all those involved in the fund have the opportunity to report any irregularities of a general, operational and/or financial nature. This could relate to both irregularities within the pension fund and irregularities at parties to whom the duties have been outsourced.

Clarification

By those involved we mean members of the board of trustees, members of the VO or the BO and members of internal supervision.

2.11.2 Whistleblower procedure

The board of trustees will ensure that those who are financially dependent on the fund are able to report any irregularities within the pension fund without endangering their position. This could relate to irregularities of a general, operational and/or financial nature.

The board of trustees will stipulate clearly to whom and those who are financially dependent on the fund are to report irregularities. The board will also provide them with information in this respect.
3 Structure and organisation
3.1 Appointment, dismissal and suspension

Appointments and dismissals are to be carried out by the stakeholders, if possible by the body itself, with the involvement of another of the pension fund’s bodies. Members of the board of trustees are appointed and dismissed by the board, having consulted the supervisory board about the procedure. Members of the supervisory board or visitation committee are appointed by the board of trustees after binding nomination from the accountability body and dismissed after binding advice from the accountability body.

Clarification
In this way we give substance to the principle that stakeholders have primary authority in a pension fund.

Board of Trustees
Consulting the supervisory board in respect of the intended appointment or dismissal of members of the board of trustees safeguards the due care of the appointment and dismissal procedures.

In an inverse mixed model, the non-executive board members appoint and dismiss the executive board members, after having consulted the executive board members. If a pension fund has a visitation committee, then prior consultation is not required, but the appointment and dismissal procedures are included in the visitation.

Internal supervision
Within the context of checks & balances, the VO has a role in the appointment and dismissal of members of the supervisory board or visitation committee. To safeguard the quality of the supervisory board, it is essential that the persons nominated by the VO are tested against the profile drawn up by the supervisory board. If the board of trustees is of the opinion that a nominated candidate fundamentally differs from the profile the person in question will not be appointed and the VO will be asked to submit a new nomination.

An overview of the appointment and dismissal procedures for the board of trustees, the supervisory board and the visitation committee is attached as annex 2 to this Code.
The board of trustees will ensure the articles of association contain a suspension procedure.

*Clarification*
This is supplementary to the appointment and dismissal procedures which have to be laid down according to the law.

In the event of a vacancy, the board of trustees, the VO or the BO and the supervisory board will establish the requirements for the vacant position.

*Clarification*  
Regarding members of the BO, the requirements must be laid down in a profile as is the case for the board of trustees and the supervisory board; the requirements for members of the VO will be laid down in a competency vision.

### 3.2 Suitability

#### 3.2.1 Board of trustees

The board of trustees must ensure suitability, complementarity (see section 3.5) and continuity within the board. In this context, it takes account of education, background, personality, gender and age. The board will assess the suitability of board members both when they join the board as well as throughout their membership.

The board of trustees will compile a specific profile for each position on the board; this will stipulate the requirements for suitability and the estimated time needed to fulfill for the function.

*Clarification*  
In compiling the profile the board will take account of the pension fund’s vision in respect of the desirability, or not, of dual functions (collective labour agreement negotiator and pension fund trustee).
The board of trustees will ensure its members are subject to a programme of continuous education. The purpose of this programme is to maintain and, where necessary, broaden or develop the level of suitability of board members.

The board of trustees must pay continuous attention to their own performance. At least once a year, the board will assess its performance as a whole as well as the individual performance of each board member. In doing so, the board should involve a third party once every two years. Issues dealt with in the assessment relate to whether the board is sufficiently suitable and diverse, and consideration will also be given to its conduct and culture.

Clarification

An assessment becomes more effective when someone from outside the board’s own circle is brought in to support the process or to observe its performance; outsiders can provide insights that differ from the insights obtained when a board assessment is strictly internal. Third parties can be involved in the process in a range of ways; involving an external agency is not by definition essential. An independent chairperson or an expert from the immediate environment is also an option. What is important is that the person involved is able to operate independently and has the confidence of the board.

In a mixed board model, the supervisory duties of the non-executive members are also assessed.

Internal supervision

Members of the internal supervision are involved with the pension fund but must act independently in such a way to avoid conflicts of interest. In addition, they must have the capacity and strength-of-mind to adopt a critical attitude vis-à-vis the board of trustees.

Clarification

Having internal supervisors involved in the pension fund provides added value to the board of trustees. The independent position of internal supervisors clarifies the division of roles between the board of
trustees and supervisors, or between the executive and non-executive parts of the board. Acting independently does not only mean independence from the pension fund, but also from the parties to whom duties have been outsourced and from other organisations involved with the fund. This relates to independence 'in mind, in appearance, and in state'. That is: acting independently and taking decisions in a balanced manner ('in mind'); avoiding or combating (the appearance of) conflicts of interest ('in appearance'); and being formally independent ('in state').

The supervisory board will promote suitability, collegial supervision, and complementarity (see section 3.5) within its own board. In this respect, the supervisory board will take account of education, background, personality, gender, and age.

The supervisory board will compile a specific profile for each supervisory board member; this will stipulate the requirements for suitability and the estimated time needed to fulfill the function.

The supervisory board must pay continuous attention to its own performance. At least once a year, the board must assess its performance. In so doing, the board should involve a third party once every three years. Issues dealt with in the assessment relate to whether the board is sufficiently suitable and diverse, and consideration will also be given to its conduct and culture.

Clarification
An assessment becomes more effective when someone from outside the supervisory board’s own circle is brought in to support the process or to observe its performance; outsiders can provide insights which differ from the insights obtained when a board assessment is strictly internal. Third parties can be involved in the process in a range of ways; involving an external agency is not by definition essential. An independent chairperson or an expert from the immediate environment is also an option. What is important is that the person involved can operate independently and has the confidence of the board.
The terms conduct and culture relate, among other things, to the commitment of each member of the supervisory board and the relationships within the board itself as well as those between the supervisory board and the board of trustees.

### 3.2.3 Accountability body

The accountability body (VO) will promote the suitability and diversity of its membership.

*Clarification*

The VO can steer towards this by formulating a competency vision as well as making use of the (educational) facilities offered by the pension fund.

### 3.2.4 Stakeholders’ body

The stakeholders’ body (BO) must ensure its members are diverse and suitable; the BO must do this both when members join as well as throughout their membership.

The BO will assess its performance annually, in which once every two years a third party will be involved. The assessment will consider whether the BO is sufficiently professional and diverse and whether the membership comprises sufficient competency. The assessment will also examine the commitment of each BO member, the conduct and culture within the BO, and the relationship between the BO and the board of trustees.

### 3.3 Voting proportions

Every member of the board of trustees is entitled to vote.

*Clarification*

Every member of the board of trustees has a right to vote, irrespective of the board model. This, therefore, also applies to independent board members who are added to joint boards. This does not alter the fact that certain powers can be assigned to a specific part of the board. In a mixed model, for example, the non-executive board members may have the power to decide on distribution issues. Moreover, standard
does not exclude an agreement on weighted voting proportions, for example if the actual composition of personnel is not equally represented (for example temporarily, due to a vacancy).

3.4 Terms of office and reappointment

The maximum term members of the board of trustees may hold office is four years. Board members may only be reappointed twice.

The maximum term members of the VO may hold office is four years. The VO determines how many times members of the VO may be reappointed.

Clarification

In standard 61 no maximum is stipulated for the number of times a member may be reappointed. Reappointment is the responsibility of the nominating parties or the result of election (or re-election).

The maximum term members of the BO may hold office is four years. Members of the BO may only be reappointed twice.

The maximum term members of the supervisory board may hold office is four years. Supervisory board members may only be reappointed once.

Members of the visitation committee may only be involved with the same fund for a maximum of eight years.

3.5 Diversity

The board of trustees, the VO or the BO will ensure the composition of their own bodies is complementary. Moreover, the bodies must reasonably reflect the composition of the stakeholders.

Clarification

The board of trustees must make every effort to ensure the composition of the pension fund’s various bodies is diverse. When representatives of various groups are involved in processes, a multi-dimensional perspective can be achieved, which is of benefit to the decision-making process.
Consequently, complementarity is, on the one hand, included as a standard.

To perform optimally, a board requires a range of skills, cultures and views. This applies even if the composition of the members provides no reason for diversity. Standard 65 means that attention should be paid to the composition of the bodies to ensure their members have competencies and approaches which complement one another. Having boards comprising men and women as well as younger and older people will also contribute to this mix.

On the other hand, it is important that the composition of the bodies takes account of the composition of the fund’s members. For the fund’s level of support, it is essential that the members and pensioners believe they are represented in the fund’s bodies. It is also important that they can identify themselves with these bodies; this is particularly important now that the distribution of risks is increasingly shifting.

In consultation with the relevant body, the board of trustees will adopt concrete measures to ensure the fund's bodies have a diverse composition. In addition, the board will indicate how and within which terms it intends to achieve the desired level of diversity in respect of age and gender. The board must lay this down in a diversity policy. Annually, the board will assess the extent to which the objectives of this policy have been achieved. Once every three years, the board will review its diversity policy.

Clarification

The diversity model will be in the shape of a growth model in which the board draws up concrete objectives that can be achieved within feasible periods of time. For example, account may be taken of terms of office.

An annual assessment is necessary, as the Pensions Act prescribes the board include this assessment in its annual report. In addition, it is desirable for the board to also assess the objectives and (the effectiveness of) the means used to achieve these objectives in the longer term.

At least one man and one woman will hold a seat on the board of trustees, the VO or the BO.
The board of trustees, the VO or the BO will comprise of at least one member over the age of forty and one member under the age of forty.

When compiling membership profile the board of trustees, the BO and the internal supervisors will take account of the diversity policy. The VO will take it into account when compiling its competency vision.

When filling up vacancies, the search will actively focus on (and/or people will be actively encouraged to search for) candidates who match the diversity objectives. In due course of time, the board will contact those who are involved in nominating or electing candidates.

Amongst other things, the board of trustees and the BO will take account of the diversity objectives when assessing nominated candidates.

Clarification
The VO will ensure that the procedure includes the competency vision, including the diversity objectives.

3.6 Acting with integrity
The members of the board of trustees, the VO or the BO, internal supervisors and other co-policymakers will act with integrity and ensure their own performance is assessed. They will avoid any form and any appearance of personal advantage or conflicts of interest with a party with which the fund is linked in any possible way.

Clarification
Integrity is an essential ‘state of mind’; and having integrity assessed is part of this. The objective of standard 72 is to stimulate office or bodies to engage in talks with one another whenever there is a reason to do so.

When members of the board of trustees, the BO, the supervisory board and other co-policymakers take up their office they must sign the pension fund's code of conduct. In addition, they must sign a declaration stating they are complying with the rules of the code of conduct.
each year. Sanctions may be imposed if the code of conduct is violated; these sanctions are stipulated in the code of conduct.

\textit{Clarification}

The code of conduct contains rules about maintaining confidentiality in respect of the fund’s information, dealing with gifts from the fund’s business contacts, holding additional positions, having financial interests in any of the fund’s business contacts, acting on insider information, et cetera. The code of conduct also stipulates the consequences of a person failing to comply with the code of conduct.

Policymakers or co-policymakers must immediately make it known if they face a (potential) conflicts of interest or reputation risk.

Policymakers or co-policymakers must inform the compliance officer if they intend to accept or continue to hold an additional function. In this situation, it is irrelevant whether the additional position is paid or unpaid.

\textit{Clarification}

Standard 75 stipulates that notification of every additional position should be given. This, therefore, also includes functions which have nothing to do with the pension fund. This general notification requirement should prevent a policymaker or co-policymaker failing to give notification of an additional position because he or she assumed it was unnecessary. Only relevant additional positions will be made public.

Membership of a pension fund’s body is incompatible with membership of any other body within the same pension fund, or membership of the visitation committee.

3.7 Remuneration policy

The pension fund will operate a restrained and sustainable remuneration policy; a policy which is in line with the pension fund’s objectives. The policy must also be suitable for the business sector, undertaking or liberal professionals for which the fund administers the pension scheme.
Clarification

The remuneration policy is in any case applicable to members of the board of trustees, the BO and internal supervisors, other co-policy-makers and external members of the fund’s advisory committees. Within the context of the sustainability of the remuneration policy account is taken of the pension fund’s long-term interests and strategy. The board and the fund’s other bodies will take note of these principles when fulfilling any duties related to the remuneration policy. The board must be conscious of the need for support from society at large and pay due attention to this.

If co-policymakers are employed by the undertaking, standard 34, under section 2.8, is applicable.

The board of trustees will determine the policy governing the terms of employment for all those employed by the pension fund. In determining these terms of employment, point of departure will be the terms of employment as are usual in the pension fund sector and acceptable given the business sector, the undertaking, or liberal professionals for which the pension fund administers the pension scheme.

The remuneration will be in reasonable proportion to the level of responsibility attached to the function, as well as to the requirements placed on the position and the time commitment necessary.

Clarification

Standard 78 is sufficiently flexible to allow – where necessary – board members, members of the internal supervision, other co-policymakers, and external committee members with specific expertise and competencies, to be bound to the fund by offering them suitable remuneration. In this context, the board must responsibly and prudently weigh up what is appropriate given the fund’s nature and objective, and the significance of having high quality fund management.
The board of trustees will exercise restraint when performance-related remuneration is involved. Performance-related remuneration may not exceed 20 per cent of the fixed remuneration and should not be related to the fund’s financial results.

The board of trustees must prevent a situation arising in which, due to the level of remuneration of the members of internal supervision, a financial interest impedes the adoption of a critical attitude.

In the event of the mid-term dismissal of a member of the board of trustees without an employment contract or of a member of the internal supervision, the board will not make a severance payment. Should another policymaker or co-policymaker be dismissed, any severance pay must be appropriate in view of the function and the reason for the dismissal.

Clarification

The board of trustees of a pension fund may make use of experts who are not members of the board, but are in fact co-policymakers within the sense of the Dutch Central Bank [DNB] assessment. In this context, these experts could be investment experts on the investment committee. These experts are not employed by the fund, but do frequently hold long-term appointments. If they are dismissed before the end of their term, the board may award severance pay, depending on the reason for the dismissal. Severance pay may also be appropriate for executive members of the board of trustees.

Compliance

The board of trustees must be aware of legislation and regulations and their consequences for the pension fund. The board should also be familiar with the way substance is given to legislation and regulations in the fund’s documents, decision-making processes, procedures and administration.

The board of trustees will monitor the pension fund’s adherence to legislation and regulations, as well as to its own internal rules (i.e. it ensures compliance at all times).
Annexes
Annex 1
5 Board Models

Models with stakeholders on the board of trustees

MODEL 1
JOINT MODEL

Internal supervision

Supervisory Board

or

Visitation Committee

Board of trustees

Max. 2 external members

Employers

Employees

Pensioners

Employees

Pensioners

Employer(s)

Accountability body

Accountability and participation
MODEL 2
ONE TIER BOARD: INVERSE MIXED MODEL

Board of trustees

Executive board members: external
Non-executive board members with supervisory function: stakeholders and independent chairperson

Internal supervision

Employees
Pensioners
Employer(s)

Accountability body

Accountability and participation
MODEL 3
ONE TIER BOARD: JOINT MIXED MODEL

Board

Max. 2 external members
Executive board members: stakeholders
Non-executive board members with supervisory function: min. 3 external members

Internal supervision

Accountability body

Accountability and participation

Employees
Pensioners
Employer(s)
Models with independent parties on the board and in supervisory roles

MODEL 4
INDEPENDENT MODEL

Internal supervision

Supervisory Board  or  Visitation committee

Board of trustees

Min. 2 external members

Pensioners
Employees
Employers

Stakeholders’ body

Accountability and participation
MODEL 5
ONE TIER BOARD: INDEPENDENT MIXED MODEL

Board of trustees

Executive board members: min. 2 external members
Non-executive board members with supervisory function: min. 3 external members

Internal supervision

Pensioners
Employees
Employers

Stakeholders’ body

Accountability and participation
Example model of a pension fund for liberal professions with stakeholders on the board

PENSION FUND FOR LIBERAL PROFESSIONS
MODEL 1

Internal supervision

Supervisory Board
or
Visitation committee

Board of trustees

Professional colleagues

Active professional colleagues
Professional colleagues entitled to a pension

Accountability body

Accountability and participation
Annex 2
Appointment and dismissal procedures per model

Models with stakeholders on the board

<table>
<thead>
<tr>
<th>Joint model</th>
<th>Appointment</th>
<th>Dismissal</th>
</tr>
</thead>
</table>
| Board of trustees | • The board of trustees adopts a profile after approval from the supervisory board.  
• By the board of trustees.  
• Nominated or elected by the employer(s), employees and pensioners, and after consulting the supervisory board.  
• Put forward by the board of trustees, after consulting the supervisory board (in the case of independent members). | • By the board of trustees after consulting the relevant member and the supervisory board.  
• In this context, the compulsory quorum and number of votes required for such a decision must be stipulated. |
| Supervisory board | • The supervisory board adopts a profile after advice from the VO.  
• By the board of trustees, after a binding nomination from the VO. | • By the board of trustees, after consulting the relevant member and the supervisory board, after binding advice from the VO. |
| Visitation Committee | • The board of trustees adopts a profile after advice from the VO.  
• By the board of trustees, after a binding nomination from the VO. | • By the board of trustees after consulting the relevant member and VO, and after binding advice from the VO. |

<table>
<thead>
<tr>
<th>Inverse mixed model</th>
<th>Appointment</th>
<th>Dismissal</th>
</tr>
</thead>
</table>
| Board of trustees including supervision | • The non-execs adopt a profile after consulting the exec. members.  
• Exec. members by non-execs; after consulting exec. members.  
• Non-execs. cf. joint board.  
• Chairperson by non-execs on nomination of exec. members. | • Exec. members by non-execs, after consulting the relevant member and other exec. members.  
• Non-execs. Cf. joint board, after consulting the relevant member and the chairperson.  
• The chairperson by non-execs, after consulting the chairperson and exec. members.  
• In this context, the compulsory quorum and number of votes required for such a decision must be stipulated. |

<table>
<thead>
<tr>
<th>Joint mixed model</th>
<th>Appointment</th>
<th>Dismissal</th>
</tr>
</thead>
</table>
| Board of trustees including supervision | • The exec. members adopt a profile after consulting the non-execs.  
• The exec. members by the board of trustees after nomination or election by the employer(s), employees and pensioners, cf. joint board or, in the case of an independent member, on the nomination of the exec. members.  
• The non-execs adopt a profile after advice from the VO.  
• The non-exec. members by the exec. members, after binding nomination from the VO. | • Exec. members cf. joint model.  
• Non-execs. by exec. members, after consulting the relevant member and other non-execs, and after binding advice from the VO.  
• In this context, the compulsory quorum and number of votes required for such a decision must be stipulated. |
## Models with independent members on the board of trustees and supervisory board

<table>
<thead>
<tr>
<th>Models</th>
<th>Appointment</th>
<th>Dismissal</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Independent model</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Board of trustees</td>
<td>• The board of trustees adopts a profile after consulting the BO and approval from the supervisory board.</td>
<td>• By the BO, after consulting the relevant member and the supervisory board.</td>
</tr>
<tr>
<td></td>
<td>• By the BO, proposed by the board and after consulting the supervisory board.</td>
<td>• In this context, the compulsory quorum and number of votes must be stipulated.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The entire board of trustees by the BO.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>This decision requires a qualified majority. In this decision the BO will take account of the supervisory board’s considerations regarding the report of poor performance. If the board is dismissed, the BO is responsible for providing a temporary board until a new board is appointed.</td>
</tr>
<tr>
<td>The Supervisory board</td>
<td>• The supervisory board adopts a profile, after advice from the BO.</td>
<td>• By the BO, after consulting the relevant member, the supervisory board and the board of trustees.</td>
</tr>
<tr>
<td>Visitation Committee</td>
<td>• The BO adopts the profile</td>
<td>• By the BO, after consulting the relevant member and the VC. Whether or not at the instigation of the VC.</td>
</tr>
<tr>
<td></td>
<td>• By the BO.</td>
<td></td>
</tr>
<tr>
<td><strong>Independent mixed model</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Board of trustees including supervision</td>
<td>• The BO adopts a profile after consulting non-execs.</td>
<td>• Exec. members by the BO, after consulting the relevant member and non-execs. This decision requires a qualified majority. In this decision the BO will take account of the non-execs’ considerations regarding the report of poor performance.</td>
</tr>
<tr>
<td></td>
<td>• Exec. members by the BO, after consulting non-execs.</td>
<td>• Non-execs, cf. the supervisory board for the independent model.</td>
</tr>
<tr>
<td></td>
<td>• Non-execs, cf. the supervisory board for the independent model.</td>
<td>• If the executive board members are all dismissed, the BO is responsible for providing a temporary board until a new board is appointed.</td>
</tr>
</tbody>
</table>

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7 Non-execs = non-executive members of the board of trustees (with supervisory function)
8 Exec. members = executive members of the board of trustees
Annex 3
The Code of the Dutch Pension Funds’ Steering Committee and Writers Group

Composition of the Code of the Dutch Pension Funds’ Steering Committee
On behalf of the Federation of the Dutch Pension Funds:
Arend van Wijngaarden (Confederation of Christian Trade Unions in the Netherlands, CNV), chairperson
Nicole Beuken (ABP Pension Fund)
Geert Bierlaagh (Pension Fund for Unisys in the Netherlands)
Peter Borgdorff (Dutch Pension Fund for the care and welfare sector)
Ruud Degenhardt (Pension Fund for the Printing Industry)
Rob Kragten ('Progress', Pension Fund for Unilever in the Netherlands)
Theo Meister (Pension Fund for General Practitioners)
Erik Voorhoeve (KLM Pension Funds)

On behalf of the Labour Foundation:
Klaartje de Boer (Trade Union Federation for Intermediate and Higher Employees, MHP)
Ap Fraterman (Confederation of Netherlands Industry and Employers, VNO-NCW)
Peter Gortzak (Netherlands Trade Union Confederation, FNV) until 1 May 2013
Fred van Haasteren (Confederation of Netherlands Industry and Employers, VNO-NCW) since 1 February 2013

Ministerial representatives:
Lydia Lousberg (Social Affairs and Employment, SZW)
Johan Sterrenburg (Social Affairs and Employment, SZW)

Secretariat:
Mila Hoekstra (The Federation of the Dutch Pension Funds)
Willem Kroes (Labour Foundation) until 1 April 2013
Eddy Haket (Labour Foundation) since 1 April 2013
Hans van der Meer (Social and Economic Council, SER)
Composition of the Writers Group for the Code of the Dutch Pension Funds
Meindert Alsma (Medical Specialists’ Pension Fund)
Karin Bitter (Dutch Pension Fund for the care and welfare sector)
Leo Blom (Syntrus Achmea)
Erik Voorhoeve (KLM Pension Funds)
Mila Hoekstra (Federation of the Dutch Pension Funds)
CODE OF THE DUTCH PENSION FUNDS