**Action to be taken** | **Voting Procedure**
---|---
For recommendation | **FINANCE COMMITTEE**  
340th Meeting  
20 June 2012 | Simple majority of Member States represented and voting and 51% of the contributions of all Member States
For approval | **COUNCIL**  
163rd Session  
21 June 2012 | Simple Majority of Member States represented and voting

**PENSION FUND**

**FINANCIAL REGULATIONS OF THE PENSION FUND**

On the recommendation of the Governing Board of the Pension Fund, the Finance Committee is invited to recommend to the Council and the Council is invited to approve the Financial Regulations of the Pension Fund, as set out in the attached annex, for entry into force with immediate effect.
FINANCIAL REGULATIONS OF THE PENSION FUND

1. Article I 4.03 of the Rules of the Pension Fund, approved by the Council in December 2010 (cf. CERN/2913/Rev.3), provides that the rules governing financial administration of the Fund, including procurement, shall be set out in the Financial Regulations of the Fund.

Pursuant to Article I 1.03 of the Fund’s Rules, the Regulations of the Pension Fund are approved by the Council. Where they have financial implications, the Council shall first consult the Finance Committee.

As the Financial Regulations have financial implications, they are submitted to the Finance Committee prior to their approval by the Council.

2. The Pension Fund Management Unit and the Legal Service, with the assistance of the Finance and Procurement Department, have prepared the draft Financial Regulations which was endorsed by the Governing Board at its 16 February 2012 meeting. This draft was then submitted as a White Paper to the March 2012 Finance Committee and Council in order to obtain the feedback of the delegations with a view to preparing a final version for approval by the Council in June.

The proposal set out in the attached annex, unanimously adopted by the Governing Board at its 10 May 2012 meeting, takes into account the feedback provided by the delegations.

3. The new Financial Regulations will replace the obsolete existing Financial Regulations of the Fund.

Most of the provisions of the new Financial Regulations are based on the CERN Financial Rules and on the Regulations for the implementation of those Financial Rules, approved by the Council in December 2008 (CERN/2822).

However, the Governing Board proposes some changes with respect to the aforementioned Rules and Regulations to make the Financial Regulations better suited to the Pension Fund’s operations and financial administration, and to take into account its operational autonomy within CERN, in particular with respect to the Fund’s investment process.

4. Section 1 (“General principles”) recalls the legal framework in which the Fund operates and specifies that those Regulations will only apply to the operational expenses of the Fund (Article 1). It also defines the parties to the financial administration of the Fund, in particular the Governing Board, which approves the Fund’s medium-term operational plan and annual budget prepared and executed by the Fund’s Chief Executive Officer (Article 2).
Article 2 also stipulates that the Council and Finance Committee are parties to the Fund’s financial administration as the Fund is under the supreme authority of the Council and as the Finance Committee has, in particular, a clearly defined role in the context of the CERN Procurement Rules which are applicable to all purchases not related to the Fund’s investment process.

5. The provisions of Section 2 (“Medium-term operational planning and Budget”) are similar to the corresponding provisions of the CERN Financial Rules but adapted to take into account the contents of the Fund’s budget (Article 6) and the roles of the Governing Board and of the Fund’s Chief Executive Officer respectively (Articles 7 and 8).

It must be noted that the Fund’s budget has always been indexed on the basis of the cost-variation indices approved by the Council for CERN. Indeed, since the staff of the Fund’s Management Unit belongs to the CERN personnel, the part of the Fund’s budget relating to salaries is based on these cost-variation indices.

6. Section 3 (“Financing”) refers to Article I 3.01 of the Rules of the Fund relating to the latter’s resources.

7. Most of the provisions of Section 4 (“Management and Control System”) are based on the CERN Financial Rules, albeit with some adaptations. The financial risks incurred by the Fund have been laid down in the Statement of Investment Principles and Investment Policy as well as in the Investment Guidelines by the Governing Board and its Investment Committee respectively, which will also define the requirements to be satisfied in the management of these financial risks (Article 11).

There are no detailed provisions on auditing in the Financial Regulations as the Fund’s audit structure is explicitly laid down in detail in Chapter I, Section 5, of the Rules of the Fund (Article 12).

As provided for in these Rules, the External Auditors, appointed by the Council, certify the Fund’s accounts and financial statements and carry out any audit they consider necessary in that framework or any audit requested by the Council. Detailed provisions relating to the appointment of the External Auditors (from among the supreme audit institutions of the CERN Member States), to the execution of their remit (in particular the applicable international standards) and to reporting are specified in the CERN Financial Rules.

8. Owing to their special nature, purchases relating to the Fund’s investment process (i.e. selection process of the external service providers required for the implementation of the Fund’s asset management process and selection of moveable assets and investment property) cannot be assimilated to “normal” purchases made by CERN. Therefore, Section 5 (“Implementation of the asset management process”) provides that appropriate procedures will be laid down by the Governing Board and its Investment Committee respectively for purchases relating to the asset management process, based on the principles of transparency and impartiality as well as on objective criteria.

The Governing Board and its Investment Committee will draft these procedures upon entry
into force of the Financial Regulations and the Board will submit them to the Finance Committee and Council for information.

9. Section 6 relates to “Procurement”. As a general rule, it is proposed to follow the CERN Procurement Rules for all purchases of goods or services made by the Fund (Article 16). The terms “mutatis mutandis” will allow the CERN Finance and Procurement Department to apply the CERN Procurement Rules with the appropriate flexibility, if needed, to take account of the specific situation of the Fund within CERN.

Proposal:

On the recommendation of the Governing Board of the Pension Fund, the Finance Committee is invited to recommend to the Council and the Council is invited to approve the Financial Regulations of the Pension Fund, as set out in the attached annex, for entry into force with immediate effect.
ANNEX

FINANCIAL REGULATIONS OF THE PENSION FUND

For the purpose of the Financial Regulations of the Pension Fund, the following definitions shall apply:

- The term “Rules” means the Rules of the Pension Fund.
- The term “expenses” within the budget means expenditures and liabilities variations for a given financial period.
- The term “contract” means a purchase order, a contract or other agreement for the purchase of supplies or services by CERN.
- The term “medium-term operational plan” means the document setting out the Fund’s budget planning for a period of three years.
- The term “operational” relates to the administrative operation of the Fund and to the cost of its staff.
- The term “Statement of Investment Principles and Investment Policy” means the statement approved by the Pension Fund Governing Board (hereinafter referred to as “Governing Board”) outlining the principles governing the investment policy of the Pension Fund, pursuant to Article I 2.05 of the Rules.
- The term “Investment Guidelines” means the guidelines adopted by the Pension Fund Investment Committee for the implementation of the Statement of Investment Principles and Investment Policy, pursuant to Article I 2.10 of the Rules.

Section 1 – General principles

Article 1: Legal framework

Under Article I 2.01 of the Rules, the Fund is an integral part of CERN and, as such, has no separate legal personality and is under the supreme authority of the Council.

The Fund enjoys operational autonomy within CERN. Its management is entrusted to the Governing Board and to the Chief Executive Officer of the Fund (hereinafter referred to as “Chief Executive Officer”), assisted by the Investment Committee and the Actuarial and Technical Committee.
Article I 4.03 of the Rules provides that the rules governing the financial administration of
the Fund, including procurement, shall be set out in the Financial Regulations of the Fund.

The Financial Regulations of the Fund shall apply to the operational expenses of the Fund but
do not govern the benefits and contributions referred to in the Rules.

The Financial Regulations of the Fund are approved by the Council pursuant to Article I 1.03
of the Rules, which provides that, where Regulations have financial implications, the Council
shall first consult the Finance Committee.

**Article 2: Parties to financial administration**

The following shall be parties to the financial administration of the Fund:

- The Council as the supreme authority of the Fund (cf. Article I 2.01 of the Rules);

- The Finance Committee (cf. Article I 1.03 of the Rules and CERN Procurement
  Rules);

- The Governing Board, which is entrusted by the Council with the overall management
  of the Fund, which approves the Fund’s medium-term operational plan and its annual
  budget (cf. Article I 2.05 of the Rules);

- The Chief Executive Officer, in charge, in particular, of the preparation and execution
  of the medium-term operational plan and of the annual budget of the Fund (cf. Article
  I 4.03 of the Rules).

**Article 3: Financial year**

The Fund’s financial year shall run from 1st January to 31st December.

**Article 4: Currency**

The currency used to draw up the Fund’s budget, keep the accounts and prepare the financial
statements shall be the Swiss franc.
Section 2 – Medium-Term Operational Planning and Budget

**Article 5: Budget planning**

Budget planning shall be formulated in a medium-term operational plan, drawn up each year by the Chief Executive Officer, defining the Fund’s operational objectives and activities for the following three budget years.

The budget shall be an annual one and shall be embedded in the medium-term operational plan.

Where their scale so warrants, projects shall be subject to separate approval by the Governing Board.

**Article 6: Structure of the budget**

The budget shall comprise at least the following:

- The operational objectives and activities for the financial year to which they relate;

- The estimated expenses in terms of personnel and materials relating to the Fund’s Management Unit as well as the overall staff complement;

- The estimated expenses relating to the Governing Board and its two subsidiary bodies, the Investment Committee and the Actuarial and Technical Committee;

- Observations of the Chief Executive Officer.

**Article 7: Approval of the budget**

The Governing Board approves the Fund’s medium-term operational plan and its annual budget (cf. Article I 2.05 paragraph 1, letter h) of the Rules) at the prices of the current year, at the latest at the last meeting of the Governing Board of the year preceding the financial year to which it relates.

The budget shall subsequently be indexed on the basis of the cost-variation indices approved by the Council for CERN before the beginning of the financial year to which it relates. The Council shall define the rules for calculating the cost-variation indices and the mechanisms for applying them.

**Article 8: Execution of the budget**

The Governing Board’s approval of the budget shall constitute an authorization for the Chief Executive Officer to commit operational expenses for the purposes of achieving the objectives and executing the activities provided for in the budget. The commitments shall be subject to regular controls.
The Chief Executive Officer may, within the approved overall budget and to achieve the defined objectives, reallocate resources from one activity to another. Any major reallocation of resources must be substantiated by financial or technical arguments and reported to the Governing Board.

The execution of the budget shall be controlled by the services designated by the Chief Executive Officer.

The Chief Executive Officer shall submit an annual report on probable expenditure for the year to the Governing Board for approval.

Where the budget is not approved before the beginning of the financial year and pending its approval:

- The Chief Executive Officer may spend on the operations of the Fund the equivalent, per quarter, of one quarter of the operating expenses of the budget of the previous financial year;

- The Chief Executive Officer may proceed with the expenses required for the preservation of the Fund’s assets and in order that CERN, of which the Fund is an integral part, may comply with legal obligations;

- At the end of the financial year, the budget amounts shall be compared with the amounts of the final budget outturn in a report to the Governing Board.

**Section 3 – Financing**

As provided for in Article I 3.01 of the Rules, the resources of the Fund shall derive from:

- contributions from CERN and ESO;

- contributions from its members;

- the income from the investment of its assets;

- gifts and legacies.

**Section 4 – Management and control system**

As provided for in Article I 2.05, paragraph 1, letter g) of the Rules, the Governing Board shall set up a management and control system.

This management and control system shall ensure the effectiveness and efficiency of the Fund’s operations, the safeguard of the Fund’s assets, the reliability of the financial reporting and the compliance with the relevant applicable regulations.

This system shall, in particular, comply with the principles of transparency, integrity and accountability.
Article 9: General accounting principles

As provided for in Article I 4.02, paragraph 3, of the Rules, the Fund’s accounts and financial statements shall be drawn up in accordance with the International Public Sector Accounting Standards (IPSAS). These Standards and the way in which they are implemented shall be explained in the notes attached to the financial statements of each financial year.

Article 10: Financial commitments

All financial commitments shall be in the interest of the Fund, be subject to prior funding authorization and be drawn up in writing by a person duly mandated by the Chief Executive Officer for that purpose.

10.1 Ex ante verifications

Before proposing a financial commitment by the Fund, the Chief Executive Officer or any person duly mandated by him shall ascertain that:

- the commitment forms part of an activity provided for in the budget;
- the commitment complies with the applicable rules;
- the commitment allows the activity to be realised efficiently and economically;
- the provisions available in the budget are sufficient to cover the proposed commitment;
- all the relevant supporting documentation has been supplied.

10.2 Procurement commitments

Pursuant to Article I 2.08, paragraph 2, of the Rules, the Chief Executive Officer or any person duly mandated by him shall establish appropriate procedures for the supervision of the financial commitments relating to purchases and for the definition of the arrangements for payment.

10.3 Invoices and reimbursements

Pursuant to Article I 2.08, paragraph 2, of the Rules, the Chief Executive Officer or any person duly mandated by him shall establish appropriate procedures to check the invoices and credit notes received from third parties to ensure that:
- the invoice is drawn up in compliance with the contract;
- the invoiced supplies and services have been duly received and that they comply with the contract;
- the invoice or reimbursement claim has been completed in the correct currency and that the amount has been checked and found to be correct;
- the invoice or reimbursement claim has not already been partly or fully settled;
- all discounts and rebates comply with the contract or standard commercial practice;
- bank guarantees comply with the contract or standard commercial practice;
- the transaction is correctly recorded in the accounts;
- all the relevant supporting documentation has been supplied.

10.3.1 Payments

All payments and transfers of funds must be signed by two persons from the list of the Fund’s authorised signatures.

Barring an exceptional circumstance, payments shall be made by bank transfer or by cheque.

Where power of attorney has been granted to a third party with regard to, inter alia, payments and transfers of funds on behalf of the Fund, the document granting such power of attorney shall specify:

- the subject of the power of attorney;
- the scope of the power of attorney;
- transactions explicitly authorised/not authorised by the document;
- the duration of the power of attorney.

In all circumstances, no payment shall be made:

- without supporting documentation;
- without clearance by the control services;
- prior to the date on which it is due, except where this has no impact on the Fund's interests;
- to persons other than the creditors or their legal representatives.
10.3.2 Fiscal provisions

The Fund shall verify fiscal exemptions and undertake all the formalities relating to reimbursements.

Article 11: Management of financial risks

The financial risks of the Fund shall be set out in the Statement of Investment Principles and Investment Policy (cf. Article I 2.05, paragraph 1, letter b) of the Rules) and in the Investment Guidelines.

The management of financial risks shall meet the requirements laid down in these documents.

The Chief Executive Officer shall have authority to open and close accounts with financial institutions.

Article 12: Audit

The audit structure of the Fund is defined in Articles I 5.01 to I 5.04 of the Rules.

The accounts and financial statements shall be transmitted to the External Auditors referred to in Article I 5.01 of the Rules by 31st March of the year following that being audited.

Article 13: Approval of the financial statements

As provided for in Article I 2.05, paragraph 1, letter i) of the Rules, the Governing Board shall submit the financial statements of the Fund for approval and discharge by the Council.

Article 14: Inventories

The Chief Executive Officer shall ensure that an inventory of the Fund’s property is kept.

Section 5 – Implementation of the asset management process

Article 15: Procedures relating to the implementation of the asset management process

The Governing Board shall lay down appropriate procedures relating to the selection process of the external service providers required for the implementation of the Fund's asset management process referred to in Article I 2.10 of the Rules.

This selection process shall be based on the principles of transparency and impartiality, as well as on objective criteria.
The Fund's Statement of Investment Principles and Investment Policy as well as the Fund’s Investment Guidelines shall define the appropriate objective criteria to be satisfied for the selection of moveable assets and investment property.

Section 6 – Procurement

Article 16: CERN Procurement Rules

Subject to the provisions of Article 15 above, the CERN Procurement Rules shall apply mutatis mutandis to the Fund’s purchases.

Section 7 – Final provisions

Article 17: Entry into force

The Financial Regulations shall enter into force on the date of their approval by the Council. They shall cancel and replace the previous editions of the Financial Regulations of the Fund.

Article 18: Interpretation

As provided for in Article I 2.08, paragraph 3, letter a), of the Rules, the Chief Executive Officer is responsible for the interpretation and application of the Financial Regulations, if necessary after having sought the advice of the Governing Board.