



UNITED NATIONS PARTICIPANTS' REPRESENTATIVES

2 December 2020

Dear Members of the Fifth Committee,

We the undersigned UN Participants' Representatives to the Pension Board present our compliments to the Permanent Missions of the General Assembly and are honoured to bring to your attention the following matters of utmost importance regarding agenda item 149 - the UN Pension System.

PROPOSED AMENDMENTS TO THE REGULATIONS

1. Over the past few years proposed changes to the regulations have raised questions.

a) Will the proposed amendment to Article 48 cause irreparable harm to the governance of the Fund and to its beneficiaries?

Yes. We recall the General Assembly's reluctance in the 73rd and 74th sessions, to amend the regulation in view of the legal ramifications and the likely negative impacts on the administration of justice in pension fund matters. We note that the Board has not provided any information to show how it would replace the professional judicial review provided by the UNAT. Instead the change:

- i. Would limit the jurisdiction of the UNAT and make any challenge to the Board's decisions "non-receivable"
- ii. Eliminates participants' and beneficiaries' rights to challenge decisions of the Board and overturns the jurisdiction of the UNAT which can be found in the UNJSPF Regulations as Article XLI in 1957.
- iii. Would allow the Board to violate regulations and negatively affect beneficiaries, without challenge.
- iv. Removes essential legal oversight in a \$70 billion plus fund, making it the only major pension fund in the world to operate outside a legal framework and raising risk levels.
- v. The Board has noted that its decisions still remain subject to review by the General Assembly. However, the General Assembly established the UNAT specifically to ensure that regulations and rules it promulgates are followed.
- vi. Would negatively impact representation of participants on the Board as clarified in the [position](#) of UN Staff Unions.

We therefore urge the General Assembly to reject the proposed changes to the UNJSPF Regulations, which would be harmful to participants.

b) Will the proposed amendment to Article 6 cause harm to its participants and beneficiaries?

Yes. The proposed amendment that would exclude staff of the Pension Fund and Pension Secretariats and the Office of Investments Management from running for elected office is interference in the right of representation or disenfranchisement of a small and undefined number of participants who have no choice but to participate in the Fund, but denies them their right to oversight of their fund.

- i. We had seen the recommendation of the independent entity MOSAIC which seemed to endorse this exclusion. However a deeper review of the peers upon which the recommendation was based,

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shows that the fund staff excluded were staff of independent “external” managers of pension funds such as OTPP, and not participants of the Fund they were excluded from overseeing. The UNJSPF is a pension fund which is self managed and therefore cannot be used as a comparator for this purpose. It is also noted that other peers referenced- [CALPERS \(ACABQ\)](#); [CALSTRS, ETF](#) (Mosaic) which more closely matched the UNJSPF do indeed elect staff (public servants and teachers as) to serve on their Pension Boards.

- ii. Additionally since the Mosaic report suggests professionalization of the Board, the exclusion of staff in the system who are the most knowledgeable about the pension fund administration would limit their choice of representatives to the board.
- iii. In its 73rd session the General Assembly reiterated that rules of procedure created by the Board are subject to the Regulations of the Fund which it authorizes. Instead the Board is requesting that regulations be aligned with recently created rules (2017) which were unlawfully implemented.
- iv. In 2019 and again in 2020 the proposal is being made despite the expert judicial review in 2019-UNAT-908 where the UNAT explicitly reaffirmed its opinion on the treatment and management of conflicts of interest which could apply to *any* member of the Board for a given subject.
- v. It should be noted that despite two requests by the General Assembly, the Board has neither studied nor designed a procedure for managing conflicts of interest of all its members, but is attempting to apply this principle in a discriminatory manner to a few hundred staff members.

We therefore urge the General Assembly to reject the proposed change to Article 6 of the UNJSPF Regulations, which would be harmful to participants.

c) Does the proposal to amend Article 4 in fact completely change the administration of the Fund versus adding clarification?

Yes. This change does not add clarification but in fact completely changes the structure of the Fund, removing administration and oversight from the Board and giving that authority to senior management, a management whose sole role is to implement board proposals that have been approved by the General Assembly.

- i. It is notable that this change removes all administrative authority from the Secretary of the Board and the Board itself.
- ii. This change would ensure that the very reason for splitting the roles of the Secretary of the Board from the Chief Executive will be undermined

We urge the General Assembly to reject the proposed change to Article 4 a of the Regulations and request a review of the Regulations and Rules of the Fund to ensure that all code is properly aligned.

d) Will the proposed amendment Article 8 a) reduce accountability for service to participants employed by UN's Secretariat, Funds and Programmes.

Yes. Accountability for the UNSPC should continue to be in the Board Secretary (or another individual). The proposed amendment ensures the perpetuation of the very conflicts of interest the OIOS audit of governance A/74/341 highlighted. Participants' Representatives believe that the lack of accountability to a distinct UNSPC Secretary was a significant reason for the persistent backlog in payments to former UN

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participants as compared with specialized agencies. Further, the General Assembly has historically affirmed that the UNSPC be served by the Board Secretariat. The Article should remain intact.

We urge the General Assembly to reject the proposed change to Article 8 a) of the UNJSPF Regulations, until the UNSPC can come to a consensus regarding the leadership of its Secretariat.

BUDGET PROPOSAL

(Paragraph [212 \(a\) – \(y\)](#)) detailed issues of concern to UN Participants. Some additional observations can be found below.

Budget: Secretariat of the Board

2. Overall the Secretariat of the Board does not encompass the full responsibilities enshrined in the Pension Board Secretariat and its Secretary historically, and is not independent as it does not control its own budget.
 - a. Reference it made to paragraphs 2 a - e; paragraphs 3 and 4 [JSPB/58R.28\(2011\)](#) - titled “Revised Job Description for the Next CEO” by the Search Committee, which detailed the responsibilities of the Secretary including as they pertain to Sections H (Disability award) and K (Appeals) of the Administrative Rules.
 - b. In view of the oversight role of the Board, we believe that the Risk Management and Compliance Unit should ideally be moved to the Secretariat of the Board.
 - c. A well-resourced Secretariat of the Board can be achieved within existing resources through redeployments.

Budget: Pension Administration

3. A hefty rise in cost per participant by 32% over the 2018-2019 budget could be reduced by minimizing duplication within the area of IT, reducing the number of General Temporary Assistance (GTA) positions which had been previously justified by the IPAS Project and subsequent back log.
4. Organization Chart and Structure
 - a. An evolution of the Organization Chart from 2017-2018 to 2021 will not reflect posts and positions approved by the General Assembly
 - b. Changes to structure would show the resulting instability caused by moves made within the ‘Programme of Work’ but not apparent to the Board or General Assembly.
 - c. The changes to organizational structure also reveal a lack of planning which is facilitated by a proliferation of GTA (more than 70 GTA positions in PA and OIM) which are not used for temporary replacements for long term absences or time bound projects.
 - d. No reductions that would indicate efficiencies realized from implementation of IPAS.

We support the concerns raised by ACABQ

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Budget: Office of Investments Management (OIM) [paragraph 212. r - x]

5. Organization Chart and Structure

a. Similar concerns arise with the organization chart and structure as with those in the Pension Administration, vis a vis use of GTA funding to hire temporary staff to manage portfolios worth billions of dollars

b. Risk Officer P-4 post for 2020 moved in 2021 charts to Investment Officer (Portfolio construction) Individuals moving with posts without going through the required Central Review Bodies creates unnecessary risk to the Fund and may reduce the quality of service. Ref also [OIOS report](#) para. 32] Para. 33 advises against GTA risk officers due to weakened independence.

c. In addition to posts mentioned in the Board document, after a careful review of the [OIOS report](#) we suggest:

i. P-4 Real Estate requested as GTA could be an established post (See para 55)

ii. Defer request for additional resources under infrastructure in line with the strategic asset allocation

iii. Defer request for P-3 Investment Officer under fixed income until the review of the asset class is complete (See Recommendation 6)

iv. Abolition of GS posts is demoralizing to highly qualified, long serving OIM staff who are unable to move from G to P due to current UN policies.

We urge the General Assembly to approve the necessary reductions to the approved budget in line with UN budgetary conservatism while giving due consideration the strategies of the Fund's management.

Executive Office

6. The General Assembly's decision to reconstitute the Executive Office [[73/274](#) para. 30 and [74/263](#) para. 34] have not been complied with, and the EO has been further dismantled. [Ref [A/73/341](#); [A/75/215](#) paragraphs 38-39]

a. The Pension Fund has been funding non-pension fund work to the tune of millions of dollars in staff costs, which is a breach of the fiduciary duty to ensure that pension funds are used strictly in the administration of benefits.

i. The non-return of the knowledgeable P5 Executive Officer and P4 Administrative Officer who have been working for the UN Secretariat but paid with UNJSPF funding since 2015.

ii. The former D-1 Geneva Head of Office is now located in the UN Controller's office but funded by the Pension Administration GTA funds (the D1 post should have been requested for the Geneva Office owing to its temporary redeployment to the Secretariat of the Board- [A/RES/74/263](#) para. 11)

b. The move of the Fund's human Resources staff to UN DOS in the UN Secretariat (3 more staff)

c. The Budget Unit has been moved to the Finance Services

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d. Waste and duplication of costs borne by participants whereby OIM and PA have hired separate staff to do HR and Administrative functions when the intent is to reconstitute to EO to manage HR, Admin, Budget, Facilities and Contracts and so allow the substantive areas to focus on income and payments with efficiency and effectiveness.

e. Much time is being spent negotiating a reorganization of a long well established office structure which could be spent on improving client servicing and other substantive pension fund work.

We recommend that the Executive Office be immediately reconstituted so as to enhance recruitment and budgetary discipline in support of the substantive Pension Fund activities.

General Temporary Assistance (GTA) See also Annex XIX of [A/74/331](#)

7. The proposed budget of Pension Administration (PA) and Investments (OIM) request more than 70 GTA positions between them

The use of GTA funding has led to poor planning and a hostile work environment as these funds:

- a. Are often used to provide SPAs (additional salary) to certain staff even after the GA rejects upward reclassification of posts
- b. Does not force management to carefully plan the use of their resources which causes unnecessary friction in the workplace
- c. Move staff around ad lib creating an insecure and at times hostile work environment and reducing the efficiency of the workplace. (Ref: [A/73/341](#) Recommendation 11; [A/75/215](#) paragraphs 32 and 91)

We urge the General Assembly to reduce GTA funding for use in line with its intended purpose.

Functional reporting and management of the Geneva Office

8. The Geneva office was created to service participants and beneficiaries in Europe, Africa and the Middle East. The office serves almost half the participants and beneficiaries of the Fund

- a. As noted by the Board of Auditors, the Geneva office does not have resources equivalent to its share of the workload. However in 2019 the Acting CEO used supposed “under-performance” by the Geneva Office to justify functional reporting
- b. Staff and retirees know that the move to functional reporting is already causing a backlog in client services to the AMEE countries. We have attached [letters](#) from the retiree association for useful background information on this matter.
- c. A major consideration is the time difference which does not lend itself to functional reporting (overlap with New York is 3 hours for Geneva, 2 hours for Nairobi and none for Bangkok)
- d. The Fund has asserted that the move [non-disclosed abolishment] of the D1 Head of Geneva Office would be supplemented by extensive travel by the D-1 Chief of Operations (who would travel to Geneva each month for two weeks). This was obstructed by COVID-19 – however in an office of more than 40 staff there is no responsible individual)

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- e. We understand that there is now a substantial backlog in Services Requests made through the [UNJSPF contact-us page](#)) which it did not exist in 2019 prior to implementation of functional reporting

We recommend that the D1 post temporarily redeployed in January 2020 be reinstated for 2021 to ensure effective leadership, responsibility and accountability for the work of the Geneva Office.

Benchmarks

9. New Separations

- a. The Board was told that the Administration does not know how many new separation cases are received each month and therefore does not use this figure in determining its success at achieving the benchmark. We find this counterintuitive.
- b. The assertions of 90%+ completion within 15 working days can only be verified by knowing the inventory of separations received.

10. Survivors

We are concerned about:

- a. the lack of reporting in the case of surviving benefits and are concerned about the length of time being taken to pay beneficiaries, some longer than 10 months while families can fall into poverty
- b. the exclusion of the most vulnerable of survivors from receiving benefits due to Administrative Rule B.3. a) b) which was recently amended but which does not line up with the regulations to which all rules are subject.
- c. The proposal by the Administration to amend the regulations -Articles 34, 35, 36 was rejected by the Pension Board this year but we understand that some affected beneficiaries continue to be denied benefits.

We suggest that the calculation of the benchmark be rolled back (pre-2019) so as to provide a comparable and verifiable status of entitlements paid and due to beneficiaries.

Investments Governance

OIOS audit of OIM governance

11. We are concerned by what we have read in this report, in particular:

- a. Ensuring that in a volatile market such as this, the OIM is acting quickly to reduce risks highlighted in the report
- b. Measures are taken to ensure wrong-doers who continue to pose a reputational risk to the Fund, are appropriately disciplined [paras 89-95]
- c. GTA funding is reduced and used appropriately in accordance with GA resolutions

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- d. A CIO with the correct competencies and experience is duly recruited in the most transparent manner befitting a \$75Bn+ pension fund

12. Trading of derivatives ([ACABQ report](#) para. 11)

This was proposed by the previous RSG against the judgment of senior officers in OIM due to the fact that necessary studies have not been performed in order to show how these complex instruments would be implemented or the increased risk they would present would be justified.

We recall that poorly judged derivatives trades were behind the 2008 financial crisis. Derivatives can expose a financial institution well beyond its means and therefore we do not agree with allowing derivatives trading for the Fund.

We urge the General Assembly to deny the Secretary-General's request for authority to engage in borrowing for such activities as proposed in paragraph 44 of [A/C.5/75/2](#)

Financial Statements (A/75/9 – ANNEX VIII)

13. We are concerned about the lack of disclosure pertaining to fraud or presumptive fraud against the UNJSPF.

We believe that while most benefits would not be deemed 'material' in a \$75 billion fund, all presumptive fraud occurring during the reporting period should be reported to the Board and disclosed in the financial statements.

Revelations brought to light during the meeting of the Standing Committee are contrary to the management's assertion in paragraph 185 of BOA report ([A/75/5 Add16](#)) there were no cases of fraud or presumptive fraud.

We recommend the General Assembly reiterate its requirement for accountability of the Board in line with oversight role.

MOSAIC Report -A/75/9 ANNEX XIV page 239

14. UN Participants' Representatives note that the Mosaic report is comprehensive, takes on board all views, and flags up the kind of risks we have been highlighting for some time.

If broadly implemented this would move towards a best in class fund, which is where the UN hopes to be.

- a. We endorse the report as a whole with a few reservations.
- b. With regard to the transition board, the 15 members should represent the broad spectrum of views that is present in the board. To this end, it should be composed using the same methodology as the 15 member standing committee. Mosaic suggests that the electorate of 93, including SPC secretaries, committee members and non-voting representatives and observers be able to vote, but this would not make sense as it would only reinforce a majority viewpoint with which the General Assembly has often taken issue.

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- c. With regard to the size, a 15 or 18 member board would allow all members to get around a table, to be able to exchange and properly carry out the oversight mandate of a board of directors. Currently the Board is too large to ensure a proper examination of important questions and thus the Board is currently unable to carry out its fiduciary duty.
- d. At the same time, the current Standing Committee (SC) could just as easily fulfil this role. The regulations, Article 4 (d) already provide for the SC to meet more frequently and the Board has agreed with the OIOS recommendation that this should happen. We believe the SC can meet at least 4 times a year or more often as needed for decision making. Currently all decisions are held off for the annual meeting of the Board which is counterproductive, and is especially problematic for appellants awaiting decisions on their appeals.
- e. There is also a concern that while Mosaic calls for a collective fiduciary responsibility, it is still important to ensure the composition reflects the current level of participants at the fund. We believe that as all other pension boards are subject to legal oversight and accountability, so it should be the case for the UNJSPB.
- f. With regards to who can be elected, we continue to believe that no participant should be prevented from running for the board of the fund in which they are participating and that Mosaic's recommendation that "executive" staff of the Fund should be seated on the Board is contrary to its own recommendation that staff of the Pension Fund be excluded from election. Additionally, if there is a movement toward professionalizing the Board, it would be imperative that the pool of individuals who are pension experts is not reduced by such exclusions.

We recommend that the General Assembly give the following direction to the Board in advance of its special meeting in February:

- *That the size of the Board be reduced to 15 or 18 members. Failing that,*
 - *the Standing Committee meet at least four times a year to ensure continuous governance of the Fund*
 - *the Board and Standing Committee should be recomposed proportionally*
 - *an Appeals Committee be created to handle appeals and meet in a timely fashion*
 - *retirees be represented through elected representatives.*
- *That there be no restriction on who can be elected as a participants' representative.*

The UN Participants' Representatives express their gratitude to the Permanent Missions to the United Nations General Assembly for their consideration and avail themselves of this opportunity to renew the assurances of their highest consideration.

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