

Republic of Macedonia

LAW ON MANDATORY FULLY FUNDED PENSION INSURANCE

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CHAPTER 1

GENERAL PROVISIONS

Article 1

- (1) This law defines the principles of the mandatory fully funded pension insurance, establishment and operation of Pension Funds and their managing Pension Companies, which shall operate as part of the pension and disability insurance system.
- (2) The purpose of these funds and companies mentioned in paragraph (1) is to receive contributions from those required by Law to contribute to such funds, to invest in financial resources; and to distribute accumulations in accordance with this Law.
- (3) The Law provides for the establishment of the Agency for supervision of the fully funded pension insurance (hereinafter referred to as: the Agency), which will grant licenses for incorporation and authorization for Pension Fund management to the Pension Companies, supervise the Pension Funds and their managing Pension Companies and will perform various other functions provided for in this Law.

Article 2

- (1) No entity other than a Pension Company authorized under this Law may market or offer a pension fund, pension scheme or similar pension arrangement, or use the terms "Pension Company", "Pension Fund", "Pension Scheme" or similar expressions, whether in Macedonian or a foreign language, in its name.
- (2) The provisions of paragraph (1) shall not apply to the Pension and Disability Insurance Fund of the Republic of Macedonia in so far as it exercises the functions required of it in accordance with the Law on Pension and Disability Insurance and this Law.

Article 3

The terms in this Law shall be defined as the following:

- (1) Pension Company – means a joint stock company that is the managing body of a Pension Fund and known as a "Universal Pension Company".
- (2) Pension Fund - means an Open-end Fund established and managed by a Pension Company.
- (3) Agency for supervision of fully funded pension insurance – means the Agency that

supervises the operations of the Pension Companies and Pension Funds.

- (4) Custodian - means an institution to whom it shall be delegated the responsibility for the keeping of the assets of the Pension Fund and other activities established with this Law. The Custodian of the domestic assets is a bank licensed by the National Bank of Republic of Macedonia and the sub-custodian shall keep the assets outside the Republic of Macedonia and can be a bank or an authorized depository institution licensed by an authorized body and is authorized for such activity by the laws of the mother country.
- (5) In relation to an entity (the “First Entity”) an “affiliate entities and/or persons” means:
 - (a) A single shareholder or group of shareholders holding more than 20% of shares with voting right or, although holding a smaller percentage than this can influence, directly or indirectly, the decisions made by such entity;
 - (b) Any other legal entity in which the First Entity, holds, directly or indirectly, more than 20% of shares with voting right or, although holding a smaller percentage than this can influence, directly or indirectly, the decisions made by such entity;
 - (c) Any other entity in which a shareholder whether directly or indirectly holds more than 30% of shares with voting right and during the same period of time the same shareholder also holds (whether directly or indirectly) more than 30% of shares with voting right in the First Entity;
 - (d) Any individual or entities directly or indirectly, controlling, controlled by, or under common control by the entity;
 - (e) Any member of the board of management, the supervisory board or other decision making or supervisory board of the entity;
 - (f) In relation to any person listed above any member of the immediate family or relative to the second degree inclusive.
- (6) Member of a Pension Fund - means an individual who has entered into a contract to be a member of a Pension Fund, or in whose name an account has been opened in a Pension Fund in cases specified in the Law, and his/her membership lasts until he/she obtains a pension benefit.
- (7) Transfer of Assets - means a transfer of assets from the account of a Member opened with a certain Pension Fund to another Pension Fund managed by another Pension Company.
- (8) Agent - according to this Law means a person performing marketing activities of the

Pension Funds and signing membership contracts.

CHAPTER 2

PENSION COMPANIES FOR MANAGING PENSION FUNDS

Article 4

A Pension Company for managing pension funds shall be established and shall operate in accordance with the Trade Company Law if it is not regulated in a different way with this Law (hereinafter referred to as: Pension Company).

Article 5

Each Pension Company shall be established and shall operate only in the form of a joint stock company.

Article 6

The registered name of every Pension Company must contain the words "Pension Company for managing Pension Funds".

Article 7

- (1) The only object of activity of Pension Companies is the management of Pension Funds, representing them in front of third parties and other activities related to the Pension Fund's management.
- (2) For a period of ten years after the 1st January 2004 a Pension Company may only establish and manage one Pension Fund.
- (3) The Agency, with a prior consent of the Ministry of Labour and Social Policy, may by regulations prescribe that after the period set out in paragraph (2) a Pension Company may manage more than one Pension Fund. In such instance the regulations shall specify the number of Pension Funds which may be managed any restrictions imposed on such Funds, who may join such Funds, transfer arrangements between Funds managed by the same Pension Company and such other matters which the Agency considers appropriate according to conditions and the level of development of the mandatory fully funded pension insurance and financial market.

Article 8

A Pension Company shall manage a Pension Fund for a fee, which shall be determined and calculated in accordance with the provisions of this Law.

Article 9

- (1) The initial capital of a Pension Company may not be increased by public offer of shares.

- (2) The shares of a Pension Company shall be registered common shares.
- (3) A Pension Company can not issue preferred shares.
- (4) The By-Law of a Pension Company shall treat all shareholders in an equal manner and shall not award any additional rights or privileges to certain shareholders, limit their rights or impose on them additional responsibilities.

Article 10

- (1) The minimum share capital of Pension Companies shall on establishment be no less than 1, 5 million Euros in MKD counter value at the exchange rate of the National Bank of the Republic of Macedonia on the date of the payment.
- (2) Once the assets of the Pension Fund managed by the Pension Company exceed 100 million Euros and on each subsequent occasion that the assets of the Pension Fund increase by a further 100 million Euros, the shareholders shall within 45 Working Days increase the share capital by 1 million Euros. The Euros are calculated in MKD counter value at the middle exchange rate of the National Bank of the Republic of Macedonia on the date of the payment.

Article 11

- (1) The initial capital of a Pension Company may only be paid up by cash contributions.
- (2) The initial capital of a Pension Company must be paid up in total prior to the registration of that Company in the Trade register.
- (3) The Court where the Trade register is kept shall inform the Agency of any changes in the initial capital of the Pension Company within a period of 3 days after the registration.
- (4) The initial capital shall be paid up in an account opened with a bank or with a branch of a foreign bank authorized to operate on the territory of the Republic of Macedonia.

Article 12

- (1) The initial capital of a Pension Company may neither come from loans or credits nor may it be encumbered in any manner.
- (2) The initial capital of a Pension Company must derive from legal sources and be subject to tax according to relevant tax laws of the Republic of Macedonia or to the relevant laws of the country where any foreign shareholder is established as a legal entity.

Article 13

- (1) A Pension Company shall be required to maintain equity at any times, at no less than a 50% of the initial capital specified at Article 10 (1).
- (2) If the share capital is increased according to Article 10 (2) the Pension Company shall be required to maintain the amount of the share capital at any time, but not less than 50 % of the increased amount of that capital.
- (3) A Pension Company shall notify the Agency without delay of any reduction in its share capital below the appropriate level specified in paragraphs (1) or (2) of this Article.
- (4) Following a reduction in capital below the appropriate level specified in paragraphs (1) and (2) of this Article, any failure to bring the capital to the required level within a period specified by the Agency, which shall be no less than 3 months and no more than 12 months, shall be grounds for the cancellation by the Agency of the approval for the Pension Company to manage a Pension Fund.

Article 14

- (1) A Pension Company for managing a pension fund may be founded by domestic and foreign legal entities.
- (2) The founders which would hold 51% of the share capital of a Pension Company shall be banks, insurance companies, pension companies and other licensed financial institutions or entities which, directly or indirectly, hold more than 50% of the shares of such institutions.
- (3) The same legal entity may not be a shareholder of more than one Pension Company.
- (4) Affiliate entities and/or persons together can be shareholders only in one Pension Company for managing a pension fund.
- (5) If by virtue of an organizational change or a change in the ownership or legal status of legal entities referred to in Paragraphs (3) and (4) of this Article they breach the provisions of these paragraphs, they shall have a period of six months in which to comply with the provisions of those paragraphs.

Article 15

- (1) A founder of a Pension Company shall be a legal entity satisfying the following criteria:

- (a) Minimum capital of 20 million Euros in MKD counter value at the middle exchange rate of the National Bank of Republic of Macedonia at the date of application for a license;
 - (b) A minimum three years of existence;
 - (c) Solvent in continuity, whether in Macedonia or abroad;
 - (d) Permanent management team comprised of competent, expert and experienced persons.
- (2) If a foreign financial institution wants to become a founder, besides the provisions of paragraph (1) of this Article, it must have for at least one year prior to that time a minimum investment grade level rating by reputable international rating agencies.
 - (3) The Agency shall regulate the requirements in Articles 14 and 15 of this Law.

Article 16

- (1) Each acquisition or transfer of shares of a Pension Company requires the prior consent of the Agency. Otherwise, it shall be considered null and void.
- (2) A Pension Company shall submit an application for the above consent to the Agency on behalf of the entity intending to acquire or transfer shares.
- (3) The Agency shall give its consent to the acquisition or transfer of shares of the Pension Company within thirty days from the day of submission of the application referred to in paragraph (2) of this Article, if the applicant fulfils the conditions set out in this Law for the founders of a Pension Company.
- (4) The requirement referred to in paragraph (1) of this Article does not apply to any transaction of shares where after the transaction, the party purchasing or any affiliate entities and/or persons to that party would not together hold more than 3% of the share capital of the Pension Company.
- (5) The shares of a Pension Company can not be bought by another Pension Company.
- (6) Pension Companies can not merge, join, separate or reorganize in any other way.

Article 17

- (1) The Management Board of a Pension Company shall consist of a minimum of five members.
- (2) The Supervisory Board of a Pension Company shall consist of a minimum of three members.
- (3) A member of the Management Board or Supervisory Board of a Pension

Company may be a person who satisfies the requirements of the Trade Company Law and satisfies the following additional provisions:

- (a) Has a university degree;
- (b) Has professional work experience in the fields of law, banking, accounting, insurance, asset management and investment, pension fund management or financial services of at least five years; and
- (c) Does not have an imposed security measure prohibition to carry out a profession, activity or duty in the fields listed in sub-paragraph (b) of this paragraph.

Article 18

- (1) No serving member of the Management Board or Supervisory Board, general manager or director of a Pension Company shall serve as a member of the Management Board or Supervisory Board or act as a general manager or director of:
 - (a) Any other Pension Company;
 - (b) Any foreign asset manager managing the assets of the Pension Fund, if appointed;
 - (c) Any Custodian holding the assets of the Pension Fund;
 - (d) Any affiliate entities and/or persons in relation to the entities listed in sub-paragraphs (a) to (c) of this paragraph.
- (2) The prohibition referred to in paragraph (1) also applies to persons who are in a relationship of employment or commission with entities listed in paragraph (1) of this Article.
- (3) A person referred to in paragraphs (1) and (2) of this Article shall only be required to fulfil the terms of this Article once he/she is a serving member of the Management Board or Supervisory Board of a Pension Company. The person shall not be required to meet these criteria at the time an application is made for a Pension Company license or an application is made to serve on a Management Board or Supervisory Board.

Article 19

- (1) Each Pension Company shall be liable to Pension Fund Members for damages resulting from any failure to perform, or from inadequate performance of its obligations specified in this law relating to the administration and representation of the relevant Pension Fund, unless the non-performance or inadequate performance is due to circumstances which were outside the Pension Company's control and which

could not have been altered by the Pension Company even though exercising the highest degree of diligence.

- (2) The damages, referred to in paragraph (1), resulting from the non-performance or improper performance of the tasks, cannot be covered with the Pension Fund assets.
- (3) Entrusting a third party with the performance of certain obligations shall not exempt the Pension Company from liability.

Article 20

- (1) A Pension Company can not use its own assets to:
 - (a) Acquire or takeover any shares, securities or participation units in other legal entities, including other Pension Companies;
 - (b) Grant any loans and provide any guarantees or other sureties except as provided for in this Law; or
 - (c) Contract any loans or credits or issue bonds with a total value that exceeds a certain percentage of the value of its own capital, which is determined in regulations of the Agency.
- (2) As an exception of paragraph (1), sub-paragraph (a) of this Article, a Pension Company may use its own assets to purchase shares in another entity that performs activities of record keeping, long-term securities trading, marketing or other administrative function for the Pension Company, but under the condition that such entity exclusively provides services to that Pension Company. If the entity ceases to comply with the requirements of this paragraph, the Pension Company shall be obliged, within three months, to divest its shares in such entity.
- (3) If a Pension Company intends to purchase shares in other entities pursuant to paragraph (2) of this Article, the total capital for those purchases cumulated with the price that has been paid for all previous purchases of shares that a Pension Company holds, can not exceed 10% of the total value of the share capital of that Pension Company at the date of purchase.

Article 21

- (1) A Pension Company must maintain complete, correct and accurate record-keeping for individual accounts for each Member of the Pension Fund, for the contributions paid and assets transferred for that Member, the number of accounting units in the account and the value of the Member's account and such other matters determined by the Law.
- (2) A Pension Company shall keep in archive form, in accordance with the Law, all documents and other records relating to the Pension Fund managed by it

including:

- (a) Details of members and former members including full name and address, personal identification number and, if applicable, the amount standing to their account on leaving the Pension Fund;
 - (b) Details of all assets bought and sold for the Pension Fund it manages including the date of the transaction, the identity of the other party and the amount paid; and
- (3) All documents and other records must be retained for a period of fifty years.
 - (4) After a period of ten years has elapsed from the creation of a document or record it may be kept in electronic form only.
 - (5) If the Pension Company ceases to manage a Pension Fund, it must act according to the provisions of paragraphs (2) and (3) of this Article.
 - (6) The Agency shall issue regulations on the content and manner of record keeping mentioned in paragraphs 1 and 2 of this article.

Article 22

Each Pension Company shall appoint an external authorized auditor with good reference, who can not be affiliate entities and/or persons of the Pension Company or its shareholders, foreign assets manager or the Custodian. The same external authorized auditor can perform at most three successive annual audits for the same Pension Company.

CHAPTER 3
ESTABLISHMENT AND LICENSING OF PENSION COMPANIES AND
AUTHORIZATION TO MANAGE A PENSION FUND

Article 23

- (1) A Pension Company shall be established by obtaining a license from the Agency and, once established, it gets an approval of the Agency for managing and administration of a Pension Fund.
- (2) The Trade register shall not register a Pension Company unless it has been granted a license by the Agency according to terms and conditions regulated by this Law.
- (3) The Agency shall issue regulations specifying details of the licensing process for incorporation and approval to manage a pension fund.

Article 24

The request for a license to establish a Pension Company shall be submitted to the Agency at the same time as the request for approval to manage a Pension Fund, according to this Law.

Article 25

- (1) The Agency shall at the commencement of the fully funded Pension insurance system, grant licenses for establishment of Pension Companies on the basis of a public tender.
- (2) The Agency shall grant licenses for the establishment of only two Pension Companies for a period of ten years. Further licenses shall be granted during this period in accordance with Article 39 of this Law.
- (3) The award of two initial licenses is conditioned upon three applicants successfully passing the pre-qualification stage set out in Article 28 of this Law and at least three bids being submitted for the initial pre-qualification stage.
- (4) The Agency shall, after consulting the Ministry of Labour and Social Policy, not later than eight years after the 1st January 2004 issue regulations setting out the procedure by which licenses will be granted after the initial ten year period.
- (5) While setting the regulations from paragraph (4) of this Article, the Agency shall consider conditions and the level of development of the fully funded pension insurance and financial market, whether or not a tender process will be used, whether there will be restrictions on the number of licenses awarded and if so, the number of licenses and whether there will be a duration for the license.

- (6) The Agency and its officials shall bear full responsibility for lawful, fair, orderly and transparent administration of the public tender procedure.

Article 26

- (1) The public tender for the first ten years shall be conducted in two stages; at the first stage, pre-qualification of applicants, and at the second stage, choosing two bids based on the proposed fees to be charged, according to Article 98 (1) (a) and granting licenses to the winning applicants.
- (2) In the event the number of applicants that pre-qualify is lower than three, the tender shall be cancelled for a period of 6 months. The tender shall be reopened within thirty days following the last day of this period.
- (3) The application and documentation shall be submitted by the party or parties who would become the founders of the Pension Company. If there are several applicants having an interest to act as one bidder, the application shall be submitted jointly in the names of all the applicants.

Article 27

- (1) The public tender shall be announced in the Official Gazette of the Republic of Macedonia, in at least two Macedonian daily newspapers, and at least two reputable international financial journals.
- (2) The Agency may sub-contract part or all of the organization of the tender process, but shall remain liable for such process.

Article 28

- (1) The decision regarding the bidders who pre-qualify from the bidding process shall be made by the Agency based exclusively upon the criteria set out in Article 30.
- (2) The Agency shall, with no delay, notify all applicants about the decision from paragraph (1) of this Article.
- (3) The Agency may appoint a firm of consultants of positive and substantial international repute to help it evaluate all applications and documentation according to this Law and to help it determine who pre-qualifies.

Article 29

- (1) In the stage of pre-qualification, applicants must submit to the Agency an application signed by authorized signatories of each applicant who would become a founder, in a form regulated by the Agency, along with the documentation relating to the request for a license to establish a Pension Company and an approval to manage a Pension

Fund:

- (a) The draft By-Law of the Pension Company;
- (b) The draft By-Law of the Pension Fund it would manage;
- (c) A draft contract with the Custodian;
- (d) A declaration signed by authorized signatories of each applicant that, if awarded a license, they will establish a Pension Company and a Pension Fund in accordance with this Law.
- (e) A list of founders along with data about the relationships of legal entities and description of the nature of such relationships;
- (f) In relation to each founder, certified copies of the corporate acts and By-Laws of the Pension Companies and an excerpt from the registry court where they are registered, the names and addresses of the Management Board Members and certified copies of the last three financial statements reviewed by an external authorized auditor as well as any additional evidence necessary to show that the requirements of Article 15 (1) and (3) of this Law are satisfied;
- (g) Documents confirming that on the date of applying for the tender, founders who would hold at least 51% of the initial capital of the Pension Company have great experience in asset management and that for at least one year prior to that date they had a minimum investment grade level rating by reputable international rating agencies.
- (h) Documents confirming the origin of financial resources that shall be paid up as the Pension Company's initial capital;
- (i) A list of candidates for members of the Management Board and Supervisory Board of the Pension Company along with statements that they agree to perform these functions if the bid is successful and fulfil every requirement set out in this Law, including resignation from any position that represents a conflict of interest and is prohibited by this Law, as well as a description of their expert qualifications and their prior professional experience;
- (j) Details of personnel with special authorities and responsibilities that are proposed to be responsible for investment management decisions;
- (k) A certificate stating that members of the managing and governing bodies of the Pension Company have no security measure imposed to carry out a profession, activity or duty in the fields of law, banking, accountancy, insurance, asset management and investment, pension fund management or

financial services;

- (l) A plan for implementation and establishment of the Pension Company and Pension Fund as well as an organizational plan outlining the structure of the Pension Company;
 - (m) A statement of the investment strategy for the Pension Fund;
 - (n) Other documents required for the pre-qualification regulated by the Agency.
- (2) No documents submitted, including the document referred to in paragraph (1)(b), shall state any fees to be charged according to Article 98 (1)(a).
- (3) Incomplete and untimely applications and documentation shall not be taken into consideration and shall be returned forthwith to the applicants with an explanation of the reasons for their return.

Article 30

- (1) The Agency shall make its decision for successful pre-qualification of applicants based on the documents and data according to Articles. 29 and 31 of this Law, and pursuant to that, estimate whether the following requirements have been met:
- (a) That it appears from the documentation and data received that the proposed Pension Company would comply with the paid up capital requirements, as specified by this Law if the license application were to be granted;
 - (b) That it appears from the documents and data available that the applicants would have appropriate financial resources for that purpose;
 - (c) That it appears from the documents and data available that the applicants satisfy the requirements for founders as set out at Arts. 14 and 15 of this Law;
 - (d) That it appears from the documents and data available that the proposed members of the Management Board and the Supervisory Board and those proposed to be responsible for investment management fulfil the requirements of this Law;
 - (e) The documents submitted in accordance with Article 29 of this Law, if they contain provisions, or omit to contain provisions, and such inclusion or omission has the effect of threatening or failing to sufficiently protect the interests of the Members of the Pension Fund;
 - (f) The applicants proved that they have provided or will provide on-time contracts for financial accounting and auditing of the Pension Company in

accordance with this Law;

- (g) That the proposed name of the prospective Pension Company or the Pension Fund is not likely to mislead the Pension Fund Members, prospective members and any other entity that could have contacts with the Pension Company or Pension Fund;
- (h) That the Pension Company or Pension Fund operation will be performed in accordance with Pension Fund management standards and prudent business customs;
- (i) That it appears from the documents and data that the prospective Pension Company will not perform any activities other than that which is authorized by this Law and directly related to managing a Pension Fund.

Article 31

- (1) Within thirty days after receiving a pre-qualification application and documentation the Agency may require the applicants to submit additional documents and data except any documents which would indicate the fees to be charged by a Pension Company.
- (2) The Agency may, if it considers necessary, investigate any matters relating to a bid. In doing so the Agency may:
 - (a) Seek the assistance of competent regulatory or supervisory authorities in Macedonia or abroad;
 - (b) Collect documents and data from other sources.

Article 32

- (1) The Agency shall not enable an applicant to pre-qualify if it appears to it that:
 - (a) The requirement of Article 30 of this Law are not met; or
 - (b) Granting authorization would not be in the interest of those who might join the prospective Pension Fund which shall be established by this Law.
- (2) The Agency shall submit an explanatory written decision for the refusal to all applicants who did not pass the pre-qualification stage. Physical and legal entities may request a copy of such decision.

Article 33

- (1) The Agency shall submit a written request for submission of a bid to all applicants who pre-qualify. These applicants shall be required to submit a bid in a form and

procedure determined in regulations of the Agency.

- (2) The bid application shall be submitted along with a business plan containing data specified in regulations of the Agency and details of all fees and commissions to be charged in accordance with this Law.
- (3) The selection of a bidder to whom a license shall be awarded shall be made solely on the competitiveness of the proposed fees to be charged according to Article 98 (1) (a) of this Law.
- (4) With the selection from paragraph (3) of this Article, licenses shall be granted to the two bidding applicants with the lowest fee in a procedure and manner regulated by the Agency. In case there are more than two applicants offering the same lowest fee, results from the pre-qualification stage shall be considered as well.
- (5) The Agency shall submit a written decision for the selected bidders to all applicants that have submitted a bid in the public tender.
- (6) The dissatisfied applicants that pre-qualified successfully but were not selected shall have the right to appeal in front of the second-level Commission of the Government of the Republic of Macedonia.

Article 34

- (1) Licenses shall be granted on the same date to the two bidding applicants after the decision from Article 33 (6) of this Law has been declared final in a procedure and manner regulated by the Agency.
- (2) At the time of being awarded a license the bidding applicants referred to in paragraph (1) of this Article shall be given a conditional approval to manage a Pension Fund.

Article 35

- (1) Applicants that are granted a license for establishing and conditional approval for managing a Pension Fund shall establish a Pension Company in accordance with tender documentation and the Trade Company Law and this Law. The Pension Company must be established within three months after receiving the license and the Agency could extend the term for three months at most, in justified circumstances.
- (2) In case applicants that are granted a license do not establish a Pension Company within the term defined in paragraph (1) of this Article, the Agency shall withdraw the license after the expiration of the period.
- (3) In case of paragraph (2) of this Article, the Agency shall grant a new license for establishing a Pension Company to the third ranked bidder according to Article 33

(3) of this Law.

Article 36

- (1) The Pension Company shall notify the Agency about the establishment and registration in the Trade register within 30 days after the registration is done. Pension Company is required to submit certified copies of the constitutional documentation and the By-Law of the Pension Company, latest versions of the documents referred to in Article 29 (1) (b) and (c) of this Law, a copy of the conditional approval awarded in accordance with Article 33 (5) of this Law and other documents related to the Pension Fund operation regulated by the Agency.
- (2) After the fulfilment of the requirements listed in Article 35 (1) of this Law and paragraph (1) of this Article, the conditional approval for managing a Pension Fund shall become valid.
- (3) A Pension Company may not commence the activities of managing a Pension Fund, marketing and canvassing activities any earlier than a date specified by the Agency, not before receiving the license to establish and the approval to manage a Pension Fund, and not before its registration in the Trade register.

Article 37

Each change to the shareholders, members of the Management Board or Supervisory Board, personnel with special authorities and responsibilities or any changes and amendments to the documents and data specified in Article 29 of this Law shall require prior approval by the Agency except if such changes are beyond the control of the Pension Company and it has taken all the necessary measures to prevent those changes. The Agency shall consider such changes in accordance with the provisions of Article 30 and 32 of this Law.

Article 38

- (1) The Agency may withdraw or cancel an approval for managing a Pension Fund for the same reasons that it shall refuse an application in accordance with Article 29 of this Law, upon request of the Pension Company, or because of serious violation of the provisions of this Law and, in particular, for failing to meet the requirements of Article 30 of this Law.
- (2) Before withdrawing or cancelling an approval for managing a Pension Fund the Agency shall offer the Pension Company an opportunity to eliminate any illegal and irregular operations in a term specified by the Agency unless it considers that such opportunity would be contrary to the interests of the Pension Fund Members or contrary to the public interest.
- (3) The Agency shall forthwith notify the Pension Company of the withdrawal or cancellation of the approval for managing a Pension Fund.

- (4) The Pension Company has the right to appeal to the second-level Government Commission against the Agency's decision from paragraph (1) of this Article. The appeal shall not postpone the execution of the decision of the Agency from paragraph (1) of this Article.

Article 39

- (1) A Pension Company, whose approval for managing a Pension Fund has been withdrawn or cancelled in accordance with Article 38 of this Law shall normally continue to operate under the Agency's supervision in a procedure regulated by the Agency, with prior consent of the Ministry of Labour and Social Policy, in order to protect the interests of the Pension Fund members. This shall continue until a new Pension Company undertakes the administration of that Pension Fund. In case the Agency considers that the interests of the Pension Fund Members are or may be threatened it may take direct control of the Pension Fund itself.
- (2) If the decision to cancel approval for managing a Pension Fund comes into effect, the Agency shall organize a new public tender in accordance with this Law and grant the winner a new license for establishing and an approval for managing a Pension Fund.
- (3) The current Pension Companies, their shareholders or the shareholders of a Pension Company whose license has been cancelled shall not have permission to bid on the tender process set out in paragraph (2) of this Article.
- (4) The Agency shall closely regulate the procedure for undertaking the tender process from paragraph (2) of this Article as well as selection of the best bid.
- (5) If the tender is unsuccessful, the Agency shall transfer the Members of that Pension Fund to the Pension Funds managed by other Pension Companies in a manner specified by the Agency.

CHAPTER 4 PENSION FUNDS

Article 40

- (1) A Pension Fund shall be an open-end investment fund whose establishment and operation are in accordance with the Law on Investment Funds, unless this is regulated in a different manner by this Law. A Pension Fund shall be comprised of assets derived from contributions made by Pension Fund Members and the returns on investments of those contributions.
- (2) A Pension Fund shall be owned by its Members whose individual ownership rights shall be determined by the assets standing on their account, in accordance with Article 67.
- (3) The assets of the Pension Fund shall be fully separated from those of its managing Pension Company.

Article 41

A Pension Fund shall be managed by a Pension Company, which shall present and represent it in relation to third parties.

Article 42

The Headquarters of the Pension Fund shall be the same as its managing Pension Company.

Article 43

- (1) The registered name of every Pension Fund shall contain the words “Open-end Pension Fund”.
- (2) The registered name of a Pension Fund can not contain the word “Macedonia” or any abbreviation or derivation of that word.

Article 44

The assets of the Pension Fund can not be subject to claim nor can assets execution be conducted by or on behalf of the Pension Company’s creditors.

Article 45

- (1) The Pension Fund’s By-Law shall contain:
 - (a) Data on the basic principles and special limits on investment other than those regulated by the Law,

- (b) The way of calculation of brokerage fees directly associated with the sale and purchase of Pension Fund assets and their deduction from the Pension Fund Members' accounts,
 - (c) The deductions from the assets of the Pension Fund in order to pay the fees of the Pension Company,
 - (d) Details of the Pension Fund's accounting system,
 - (e) The method of providing information to Pension Fund Members and the daily national newspaper in which its information prospectus is published,
 - (f) Other data regarding the Pension Fund.
- (2) The By-Law shall be approved by the Agency.

CHAPTER 5
THE AGENCY FOR SUPERVISION OF FULLY FUNDED PENSION
INSURANCE

Article 46

- (1) The Agency for supervision of fully funded pension insurance shall be established in order to supervise the operation of Pension Companies and Pension Funds.
- (2) The Agency shall have a status of legal entity.
- (3) Bodies of the Agency shall be a Management Board and a Director.
- (4) The Agency shall have a By-Law.
- (5) The Headquarters of the Agency shall be in Skopje.
- (6) The Agency shall report to the Government of the Republic of Macedonia.
- (7) The mission of the Agency shall be to protect the interests of the Pension Fund Members and enhance the development of the fully funded Pension insurance.

Article 47

- (1) The Agency shall perform the following activities:
 - (a) Perform the activities for collecting bids in the tender processes, grant, withdraw and cancel licenses for establishment and approvals for managing Pension Funds;
 - (b) Supervise the operation of Pension Companies and their managing Pension Funds - and especially control their legal operation;
 - (c) Supervise the operation of legal entities acting as Custodians or foreign asset managers of Pension Fund assets in relation to operating with such assets;
 - (d) Promote, organize and enhance the development of the fully funded pension insurance in the Republic of Macedonia, in co-operation with the Ministry of Labour and Social Policy;
 - (e) Develop public awareness of the purposes and operating principles of Pension Companies and their Pension Funds, on the benefits of Pension Fund membership, on the rights of Pension Fund Members and other issues relating to the pension fund system;
 - (f) Propose torts and criminal proceedings against Pension Companies, Custodians, foreign asset managers, and other entities in case of breaking

the provisions of this Law or other Laws;

- (g) Examine and monitor the financial statements of Pension Funds and Pension Companies;
 - (h) Maintain a register of sales agents;
 - (i) Work in conjunction with the Ministry of Finance, the National Bank of the Republic of Macedonia, the Securities and Exchange Commission and other bodies and institutions in the country and abroad, to ensure an effective supervision and regulation of the fully funded pension insurance and the financial sector. The scope, content and the form of the cooperation shall be mutually regulated between the Agency and competent bodies and institutions;
 - (j) To co-operate with the Pension and Disability Insurance Fund of the Republic of Macedonia on the functions assigned to the Pension and Disability Insurance Fund of the Republic of Macedonia in accordance with this Law;
 - (k) Issue regulations in accordance with this Law;
 - (l) Issue internal guidance regarding its operation;
 - (m) Make suggestions as to new legislation relating to Pension Companies and Pension Funds;
 - (n) Join and participate in domestic or international organizations, where such participation shall be in the interests of the Macedonian pension system; and
 - (o) Perform other activities in accordance with this Law.
- (2) The regulations of the Agency shall be issued in the Official Gazette of the Republic of Macedonia.

Article 48

The Agency has active procedural legitimisation and may intervene, either directly or indirectly, in any process against a Pension Company and any entity or entities in a legal relationship with the Pension Company involved, when such action is necessary for the purpose of protecting the interests of the Pension Fund Members.

Article 49

- (1) A Pension Fund Member or a former Pension Fund Member may make a complaint to the Agency against a Pension Company for activities performed by

that Pension Company which are not in accordance with this Law and with that Pension Company's regulations.

- (2) A complaint may be made to the Agency by a Pension Fund Member against other entities which had a business or contractual relationship with a Pension Fund and a Pension Company, in case the Pension Fund Member believes that his/her interests as a Pension Fund Member have been damaged as a result of violation of the Law by those entities in terms of their business or contractual relationships.
- (3) The Agency may refer to the Pension Company against whom it received a complaint in order to investigate, if this would not prejudice the interests of the complainant.
- (4) The Agency shall maintain records relating to the handing of complaints made against Pension Companies, according to paragraph (3) of this Article and shall publish relevant statistics in its informative prospectus.

Article 50

- (1) The Management Board of the Agency shall consist of five members appointed by the Government of the Republic of Macedonia.
- (2) A member of the Management Board may be appointed any person who fulfils the following requirements:
 - (a) Be a Macedonian citizen;
 - (b) Hold a university degree;
 - (c) Have experience relevant for pension funds in the field of economics, finance, accounting, investment, insurance, actuarial science or law of at least 5 years;
- (3) The term of the members of the Management Board lasts seven years and may be renewed. The members of the Management Board may also be removed by the Government of the Republic of Macedonia before the end of their term, only in cases provided in Article 51 paragraph (6) of this Law.
- (4) An exception from paragraph (3) of this Article is in the first term of establishment of the Management Board: two members shall be appointed for a three-year period, two members shall be appointed for a five-year period and one member will be appointed for a seven-year period.
- (5) When a member of the Management Board ceases to serve a duty before the end of the term, another person shall be appointed instead of him/her until the end of

- the term.
- (6) The Management Board is responsible for:
 - (a) Adopting the By-Law of the Agency;
 - (b) Adopting the organizational structure and job description act of the posts of the Agency;
 - (c) Adopting the annual program for operation of the Agency and monitors its fulfilment;
 - (d) Adopting the annual report for the operation of the Agency.
 - (7) Regulations from sub-paragraphs (a), (b) and (d) from paragraph (6) of this Article shall be submitted for approval by the Government of the Republic of Macedonia.

Article 51

- (1) The Agency shall be led by a Director. The Director of the Agency shall have a Deputy.
- (2) The Director of the Agency and the Deputy Director shall be appointed and removed by the Government on a proposal of the Minister of Labour and Social Policy.
- (3) The Director of the Agency is responsible for:
 - (a) Legal representation of the Agency;
 - (b) The operation of the Agency in accordance with the rights and responsibilities determined in this Law;
 - (c) Organizing and providing legal performance of the activities from the field of operation of the Agency;
 - (d) Suggesting to the Management Board to adopt regulations under its competence;
 - (e) Executing the decisions of the Management Board;
 - (f) Performing other activities that are entrusted to him/her by this Law, By-Law or other regulations of the Agency.
- (4) The Director and the Deputy Director of the Agency must meet the following requirements:

- (a) Be a Macedonian citizen;
 - (e) Hold a university degree in the fields listed in sub-paragraph (c) of this paragraph;
 - (f) Has experience relevant for pension funds in the fields of economics, finance, accounting, investment, insurance, actuarial science or law, of at least 6 years;
 - (g) Have held a management or supervisory position for at least four years in the fields from sub-paragraph (c) of this paragraph.
 - (h) Not having imposed security measure prohibition to carry out profession, activity or duty.
- (5) The term of the Director and the Deputy Director of the Agency lasts seven years and may be renewed.
- (6) The Director and the Deputy Director of the Agency may be released before the end of the term in case of:
- (a) Serious dereliction of duties;
 - (b) Criminal conviction;
 - (c) Having imposed security measure prohibition to carry out profession, activity or duty at a management position in an institution.
 - (d) Disregard of the prohibitions of Article 52 and the responsibilities of Article 55 of this Law;
 - (e) Long-term difficult illness, preventing the proper performing of duties.
 - (f) Lost business capacity; and
 - (g) At his/her request
- (7) The Director of the Agency and a Deputy Director shall fulfil their activities professionally.
- (8) The Deputy Director shall replace the Director in case of his/her absence or in case he/she cannot fulfil his/her functions due to illness or other reasons, with his/her full authorization and responsibilities in the management. When the Director is present, the Deputy in conjunction with the Director carries out the responsibilities of the Director that are delegated to him/her by the Director.
- (9) Persons with special authorities and responsibilities, employed in the Agency, who participate in making decisions which could have a significant impact on

Pension Companies, Pension Funds and Pension Fund Members, must hold a university degree and have good training and relevant experience in the fields of pension fund management, economics, finance, accounting, investment, insurance, actuarial sciences or law of at least 3 years.

Article 52

- (1) Neither the Director nor the Deputy Director nor the staff of the Agency can:
 - (a) Accept any remuneration or payment from, any position or employment with, provide any services to, or hold shares in:
 - 1) A Pension Company or the Pension Fund it manages;
 - 2) A Custodian of a Pension Fund; or
 - 3) Any affiliate entities and/or persons of the entities listed under (1) and (2) of this sub-paragraph;
 - (b) Accept any elected political position or be a candidate for such position; or
 - (c) Hold any other politically appointed position.
- (2) The restrictions set out in paragraph (1)(a) shall continue to apply to the Director and the Deputy Director of the Agency for a period of one year after he/she ceases to hold office.

Article 53

- (1) In order to perform its duties, the Agency shall have the following rights:
 - (a) To obtain for inspection from a Pension Company all the documents or computer records relating to its operations or those of its Pension Fund;
 - (b) To obtain for inspection from a Custodian, or foreign asset manager all the documents or computer records listed in sub-paragraph (a) of this paragraph;
 - (c) To receive any information from any members of the Management Board, Supervisory Board or any employees of the Pension Company, its Custodian or foreign asset manager regarding the activities of the Pension Company or Pension Fund;
 - (d) To require written and personal signed statements from those persons referred to in sub-paragraph (c) of this paragraph;
- (2) The Director of the Agency may authorize a person to enter the premises of:

- (a) The Pension Company for the purpose of control and insight into the legality of its operations or the Pension Fund it manages operations as well as control based on the By-Law or the other acts of that Company;
 - (b) A Custodian and foreign asset manager for the purpose of control and insight into the legality of the operations and signed contracts with the relevant Pension Company.
- (3) The Pension Company, the Custodian and the foreign asset manager are obliged to ensure that the person authorized for inspection is given access to all the books, documents and other records relating to the activities of the Pension Company, the Pension Fund it manages, the foreign asset manager and the Custodian.
 - (4) The type and scope of the inspection shall be specified in the decision for control issued by the Director of the Agency.
 - (5) The person authorized for the inspection shall prepare a report, which shall be submitted to the Agency. If the Agency determines some irregularities in the operations or keeping of the business books, it shall issue a decision to order the Pension Company, the Custodian or the foreign asset manager to remove the irregularities in a specified period.
 - (6) In accordance with paragraph (5) of this Article, the Pension Company, the Custodian or the foreign asset manager are obliged within the specified period to remove the irregularities and to send a notification to the Agency for the removed irregularities along with evidence that the irregularities have been removed or corrected. If the Pension Company does not remove the irregularities, the Agency may withdraw the approval for managing a Pension Fund.
 - (7) If the Agency, during the inspection of the operations of the Pension Company and the management of pension funds, finds out that there are matters or acts subject to penalty by the Law, the Director or a person authorized by him shall submit a proposal for proceeding to the authorities.

Article 54

- (1) The Agency shall, within six months after the end of each calendar year, publish a report on the fully funded pension insurance in the Republic of Macedonia, in the Official Gazette of the Republic of Macedonia. The report shall contain data on the fully funded pension insurance, an appraisal on the performance of the legislation on fully funded pension insurance, data related to the operations of the Agency, and any other matters that the Agency considers important to the fully funded pension insurance in the Republic of Macedonia.
- (2) The Agency shall, within six months of the end of each calendar year, submit a report for its operation in the previous year to the Government of the Republic of Macedonia. The report contains the data set out in paragraph (1) and data relating

to the activities of each Pension Company and Pension Fund and such other data as it considers appropriate or is requested by the Government. The report for the operation of the Agency shall be adopted by the Government of the Republic of Macedonia and shall be submitted to the Parliament for information.

Article 55

- (1) The Members of the Management Board, the Director, the Deputy Director, the authorized persons and other persons employed at the Agency shall not disclose any information which has been acquired during the performance of the functions or authorizations in accordance with this Law.
- (2) The obligation for information confidentiality does not apply in case the information disclosure is based on the authorization provided by this Law or by a Court sentence that went into effect.
- (3) The obligation for information confidentiality in paragraph (1) of this Article does not apply when the informing is made by the Agency:
 - (a) In response to a written request by the Ministry of Labour and Social Policy or any other person authorized by the Minister where such request is necessary for performing his, her, or its official duties;
 - (b) In response to a written request by a domestic or international authority or organization for the purpose of helping the performance of this authority's functions if similar to the Agency functions;
 - (c) In the form of summary information related to Pension Funds or Pension Companies if such information has been prepared by persons authorized under the provisions of this Law and if the summary has been prepared in a way that does not allow disclosure of data for Pension Fund Members, the operations of the Pension Company, the Custodian or the asset manager and
 - (d) On the basis of written permission by the Pension Company or the Member to whom the data refers.

Article 56

- (1) The budget of the Agency in relation to its activities provided by this Law shall be approved at the same time with the General Budget of the Republic of Macedonia.
- (2) The budget of the Agency shall specify the salaries of the Agency staff. The salaries of the Director of the Agency, the Deputy Director and persons with special authorities and responsibilities must be similar to the salaries of the financial sector including salaries in the Pension Companies.

- (3) The operation of the Agency, in accordance with this Law, shall be financed by fees that the Agency shall charge to the Pension Companies, particularly including the following:
- (a) Monthly fee levied on the Pension Companies, up to 2.5% of the total contributions paid into the Pension Fund it manages in the preceding month.
 - (b) Fee for tender documentation;
 - (c) Fee for a license for establishing a Pension Company and approval for managing a Pension Fund;
 - (d) Fee for providing forms;
 - (e) Fee for training, setting exams, and granting licenses to sales agents;
 - (f) Fee for registration of sales agents, which may not exceed the administrative costs of that registration.
 - (g) Fee for performing services; and
 - (h) Other fees determined by the Agency.
- (4) The amount of fees specified in paragraph (3) of this Article shall be determined by the Agency and shall be submitted for approval to the Government of the Republic of Macedonia and shall be published in the Official Gazette of the Republic of Macedonia.
- (5) In case the fee incomes set out in paragraph (3) of this Article do not cover the costs planned, the income deficit shall be financed out of the Budget of the Republic of Macedonia.
- (6) Audit of the Agency's operations shall be undertaken by the Bureau of the State Auditor of the Republic of Macedonia.

Article 57

- (1) The Ministry of Labour and Social Policy shall supervise the legality of the operation of the Agency.
- (2) The Ministry of Labour and Social Policy can stop the execution of any act of the Agency if it is not in accordance with this Law or if it is unconstitutional.

CHAPTER 6
PENSION FUND MEMBERSHIP AND PAYMENT OF CONTRIBUTIONS

Article 58

- (1) All contributors who become subject to mandatory pension and disability insurance after 1st January 2003 for the first time according to Article 131 of the Law on Pension and Disability Insurance shall be required to be a Member of and contribute to a Pension Fund of their own choice as long as they remain subject to such obligation.
- (2) Contributors referred to in paragraph (1) of this Article shall be obliged to join a Pension Fund within three months of the date of joining the mandatory pension and disability insurance.
- (3) All contributors who were covered by mandatory pension and disability insurance before the 1st January 2003 in accordance with Article 132 of the Law on Pension and Disability Insurance may join and contribute to a Pension Fund of their own choice and such election must be made no later than one year after the 1st January 2003.
- (4) The payment of contributions for fully funded pension insurance for contributors referred to paragraphs (1) and (3) of this Article shall start from 1st January 2004.
- (5) A Pension Fund Member may freely transfer and join another Pension Fund, except in cases stated in Article 62 of this Law.
- (6) The Agency shall be responsible for informing Macedonian citizens of the categories of contributors who are obliged to join a Pension Fund, those who may join a Pension Fund on their own choice, and the type of factors which should be taken into consideration when deciding whether a contributor should join a Pension Fund as well as the decisions to be made on the date of first employment or upon commencing performing a function.
- (7) The contributors referred to in paragraph (1) of this Article who shall fail to join a Pension Fund within three months of the date of joining the mandatory pension and disability insurance, shall be automatically allocated by the Agency to one of the Pension Funds and required to sign a Membership contract with that Pension Fund in accordance with Article 59 of this Law and shall not be able to revoke such contract. If a contributor refuses to sign the contract, no return will be credited on the assets in his/her individual account until he/she signs the contract, except in cases regulated by the Agency.
- (8) During the contributors' allocation to the Pension Funds by the Agency, it must ensure the number of contributors to be proportionate to the total value of assets of each Pension Fund at a date determined by the Agency but not more than one

month before the allocation.

- (9) The contributions of those contributors who didn't join a Pension Fund, and were obliged to do so, shall be kept in a separate account in the pension funds registered on behalf of the Pension and Disability Insurance Fund of the Republic of Macedonia until the contributor joins voluntarily in a Pension Fund or is allocated to a Pension Fund by the Agency. Those contribution incomes shall be invested in Pension Funds in accordance with Article 68 (2) of this Law and the average return on investments of all funds shall be allocated to the contributor's account when he/she becomes a Pension Fund Member.
- (10) The Agency shall specify the method of allocating contributors, the way of notifying the contributors that were allocated by the Agency and the way of notifying the Pension and Disability Insurance Fund of Macedonia about the contributors allocated by the Agency as well as the method of paying the contributions in case of late joining.

Article 59

- (1) A contributor joins a Pension Fund by signing a Membership contract with the Pension Company managing that Pension Fund.
- (2) The form of the Membership contract referred to in paragraph (1) of this Article shall be the same for all Members of the Pension Fund the Pension Company manages.
- (3) The Agency shall specify the standard form of the Membership contract for all Pension Funds.
- (4) If a contributor signs a Membership contract with a Pension Fund for the first time and has not been a Member of any Pension Fund before, he or she may revoke such agreement by delivering a written notice to the Headquarters of the Pension Company within eight Working Days of the date of signing that agreement. In case of such revocation the agreement shall be invalid. A contributor may not become a Fund Member before the expiration of the eighth Working Day.
- (5) The Pension Company that manages that Pension Fund shall, right after the expiration of the eight Working Days after signing a Membership contract pursuant to paragraph (4) of this Article, provide a copy of the Membership contract to the Member and notify the Pension and Disability Insurance Fund of the Republic of Macedonia in order to record the change in its register of Pension Fund Members.
- (6) The Agency shall specify the dates for each year on which the contributors may become Members of Pension Funds and can make a transfer of assets from one Pension Fund to another ("Transfer Date"). A Transfer Date must be a Valuation

Date. A contributor may only become a Pension Fund Member on those dates.

- (7) A Pension Company may not refuse membership to the contributor in the Pension Fund it manages unless the contributor does not meet the requirements specified in the Law on Pension and Disability Insurance.
- (8) The contributor may only be a Member of one Pension Fund at a time and only have one account in that Fund.
- (9) The Agency may specify the circumstances under which, in accordance with Article 7, once a Pension Company may manage more than one Pension Fund, as an exception to paragraph (8) of this Article, a contributor may be a Member of more than one Pension Fund managed by the same Pension Company.
- (10) The Agency shall closely regulate the manner and procedure for pension fund membership in accordance with this Article.

Article 60

- (1) The payment of the contributions for pension and disability insurance shall be made by the obliged contribution payers to the Pension and Disability Insurance Fund of the Republic of Macedonia in accordance with the Law on Pension and Disability Insurance. 50% of the amount received for late and incomplete payment of contributions for fully funded pension insurance shall be transferred by the Pension and Disability Insurance Fund of the Republic of Macedonia to the individual account of the Pension Fund Member. The other 50% shall remain in the Pension and Disability Insurance Fund of the Republic of Macedonia's income.
- (2) The Pension and Disability Insurance Fund of the Republic of Macedonia shall transfer the Pension Fund Member's contributions to the accounts of the selected Pension Fund immediately and no later than five Working Days after receipt of the contributions, under condition that during the same period corresponding data were received in accordance with the Law, which allows the Pension and Disability Insurance Fund of the Republic of Macedonia to accomplish its obligation.

Article 61

- (1) If a contributor who is a Pension Fund Member (the "Current Pension Fund") wishes to join a Pension Fund managed by another Pension Company (the "Future Pension Fund"), that member shall sign a provisional Membership contract with the Pension Company managing the Future Pension Fund in accordance with Article 59 of this Law. The Pension Company managing the Future Pension Fund shall be obliged to forward such provisional Membership contract to the Pension and Disability Insurance Fund of the Republic of Macedonia within eight

Working Days after the signing of the provisional agreement.

- (2) Within eight Working Days of receipt of the provisional Membership contract the Pension and Disability Insurance Fund of the Republic of Macedonia shall submit to the relevant Member that has received the provisional Membership contract, a written notification along with a form. The notification shall state clearly that if the Member wishes to move from the Current Pension Fund to the Future Pension Fund he or she shall be obliged to pay a financial penalty, in accordance with Article 98 paragraph (1)(c) of this Law and that the transfer may only proceed if the contributor who wishes to join the Future Pension Fund completes and returns the form which is part of the written notification within eight Working Days of receipt of the notification, which acknowledges that he or she agrees to pay the stated penalty and join the Future Pension Fund.
- (3) The Membership contract shall be valid and shall produce legal effect from the date of receipt of the form referred to in paragraph (2) of this Article, in the Pension and Disability Insurance Fund of Republic of Macedonia.
- (4) The Pension and Disability Insurance Fund of the Republic of Macedonia shall notify the Pension Companies managing the Current Pension Fund and the Future Pension Fund about the Member who joined the Future Pension Fund, within eight Working Days after the receipt of a regularly completed form in accordance with paragraph (2) of this Article.
- (5) Between the date when the Member has signed a provisional Membership contract and the date the Pension Company managing the Future Pension Fund has received the notification referred to in paragraph (4) of this Article, neither the Pension Company managing the Future Pension Fund, nor any of its affiliate entities and/or persons, agents or employees, may approach and have contact with that Member or enter into an oral or written communication with the Member relating to the Future Pension Fund, the Current Pension Fund or any aspect of Pension Fund membership.
- (6) Membership in the Current Pension Fund shall terminate on the first following Transfer Date after receipt of a regularly completed form made in accordance with paragraph (4) of this Article and the membership in the Future Pension Fund shall start on that date.
- (7) The Agency shall regulate in more details:
 - (a) The procedure and the extension of the terms for signing a provisional Membership contract with a Pension Fund due to objective reasons;
 - (b) The data and the content of the form issued by the Pension and Disability Insurance Fund of the Republic of Macedonia for Members having an intention to join another Pension Fund;

- (c) Other issues related with the signing of the provisional Membership contract with a pension fund.

Article 62

- (1) A Pension Fund Member can not transfer to another Pension Fund for a period of two years starting from 1st January 2004.
- (2) The Agency may waive the term set out in paragraph (1) of this Article in cases stated in Article 98 paragraph (3) of this Law.

Article 63

- (1) In case a Pension Fund Member transfers from one to another Pension Fund, in accordance with Article 61 of this Law, the assets of that Member shall be transferred from the Current to the Future Pension Fund on the First following Transfer Date.
- (2) The Assets which are subject to transfer shall comprise the amount standing to the Account of the Pension Fund Member on the Transfer Date reduced for any fees paid in accordance with Article 98 paragraph (1)(c) of this Law.
- (3) The Pension Company managing the current Pension Fund shall notify the Pension Company managing the Future Pension Fund of the Member's contributions paid to the Current Pension Fund, the transferred assets for that Member to that Fund and the contributions that that the Member paid into the Pension Funds of which he/she was a Member in the past.
- (4) The Agency shall closely regulate the Transfer of Assets between the Pension Funds managed by different Pension Companies and the type of data submitted in accordance with paragraph (3) of this Article.

Article 64

If a Member of one Pension Fund ceases to contribute to the Pension Fund before Retirement he/she shall remain a Member of the Pension Fund until death or Retirement and shall have the same rights as other Members of that Pension Fund under this Law, including the right of transfer, in accordance with Article 63 of this Law.

Article 65

- (1) When a Pension Fund Member shall realize a right to a disability pension in accordance with Article 132 (C) of the Law on Pension and Disability Insurance, the total amount of assets standing to that Member's account shall be transferred to the Pension and Disability Insurance Fund of the Republic of Macedonia, except in the cases determined in Article 90 of this Law. On receipt of a notification from the Pension and Disability Insurance Fund of the Republic of Macedonia that a Member realized a right to a disability pension, the Pension Company managing the Pension Fund shall be obliged to transfer the assets standing to the account of that Member to the Pension and Disability Insurance Fund of the Republic of Macedonia on the First following Transfer Date after the date of receipt of the notification.
- (2) At the time of the transfer of assets according to paragraph (1) of this Article, the Pension Company managing the Pension Fund shall be obliged to identify the Member whose assets are being transferred, and to submit a copy of the notification for the transfer of assets to the Pension and Disability Insurance Fund of the Republic of Macedonia. After the transfer of assets is made, the Pension Company shall close the Member's individual account.

Article 66

- (1) In the case of a Pension Fund Member's death whose family members have a right to a survivor's pension in accordance with the Law on Pension and Disability Insurance, the Pension and Disability Insurance Fund of the Republic of Macedonia shall forthwith notify the Pension Company managing that Pension Fund of that Member's death. The Pension Company shall transfer the total amount of assets standing to the account of the deceased Member to the Pension and Disability Insurance Fund of the Republic of Macedonia on the first following Transfer Date after the date of receipt of the notification, except in the cases determined in Article 91 of this Law.
- (2) On the date of transfer of assets according to paragraph (1) of this Article, the Pension Company shall be obliged to identify the deceased Member whose assets should be transferred. After the transfer of assets is made, the Pension Company shall close the Member's individual account.
- (3) If a deceased Pension Fund Member has no family members entitled to a survivor's pension in accordance with the Law on Pension and Disability Insurance, the assets on that Member's account shall form part of his/her estate and will be paid out in accordance with the Law on Inheritance. Until then, the Member's account will remain open and those assets shall be converted into accounting units and invested in the same way as other Pension Fund assets, by the Pension Company. After the transfer of assets is made, the Pension Company shall close the deceased Member's individual account.

Article 67

- (1) The assets standing to the account of the Pension Fund Member are part of his or her personal assets. The rights for using and handling those assets may not arise until that Member's retirement, death or disability in accordance with this Law.
- (2) The assets on the individual account of a Pension Fund Member may not be subject to execution, nor may they be covered by any settlement or bankruptcy proceedings.
- (3) The assets standing to the individual account of a Pension Fund Member may not be pledged, assigned or transferred for the benefit of third parties, except when this is explicitly allowed by this Law. Legal activities related to this Article shall be null and void.

Article 68

- (1) The contributions paid to in the Pension and Disability Insurance Fund of the Republic of Macedonia for which it can be determined that they belong to a Pension Fund Member or to a contributor that should choose a Pension Fund but, because of any reason could not be transferred to the appropriate Pension Fund within five Working Days of payment, shall be dealt with in accordance with paragraphs (2) and (3) of this Article. The assets for which within a specified period the Pension and Disability Insurance Fund of the Republic of Macedonia can not determine that they belong to a Pension Fund Member or to a contributor who should choose a Pension Fund, shall be kept on the account of the Pension and Disability Insurance Fund of the Republic of Macedonia until its membership status shall be determined.
- (2) The Pension and Disability Insurance Fund of the Republic of Macedonia shall have a separate account in each Pension Fund. The assets on such accounts shall be derived from any unallocated contributions in accordance with paragraph (1) of this Article. The Pension and Disability Insurance Fund of the Republic of Macedonia shall ensure that the assets deposited with each Pension Fund are proportional with the assets' share of that Pension Fund in the total amount of assets held by all Pension Funds. These assets shall be converted into accounting units and invested by the Pension Company in the same way as other Pension Fund assets.
- (3) The Agency shall closely regulate:
 - (a) The procedure of depositing and withdrawing assets on such accounts;
 - (b) Fees that are charged by Pension Companies in relation to the assets on

such accounts;

- (c) The way of allocating the returns on assets to the accounts of Pension Fund Members;
- (d) Notifications and data that should be submitted; and
- (e) Other issues related to contributions paid but unallocated to the appropriate Pension Fund.

CHAPTER 7
FUNCTIONS OF THE PENSION AND DISABILITY INSURANCE FUND
OF THE REPUBLIC OF MACEDONIA

Article 69

The Pension and Disability Insurance Fund of the Republic of Macedonia shall, in a unified procedure of collection of contributions for pension and disability insurance in accordance with the Law on Pension and Disability Insurance, undertake the following functions for the needs of the fully funded pension insurance:

- (a) Receive the contributions for the Pension Fund Members from the contribution payers;
- (b) Settle contributions with data received from the payers obligated to pay pension and disability insurance contributions and with the data in the registry of the Pension and Disability Insurance Fund of the Republic of Macedonia, on every Working Day;
- (c) Allocate contributions of Pension Fund Members to the accounts of the selected Pension Funds via the Custodian, immediately, and no later than five Working Days after receipt of the contributions, only if adequate data has been received in accordance with the Law, that enables the Pension and Disability Insurance Fund of the Republic of Macedonia to fulfil such obligation. In case those conditions are not fulfilled, the Pension and Disability Insurance Fund of the Republic of Macedonia shall act in accordance with Article 68 paragraphs (1) and (2) of this Law;
- (d) Transmit data to Pension Companies in relation to the allocation of contributions according to sub-paragraph (c) of this Article;
- (e) Maintain full and accurate records for individual accounts of members showing the status of contributions paid for Members to each Pension Fund;
- (f) Receive data about the Pension Fund Members from Pension Companies in accordance with this Law, concerning the Pension Funds they have chosen as well as data from the Agency about the Members allocated by the Agency;
- (g) Maintain a database described by this Article and reconcile such data monthly;
- (h) Prepare and submit to the Agency regular summary reports at the request of the Agency, for the purpose of performing its functions.

Article 70

The Government of the Republic of Macedonia shall regulate the manner and procedure in which the functions of the Pension and Disability Insurance Fund of the Republic of

Macedonia set out in Article 69 of this Law shall be undertaken.

Article 71

- (1) The Pension and Disability Insurance Fund of the Republic of Macedonia is obliged to provide computer software compatible with commonly used software in the Republic of Macedonia, to enable payers obligated to pay pension and disability insurance contributions to submit data and to control wages and contributions electronically.
- (2) The Government of the Republic of Macedonia shall regulate the manner and the procedure in which the functions of the Pension and Disability Insurance Fund of the Republic of Macedonia shall be undertaken in accordance with paragraph (1) of this Article.

Article 72

The Pension and Disability Insurance Fund of the Republic of Macedonia shall cooperate with the Agency, the Pension Companies, and other authorities in order to provide for the efficient functioning of the pension and disability insurance.

Article 73

- (1) The Ministry of Labour and Social Policy shall supervise the functioning and the legality of the operation of the Pension and Disability Insurance Fund of Macedonia, in relation to the functions given by this Law.
- (2) The Ministry of Labour and Social Policy may stop the execution of any action of the Pension and Disability Insurance Fund of Macedonia if it is not in accordance with this Law or is unconstitutional.

CHAPTER 8 MARKETING OF PENSION FUNDS

Article 74

- (1) No one may offer any gifts to another person for the purpose of persuading that person to join a Pension Fund or remain a Member of any Pension Fund.
- (2) No one may offer any gifts to another person for the purpose of persuading a person to attend or remain at a meeting for Pension Fund marketing.
- (3) No one may offer any gifts to an employer or affiliate entities and/or persons of the employer for the purpose of inducing or rewarding that employer to persuade or require its employees to join a particular Pension Fund.
- (4) No one may offer any gifts to a Union or other organization, collective entity or affiliate entities and/or persons of such organization or entity for the purpose of inducing or rewarding that body to persuade or require its members to join a particular Pension Fund.
- (5) In terms of this Article, gift means, but is not limited to, cash rewards, payment of fees for early termination of the membership in other Pension Funds, gifts of movables and real estate, artistic exhibitions, organizing displays or shows or other usually payable activities except those payments which derive directly from Pension Fund membership.

Article 75

- (1) Persons referred to in paragraph (3) of this Law, can not give wrong or inaccurate information about a Pension Fund or its managing Pension Company which may mislead the Pension Fund Members, persons who have a right to become Pension Fund Members and persons who may have a right at a future date to become a Pension Fund Member, either orally, in written information, in advertisements or other promotional material.
- (2) Persons referred to in paragraph (3) of this Law, may not make any statements or predictions relating to the future investment performance of the Pension Fund, to Pension Fund Members or those who may join that Pension Fund at a future date, except statements in a form and procedure specified by the Agency.
- (3) Persons referred to in paragraphs (1) and (2) are:
 - (a) Pension Funds and Pension Companies;
 - (b) Affiliate entities and/or persons with the entities listed under (a) of this Article;

- (c) Sales agents or employees of the Pension Companies and the affiliate entities and/or persons;
- (4) In order to ensure that fair and objective information is given to the public, the Agency shall approve all the marketing materials before their publishing and broadcasting. The Agency shall issue guidelines for the contents of the advertisements or written promotional materials for Pension Funds and Pension Companies.
- (5) If the Agency considers that any advertisement or written material may be misleading, it may ban or delay its publication or distribution, and order publishing of an appropriate correction within a specified deadline that it will determine by itself.

Article 76

- (1) Marketing of a Pension Fund to a person in the office where that person works shall be prohibited.
- (2) A person with special authorities and responsibilities must not advertise a Pension Fund to an employee.

Article 77

- (1) A Pension Company may only enter into a Membership contract or provisional Membership contract with an individual through a registered sales agent.
- (2) The sales agent must be present at the time of signing the Membership contract or provisional Membership contract with a Pension Fund and must sign that agreement.
- (3) Pension Fund marketing activities may be performed by a person after his entry in the register of sales agents.
- (4) The sales agent may perform marketing activities for Pension Funds managed by only one Pension Company. The sales agent shall be obliged to be re-registered, in order, at a later date, to perform marketing activities for Pension Funds managed by another Pension Company.
- (5) The re-registration referred to in paragraph (4) of this Article may not occur before a one-year period has expired from the date when that person ceased to be a sales agent of any other Pension Company, unless the person ceased to be a sales agent of that Pension Company because of withdrawal of that Pension Company's license.
- (6) In the register of sales agents may be entered a person who fulfils the following

requirements:

- (a) Be a citizen of the Republic of Macedonia;
 - (b) He or she has no imposed security measure prohibition to carry out a profession, activity or duty in the area of economy, finance, insurance, banking and law;
 - (c) Has completed at least secondary education; and
 - (d) Has passed an examination set by the Agency for sales agents.
- (7) The Agency shall be obliged to register a person in the sales agents register within one month of the receipt of a regular application, if he/she fulfils the requirements set out in paragraph (6) of this Article. An application for registration in the register shall be submitted by a Pension Company on behalf of the agent.
- (8) The Agency may remove from the sales agents register any person who does not meet the requirements of this Law.
- (9) If a person is removed from the sales agents register in accordance with paragraph (8) of this Article, the Agency may not permit re-registration of that person for a period of up to five years from the date of removal.
- (10) The Agency shall specify the manner and procedure for the sales agent exam and the manner and procedure for registering the person in the register of sales agents.
- (11) To the persons who shall pass the exam, the Agency shall issue a certificate for becoming a sales agent. The form and content of the certificate shall be regulated by the Agency.

Article 78

- (1) If a Pension Company through a personal contact by its employee, representative or sales agent of that Pension Company or an affiliate entities and/or persons with that Pension Company, persuades a person to cease membership in a Pension Fund managed by another Pension Company and become a Member of the Pension Fund managed by that Pension Company, it must prove that at the time of persuasion of that member, it could not have been reasonably expected that such transfer is contrary to the best interests of that member.
- (2) If a Pension Company through a personal contact by an employee, representative or sales agent of the Pension Company or an affiliate entities and/or persons with that Pension Company, persuades a male over the age of 50 or a female over the age of 45 to join a Pension Fund for a period of one year after the 1st January 2003, it must be able to demonstrate that at the time of persuasion, it could not have been reasonably foreseen that membership of that person in that Pension

Fund is contrary to the best interests of that person.

- (3) Personal contact in terms of paragraphs (1) and (2) of this Article means a meeting, telephone conversation or personally addressed correspondence between the employee, representative or sales agent of the Pension Company and the person concerned or any affiliate entities and/or persons of the person concerned.

Article 79

The usage of any procedures of Pension Fund marketing that are contrary to public morals or may harm the mandatory fully funded pension insurance shall be prohibited.

Article 80

The Agency shall closely specify the manner and procedure for the marketing of Pension Funds.

CHAPTER 9
OPERATIONS WITH ACCOUNTS AND VALUATION OF PENSION FUND
ASSETS

Article 81

- (1) Contributions, transferred assets and any investment returns subsequently earned shall be credited to individual accounts on behalf of the Members of the pension funds.
- (2) Record keeping of individual accounts in a Pension Fund shall be conducted by the Pension Company managing that Pension Fund.

Article 82

- (1) For keeping records of individual accounts and assets of pension funds, accounting units shall be used.
- (2) Each accounting unit shall, for valuation purposes, represent a proportional share in each asset of that Pension Fund.
- (3) The value of the total number of accounting units of a Pension Fund shall always be equal to the total value of that Pension Fund's net assets calculated in accordance with Article 83 of this Law
- (4) Assets from paragraph (1) of this Article may be converted into fractions of accounting units, and the value of assets standing to a Member's account may be expressed in such fractions.

Article 83

- (1) The value of the assets of a Pension Fund shall be determined on the basis of the market value of each asset.
- (2) The value of the net assets of a Pension Fund shall be determined by deducting the liabilities of a Pension Fund, except for the liabilities to Pension Fund Members, from the value of its assets.
- (3) The Agency shall, after prior opinion of the Securities and Exchange Commission, set out the manner for valuation of the assets of Pension Funds and calculation of the value of their net assets.

Article 84

- (1) The contributions shall be converted into accounting units on prior determined dates (hereinafter referred to as Valuation Dates), on the basis of the value of the accounting units on that date. The Valuation Date shall always be on the last

working day of each month. The Agency shall prescribe other Valuation Dates in shorter periods if required by the fully funded pension insurance and the financial market.

- (2) The value of one accounting unit on the first Valuation Date following the first payment of contributions to the Pension Fund shall be closely prescribed by the Agency.
- (3) Until contributions are converted into accounting units they shall be kept on a separate account of the Pension Fund. The interest on those assets shall be the Pension Fund's income.

Article 85

- (1) The value of the net assets of a Pension Fund shall be calculated at each Valuation Date, and notified to the Agency forthwith.
- (2) On each Valuation Date, the value of an accounting unit of that Pension Fund shall also be calculated, and notified to the Agency forthwith.
- (3) The calculations referred to in paragraphs (1) and (2) of this Article shall be made by the Pension Company and audited by an independent external auditor who can not be an affiliate entities and/or persons with the Pension Company, shareholders of the Pension Company, the foreign asset manager or the Custodian. These calculations shall be subject to control by the Agency.

Article 86

- (1) A Pension Company which is managing a Pension Fund has an obligation, at the end of March and September of each year, to determine the return for the previous 36 months, in accordance with paragraph (2) of this Article. If a Pension Fund had not received contributions for a period of 36 months, but has accepted them for a period of 12 months, at the end of March and September the return for a twelve month period shall be determined, or if it has been accepting contributions for 24 months, for that period. The calculation of return shall be reported to the Agency, which may publish them.
- (2) The return of a Pension Fund shall be the difference between the value of an accounting unit on the last Valuation Date of the month specified in paragraph (1) of this Article and the value of that unit on the last working day of the month ending either on 12, 24 or 36 month period, in relation to the value of that unit on the last working day of the month ending either on 12, 24 or 36 month period, depending on the period the Pension Fund has been in existence. The return shall be expressed in percentage.

Article 87

The Agency shall closely regulate:

- (a) Calculation Methodology of Pension Funds rate of return and rounding methods for those values.
- (b) The date when a Pension Company is obligated to notify the Agency of the value of its Pension Fund net assets, the precise methodology for determining the date at the end of March and September at which the calculations shall be made, the methodology for valuation, the value of an accounting unit, its Pension Fund's rate of return, as well as the manner of such notification.

Article 88

The internal accounting of Pension Companies and Pension Funds shall be maintained in accordance with relevant Laws and with international accounting standards.

CHAPTER 10
PAYMENTS OF PENSION BENEFITS

Article 89

- (1) When a Member of a Pension Fund is entitled to an old age pension according to the Law on Pension and Disability Insurance, the whole amount standing to the account of the Member shall be used, at his/her discretion, for:
 - (a) Purchasing an annuity payable for life from a specialized institution authorized for such a purpose.
 - (b) Participation in a program for scheduled withdrawals provided by the Pension Company that operates the Pension Fund where he/she was a member at retirement.

Article 90

If the accumulated assets of a Member of a Pension Fund are higher than the necessary amount for a disability pension according to the Pension and Disability Insurance Law, the Member, at his/her discretion may choose instead of that disability pension, to acquire the rights pursuant to Article 89.

Article 91

If the accumulated assets of a Member of a Pension Fund are higher than the necessary amount for a survivor's pension according to the Pension and Disability Insurance Law, the survivor pension beneficiary, at his/her discretion, may choose instead of that survivor pension, to acquire the rights pursuant to Article 89.

Article 92

- (1) When a Pension Fund Member is not entitled to an old age pension according to the Law on Pension and Disability Insurance, because he/she has not completed at least 15 years of pension service, he/she can buy a monthly annuity if that amount is equal or higher than 40% of the minimum pension.
- (2) When the calculated annuity from paragraph (1) of this Article is less than 40% of the minimum pension, the Pension Fund shall pay to the member a lump sum equal to the accumulated amount on his/her account.

Article 93

The provision of pension annuities and the program for scheduled withdrawals shall be regulated pursuant to another law.

CHAPTER 11 REPORTING AND INFORMING OBLIGATIONS

Article 94

- (1) A Pension Company shall, no later than 31 March each year, publish an information prospectus for its Pension Fund containing true and correct information as at the previous 31st December.
- (2) The information prospectus of a Pension Fund shall contain the following information relating to the Pension Fund and managing Pension Company:
 - (a) The names of the members of the management board and the supervisory board of the Pension Company;
 - (b) The names and addresses of the shareholders and their proportion of the Pension Company's equity.
 - (c) The name and address of the Custodian as well as details of any changes of Custodian made in the previous year and the reasons for those changes;
 - (d) The basic investment principles for the period mentioned in paragraph (1) of this Article and any self imposed limits on investment other than those prescribed by the Law;
 - (e) The fees charged to Members of the Pension Fund;
 - (f) Information stated in Article 95 paragraph (3) of this Law;
 - (g) The number of Pension Fund Members;
 - (h) The net asset value of the Pension Fund at the last Valuation Date preceding 31st December;
 - (i) Other information regarding the operation of the Pension Company and the Pension Fund management that may be prescribed by the Agency in order to provide transparency;
- (3) The information shall be published in a brochure format in at least one daily newspaper distributed in the whole territory of the Republic of Macedonia.
- (4) The format of the information prospectus shall be prescribed by the Agency.
- (5) A Pension Company shall make the information prospectus and the By-Law of its Pension Fund as referred to in Article 45 available for inspection by any person who applies for membership in the Pension Fund managed by that Pension

Company, before the applicant enters into a Membership contract with the Pension Fund.

- (6) A Pension Company shall also provide the information prospectus and the By-Law of its Pension Fund to any Pension Fund Member who requires it.

Article 95

- (1) A Pension Company shall on regular basis and at least once in every six months, provide each Pension Fund Member with written information about the asset balance in his/her individual account, dates of contributions and transfer payments for that Member during the relevant period, and conversion of those contributions and transfer payments into accounting units.
- (2) Upon request from a Pension Fund Member, at any time, a Pension Company is obligated within eight working days following the receipt of that request, to provide that Member with a statement of the monetary value of the assets standing to his/her account.
- (3) At least once a year a Pension Company shall provide information to each Pension Fund Member on the value and proportion of the assets of its Fund invested in particular classes of assets, including details of the issuers of particular securities on the last Valuation Date before 31st December each year. The obligation to provide data on the issuers of particular securities shall only apply to investments representing at least 1% of the value of Pension Fund assets. The Pension Company shall also provide information on the total fee paid by it or its asset managers to brokers in relation to Pension Fund assets in the period since the previous report and the average costs of such fees per accounting unit of that Pension Fund.
- (4) The information referred to in paragraphs (1) and (3) of this Article shall be provided free of charge to the Member. A Pension Company may impose a fee for providing the statement referred to in paragraph (2) of this Article, but such fee may not exceed the printing and mailing costs of providing the statement.
- (5) The information referred to in paragraphs (1) and (3) of this Article shall be submitted at such shorter intervals as specified in regulations of the Agency. The Agency shall issue regulations specifying the type and period in respect of which such information shall be submitted, the manner and format in which any information shall be provided, and its method of transmission.

Art 96

- (1) A Pension Company shall be required to submit the following information to the Agency:
 - (a) In respect of both itself and the Pension Fund which it manages, balance

sheet, income statement, signed by a certified public accountant and audited by an independent accounting firm;

- (b) In respect of both itself and the Pension Fund which it manages, the annual financial statement signed by the general manager and the chief of the accounting department, and audited by an external authorized auditor.
 - (c) Details of the acquisition and transfer of Pension Fund assets including the identity of the asset, the date and the cost of the transaction, and the brokerage company ;
 - (d) About expenses, as brokerage fees, custodial fees, commissions paid to sales agents and other expenses designated by this Law;
 - (e) Data for the shareholders of the Pension Company including their names and addresses;
 - (f) The names of and remuneration paid to, the members of the management board;
 - (g) Specimen of the information prospectus according to Article 94 of this Law;
 - (h) Information referred to in Article 95 paragraph (3) of this Law;
 - (i) Detail data for the number of Members, the number of those who have joined during the year, the numbers of those who have transferred to other Pension Funds, the number of those who have died and the number of those who have retired; and
 - (j) Other information upon request from the Agency.
- (2) The data specified in paragraph (1) of this Article shall be submitted on at least an annual basis, and if needed, at such shorter intervals as specified by the Agency. The Agency shall closely prescribe the type and period in respect of which such data shall be submitted, the manner and format in which information shall be provided, and the method of their transmission.
- (3) By exception to paragraph (2) of this Article, the data specified in paragraph (1) (c) shall be submitted on a monthly basis and at such shorter intervals as specified by the Agency. The Agency shall closely prescribe the type and period in respect of which such information shall be submitted, the manner and format in which information shall be provided, and the method of their transmission.

Article 97

- (1) A Pension Company shall submit to the Pension and Disability Insurance Fund of

the Republic of Macedonia data for: identification of Pension Fund Members, the amount standing to each Member's account and such other information as specified in the regulations of the Agency, so that the Pension and Disability Insurance Fund of the Republic of Macedonia can effectively perform its own functions pursuant to this Law, as well as for research, analysis and back-up of data. The Pension and Disability Insurance Fund of the Republic of Macedonia shall not be required to keep records of individual Member accounts. .

- (2) Data specified in paragraph (1) of this Article shall be submitted on at least an annual basis and at such shorter intervals as specified by the Agency. The Agency shall closely prescribe the type of data that may be required by the Pension and Disability Insurance Fund of the Republic of Macedonia, the manner and format in which they shall be provided and the method of their transmission.

CHAPTER 12 FEES AND COMMISSIONS

Article 98

- (1) A Pension Company may only charge the following fees:
 - (a) By deducting a specific percentage from the contributions paid, prior to contributions being converted into accounting units;
 - (b) By deducting 0.05% of the value of the managed net assets of the Pension Fund per month, to cover costs of management of the Pension Fund by the Pension Company. The fee calculation shall be made, at each valuation date of the Pension Fund assets and shall be payable on the last working day of the month following that valuation;
 - (c) By deducting a specific amount from the amount standing to the account of a Pension Fund Member. Such a deduction shall be made only if Member's assets are transferred to another Pension Fund, in the case when a period of 24 months has not expired from the date when he/she became a Member of that Fund. The maximum fee and the method of payment of the fee shall be closely prescribed by the Agency with the prior consent of the Ministry of Labour and Social Policy.
- (2) Fees referred to in paragraph (1)(c) of this Article shall be allocated immediately from the account of the Pension Fund to the account of the Pension Company that manages that fund.
- (3) The fee referred to in paragraph (1)(c) of this Article can not be imposed in the following circumstances:
 - (a) If the Pension Company that should transfer the assets from one to another Pension Fund has increased or notified of an increase in the fees referred to paragraph (1) of this Article, in the period of six months preceding the date of asset transfer.
 - (b) If the Agency adjudicates that the person joined the Pension Fund following marketing activities contrary to the provisions of this Law; or
 - (c) In the event when the Pension Company managing the Pension Fund enters into bankruptcy procedures or has its license to manage that Pension Fund cancelled or withdrawn by the Agency.

Article 99

- (1) A Pension Company shall charge the same percentage fees as specified in Article

98 to all its Pension Fund Members.

- (2) The fee referred to in Article 98 (1) (b), as an exception to paragraph (1) of this Article, may be reduced in relation to all persons who have been Pension Fund Members for a period specified by the Agency. Fees must be reduced on a uniform basis so that there is no differentiation in relation to persons who have been Members of the same Pension Fund for the same period of time.

Article 100

- (1) The Pension Company is obligated to inform all Pension Fund Members if there is a proposal referring to increase of the fee percentages stated in Article 98 (1)(a) or (b) of this Law, or an increase in the fee percentages or the absolute amount stated in Article 98 (1)(c) of this Law, at least six months before implementation. .
- (2) The notification referred to in paragraph (1) of this Article must be provided in writing and delivered to each Pension Fund Member and to the Agency. This notification must be published in at least one daily newspaper widely circulated in the Republic of Macedonia.
- (3) If a person enters into a temporary agreement pursuant to Article 61 of this Law he/she must be provided with a copy of the notification stated in paragraph (1) of this Article, which has been or is due to be distributed to the Members of that Pension Fund in relation to a forthcoming increase of fees. In such instance, the provision of Article 98 (3)(a) shall not have effect in relation to that Pension Fund Member.
- (4) A Pension Company can not increase the level of fees stated in Article 98 of this Law in relation to a Pension Fund it manages in the first ten years following the first receipt of contributions by any Member of that Pension Fund.

Article 101

- (1) Brokerage fees related to the performance of transactions for the acquisition or transfer of a Pension Fund's assets shall be paid from the Pension Fund's assets.
- (2) It shall be an obligation for the Pension Company to control any fees paid to the Brokerage companies from the Pension Fund it manages, in order to ensure that the fees are fully competitive with those charged by other brokers for similar transactions.

Article 102

- (1) The Pension and Disability Insurance Fund of the Republic of Macedonia shall charge fees for the functions it performs pursuant to this Law.
- (2) The fees referred to in paragraph (1) shall be determined by the Pension and

Disability Insurance Fund of the Republic of Macedonia with a prior consent by the Government of the Republic of Macedonia, as a percentage of the contributions paid to each Pension Fund.

- (3) The fees related to this Article shall be paid by the Pension Company.
- (4) The fees charged to each Pension Fund pursuant to this Article shall be uniform for all Pension Funds and shall not exceed 1.2 % per annum.
- (5) The terms of payment related to the fees paid to the Pension and Disability Insurance Fund of the Republic of Macedonia shall be determined by the Agency.

Article 103

All other costs related to Pension Fund operations and not covered by provisions, fees, or charges set out in this Law, shall be covered by the managing Pension Company.

CHAPTER 13
INVESTMENT OF PENSION FUNDS

Article 104

- (1) The assets of a Pension Fund shall only be invested in accordance with the provisions of this Law and in order to maximize the return resulting from the investment solely for the benefit of Pension Fund Members, subject to ensuring the following:
 - (a) The security of Pension Fund assets;
 - (b) Diversification of investment risk;
 - (c) Maintenance of adequate liquidity.
- (2) Investment in accordance with any other objectives shall constitute a serious breach of the obligations of a Pension Company.

Article 105

- (1) According to the provisions of Articles 106 and 107 of this Law, the Pension Fund assets can only be invested in the following instruments:
 - (a) Bank deposits with banks that are licensed by the National Bank of the Republic of Macedonia, provided that such accounts are interest bearing;
 - (b) Bonds, and other securities issued or guaranteed by the National Bank of the Republic of Macedonia;
 - (c) Certificate of deposit and other securities issued or guaranteed by banks that are licensed by the National Bank of the Republic of Macedonia;
 - (d) Mortgage backed securities issued by banks that are licensed by the National Bank of the Republic of Macedonia;
 - (e) Bonds, and other securities issued or guaranteed by the Republic of Macedonia
 - (f) Shares issued on the grounds of approval from the Securities and Exchanges Commission of the Republic of Macedonia that are traded on the official market of the security stock exchange or other organized security markets in the Republic of Macedonia, controlled by the Securities and Exchange Commission of the Republic of Macedonia;
 - (g) Securities issued by Macedonian joint stock companies on the grounds of approval from the Securities and Exchange Commission of the Republic of Macedonia that are traded on the official market of the security stock

exchange or other organized security markets in the Republic of Macedonia, controlled by the Securities and Exchange Commission of the Republic of Macedonia;

- (h) Commercial notes issued by first-class Macedonian joint stock companies;
 - (i) Participation units and shares of Macedonian investment funds authorized to operate pursuant to the Law on Investment Funds;
 - (j) Bonds, and other securities issued or authorized by foreign Governments or central banks of a European Union country, Japan or the United States of America;
 - (k) Bonds, and other fixed income securities with a minimum investment grade level rating by reputable international rating agencies of non-state foreign companies or banks of a European Union country, Japan or the United States of America;
 - (l) Shares and securities with a minimum investment grade level rating by reputable international rating agencies traded on the main stock exchanges of a European Union country, Japan or the United States of America;
 - (m) Participation units, shares and other securities issued by authorized open-end and close-end investment funds established in a European Union country, Japan or the United States of America that are invested primarily in quoted equities in their own countries;
 - (n) Other forms of investment in pursuant to regulations of the Agency, provided that such investments are not contrary with Article 108, with a prior opinion of the Securities and Exchange Commission of the Republic of Macedonia.
- (2) Trading with Pension Fund securities shall be carried out in organized secondary capital markets, except trading with securities issued by any state and short-term securities that may be purchased directly from the issuing institution, as well as participation units or shares of any investment fund that may be purchased directly from that fund or their managing company.
- (3) Assets of Pension Funds may be invested in instruments which fulfil the requirements set up by the Agency specifying:
- (a) Requirements to be satisfied by organized secondary capital markets in which such Fund assets are traded;
 - (b) Quality requirements to be met by shares, bonds and other securities into which Pension Fund assets are invested;
 - (c) Countries or groups of countries into which Pension Fund assets may be

invested.

Article 106

- (1) The Agency shall by regulations specify the maximum proportion of any company or asset in which the Pension Fund assets can be invested, with a prior opinion of the Securities and Exchange Commission of the Republic of Macedonia.
- (2) The Agency shall by regulations specify the maximum proportion of any instrument in which the Pension Fund assets can be invested, with a prior opinion of the Securities and Exchange Commission of the Republic of Macedonia.
- (3) The Agency may not specify the minimum proportion in which the Pension Fund assets must be invested.
- (4) The Agency may not lower the maximum amounts specified in paragraphs (1) and (2) of this Article and the amounts stated in Article 107 of this Law, except by giving notice addressed to all Pension Companies at least one year before the amounts are lowered.
- (5) The Agency may prescribe before the January 1st 2004, investment limits in particular classes of assets different to the ones set out in Article 107 of this Law, which will subsist for a period specified by the Agency, but not longer than five years beginning from January 1st, 2004.
- (6) The Agency regulation referred to in paragraph (5) of this Article can not be cancelled in whole or in part without prior notice, which the Agency is obligated to deliver to all Pension Companies, at least one year before the cancellation.

Article 107

- (1) Investments in particular instruments according to Article 105 paragraph (1)(a)-(o) of this Law shall be subject to the following restrictions:
 - (a) No more than 20% of the value of the assets of the Pension Fund may be invested in assets issued by a foreign issuer outside the Republic of Macedonia. Within this restriction no more than 5% of the Pension Fund asset value may be invested in instruments stated in Article 105 paragraph (1)(k) of this Law and no more than 5% of the Pension Fund asset value may be invested in instruments stated in Article 105 paragraph (1)(l) and (m) of this Law;
 - (b) No more than 80% of the Pension fund asset value can be invested in the instruments stated in Article 105 paragraph (1)(b) and (e) of this Law;
 - (c) No more than 60% of the Pension Fund asset value can be invested in the

instruments stated in Article 105 paragraph (1)(a), (c) and (d) of this Law.

- (d) No more than 40% of the Pension Fund asset value can be invested in the instruments stated in Article 105 paragraph (1)(g) and (h) of this Law.
- (e) No more than 30% of the Pension Fund asset value can be invested in the instruments stated in Article 105 paragraph (1)(f) of this Law.
- (f) No more than 20% of the Pension Fund asset value can be invested in the instruments stated in Article 105 paragraph (1)(i) of this Law.

Article 108

- (1) The Pension Fund assets may not be invested in the following instruments:
 - (a) Shares, bonds and other securities that are either unlisted or not publicly traded;
 - (b) Instruments that are legally prohibited;
 - (c) Commodities that are not frequently quoted on organized markets and have uncertain valuation, for example antiques, works of art, and motor vehicles;
 - (d) Real estate or any interest in real estate with the exception of mortgage backed securities and indirect investment through open-end and close-end investment funds;
 - (e) Shares, bonds and other securities issued by:
 - i) Any shareholder of the managing Pension Company;
 - ii) The Custodian of the Pension Fund;
 - iii) Any person who is an affiliate entity and/or person in relation to the entities listed in points (i) and (ii) above;
 - (f) Futures, options, forward contracts and other derivatives;
 - (g) Other instruments specified by the Agency with a prior opinion of the Securities and Exchange Commission of the Republic of Macedonia in which the investment would be contrary to the interests of the Pension Funds members.

Article 109

- (1) In the case of breach of the provisions of this Law as a result of a market price changes, changes in the foreign currency exchange rate, changes in organizational or economic relations between entities in which the Pension Fund assets are invested,

and other circumstances beyond the immediate control of the managing Pension Company, the managing Pension Company must forthwith report this to the Agency, and must cease further investment in that instrument and shall undertake measures to adjust its Pension Fund's investment activities in accordance with this Law.

- (2) As an exception to paragraph (1) of this Article, the Pension Company shall not be under an obligation to correct immediately the excess of investment limits set out in this Law, if the individual excess does not exceed the limit by 20% and the sum of total excesses does not exceed 5% of the net asset value of the Pension Fund.
- (3) The Pension Company is under an obligation to adjust the investment activities of the Pension Fund it manages to the requirements specified in this Law within a period of six months after the date on which the breach occurred, or after the Valuation Date when it becomes clear that there is a breach of the provisions of this Law, whichever of the above occurs first.
- (4) Upon the request of the managing Pension Company, submitted no later than thirty days after the date when a breach occurred or was ascertained, the Agency has the right to extend the period from paragraph (3) of this Article but not for more than six months, if it is justified by the need to protect the interests of Members.

Article 110

A Pension Company is prohibited from:

- (a) Selling its Pension Fund's assets to itself, to the Custodian holding its assets, the foreign asset manager of the Pension Fund and affiliate entities and/or persons in relation to any of the entities listed above, except through a transaction on organized secondary markets
- b) Buying assets from any of the entities listed in sub-paragraph (a) of this Article with the Pension Fund's assets, except through an open market transaction on organized secondary markets;
- c) To use its Pension Fund's assets to grant loans or to provide guarantees.

Article 111

- (1) The Pension Company, its shareholders, its Custodian, assets managers, members of the management board and the supervisory board, and any person, including Agency officials, whose job or position give them the possibility to obtain information regarding the investment of the Pension Fund's assets or any plans for investment, and such information has not been released officially to the market, and is capable of affecting the price of the listed instruments, are obligated to keep such information

confidential as a business secret.

- (2) Persons and entities referred to in the previous paragraph can not make direct or indirect use of confidential information referred to in the previous paragraph in order to obtain advantages for themselves or others, apart from the Pension Fund, by buying or selling securities.
- (3) A Pension Company shall be obliged to compensate a Pension Fund that it manages for any direct harm that the Pension Company, any of its directors, persons with special authorities and responsibilities and other employees cause as a consequence of a breach of the provisions of this Law and especially Articles 104 - 114.

Article 112

- (1) The Pension Company is obligated to manage the Pension Fund's assets and must not delegate any responsibility for this.
- (2) As an exception to paragraph (1) of this Article, the Pension Company may delegate the managing of the Pension Fund assets outside the Republic of Macedonia to an asset manager or asset managers with Headquarters outside the Republic of Macedonia, which on the basis of law of the relevant country are entitled to manage securities.
- (3) In the event referred to in paragraph (2) of this Article, the By-Laws of a Pension Company shall define the criteria and the manner for delegating the right to manage the foreign assets of the Pension Fund.
- (4) The Pension Company is obligated to notify the Agency in case the foreign asset manager changes, but shall not require its approval.
- (5) The Agency shall issue secondary regulation referring to the delegation of the right to manage the Pension Fund's assets to an asset manager with its principle place of business outside the Republic of Macedonia.

Article 113

- (1) A Pension Company may borrow money on behalf of and for the account of the Pension Fund it manages for the exclusive purpose of enhancing the liquidity of the Pension Fund.
- (2) The total amount of money borrowed can not exceed a certain percentage of the Fund's asset value, as specified by the Agency, but not more than 5% . .

Article 114

The Agency, with a prior consent of the Ministry of Labour and Social Policy may issue

additional investment restrictions in order to protect the interests of Pension Fund Members.

CHAPTER 14 THE CUSTODIAN

Article 115

- (1) A Pension Company is obligated to appoint a single Custodian to whom it shall delegate the responsibility for keeping the assets of the Pension Fund.
- (2) In the event that the Pension Fund has assets outside the Republic of Macedonia the Custodian shall appoint another sub-custodian in order to keep those assets which shall be a bank or specialized depository institution holding a current working license issued by the authorized institutions in the country outside the Republic of Macedonia and is authorized for such activity pursuant to the law of the country where the Pension Fund assets should be kept. The sub-custodian appointed in respect of assets outside the Republic of Macedonia must have a minimum investment grade level rating granted by reputable international rating agencies. The Agency shall regulate in detail the criteria for the rating of the Sub-Custodian.
- (3) All instruments representing Pension Fund Investments shall be kept by the Custodian.
- (4) The Custodian may perform asset keeping services for more Pension Funds, but at the same time, is under an obligation to keep the assets, operations and record keeping of each Pension Fund's assets, strictly segregated from each other, from the other account holders and from its own assets, operations and record keeping.

Article 116

- (1) The Custodian of domestic assets can be a bank holding a current banking licence issued by the National Bank of the Republic of Macedonia.
- (2) In order to provide custodian functions for the Pension Funds, the Custodian must fulfil the following terms and conditions:
 - (a) To have minimum capital of 20,000,000 Euros in MKD counter value at the exchange rate of the National Bank of the Republic of Macedonia, according to the capital definition in the Banking Law ;
 - (b) Neither to be shareholder in the Pension Company which manages the Pension Fund whose assets it keeps, nor a shareholder in an entity which is an affiliate entities and/or persons to the Pension Company, and must not maintain any other capital relationship between these entities.;
 - (c) Must not have any employees or members of its Management Board or Supervisory Boards who are employees of or members of the Management Board, Supervisory Boards or a General Manager of the Pension Company that manages the Pension Fund whose assets it keeps and not to be in such

relationships with other persons who are affiliate entities and/or persons of the Pension Company.

Article 117

- (1) The Custodian of a Pension Fund shall have the following functions:
 - (a) Keeping securely any securities which constitute Pension Fund assets;
 - (b) The securities which represent the assets of the Pension Fund are kept as a dematerialised securities on a separate account in the Central securities depository;
 - (c) Keeping settlement documents relating to the transfer of monetary funds to the bank account of the Pension Fund and the transfer of monetary funds from the bank account of the Pension Fund;
 - (d) Acting as clearing agent, buying and selling securities under the Pension Company's instructions and collecting payments of dividends, interest and all other incomes related to Pension Fund investments;
 - (e) Ensuring that agreements related to the acquisition, investment, and disposal of Pension Fund assets are in accordance with this Law and, the By-Law of the Pension Fund and any instructions of the Pension Company and that such instructions are according to the Law;
 - (f) Cooperate with and supervise the sub-Custodians; and
 - (g) Calculation and payment of taxes.
- (2) Any fee to the Custodian shall be paid directly by the Pension Company from its own assets.

Article 118

- (1) The Custodian shall forthwith notify the Agency orally and then in writing if it becomes aware of or suspects any breach of a custody agreement in which it is a contracting party, this Law or any action contrary to the interests of Pension Fund Members.
- (2) The obligation referred to in paragraph (1) of this Article shall apply both in respect of breaches and actions committed by the Pension Company or by any other entity.
- (3) The custodian shall submit reports to the Agency relating to its activities every six months or shorter time periods. The Agency shall in detail regulate the period, the

form, and the data that should be included in the reports.

Article 119

- (1) There must be a permanent agreement between the Pension Company and the Custodian. This agreement must set out the following:
 - (a) The specific functions, duties and obligations of the Custodian including its responsibilities for registration and settlement;
 - (b) The extent of liability for sub-Custodians; and
 - (c) The fee of the Custodian
- (2) An appointment of a Custodian and the agreement referred to in paragraph (1) of this Article shall be made with the prior written approval of the Agency.

Article 120

- (1) No agreement shall limit the Custodian's statutory responsibilities and any attempt to do so shall be null and void.
- (2) The Custodian shall be liable for damages incurred as a result of the non-performance or incorrect performance of its responsibilities and such damages can not be covered from the assets of the Pension Fund.
- (3) To the extent that a Custodian delegates any of its responsibilities in accordance with Article 115 (2) it cannot delegate the liability referred to in paragraph (2).
- (4) To the extent that a bank is a Custodian and it or its affiliate entities and/or persons are shareholders of a Pension Company it must take appropriate measures to ensure maintenance of confidentiality.

Article 121

- (1) The period of notice of dissolution of a custody agreement can not be less than six months except in the circumstances specified in Article 122. The contracting party giving the notice shall do this in writing and immediately inform the Agency of this notice as well as the reasons for dissolution of the contract.
- (2) The appointment of any new Custodian shall be done only upon prior written approval by the Agency and, in order to obtain such approval, the relevant Pension Company shall furnish the Agency with such information about the proposed Custodian as it may reasonably required.

Article 122

- (1) In the event of withdrawal of a Custodian's banking license by the National Bank

of the Republic of Macedonia for non-performance or improper performance by a Custodian of the custodial agreement, or in a case of bankruptcy or liquidation procedure of the Custodian:

- (a) The relevant Pension Company shall forthwith serve notice to the Custodian to terminate the agreement and immediately notify the Agency of the fact;
 - (b) The Pension Company shall forthwith attempt to appoint a new Custodian as soon as possible and shall attempt to obtain approval from the Agency for that purpose;
 - (c) If the Pension Company fails to take the steps at sub-paragraphs (a) and (b) the Agency may order change of the Custodian or appoint a new Custodian.
- (2) The Agency may also order the Pension Company to change the Custodian if the financial or organizational structure of the Custodian has deteriorated substantially thus, posing a potential threat to the security of the assets kept in its custody.
 - (3) The National Bank of the Republic of Macedonia and any other regulatory authority shall forthwith notify the Agency of any instance of material deterioration in the financial or organizational structure of a bank acting as a Custodian of which it is aware and which it considers could threaten the interests of Pension Fund Members. The scope, content and form of the notification shall be mutually regulated by the Agency and the National Bank of the Republic of Macedonia and other competent institutions.

Article 123

- (1) Each change of a Custodian shall be made in a manner which ensures continuous performance of custodial duties in respect of the Pension Fund assets.
- (2) Where a contract with a Custodian is dissolved, the Custodian shall release the Pension Fund assets in its custody and all documents relating to the performance of duties referred to in Article 117 to a new Custodian within a period agreed by the contracting parties, not exceeding 30 Working Days after the signing of a contract between the new Custodian and the Pension Company.

Article 124

Pension Fund assets deposited in accordance with the provisions of this Law can not be subject to execution against a Custodian, and shall not be a part of the assets of the Custodian to which the bankruptcy and liquidation procedure applies, and can not be subject to any settlement proceedings.

CHAPTER 15 GUARANTEES

Article 125

- (1) The State Budget shall make a payment to a Pension Fund in the following circumstances:
 - (a) The assets of the Pension Fund are depleted by means of an act which appears to be criminal and to involve fraud or theft. For the avoidance of doubt this does not apply to the loss of value in the assets of the Pension Fund in the event of investment contrary to the provisions of this Law or to a loss caused by fraud or theft in an entity in whose securities the Pension Fund assets are invested;
 - (b) The assets of the managing Pension Company are insufficient to meet the depletion referred to in sub-paragraph (a).
 - (c) The Agency recommends in a report to the Minister of Finance that a payment from the State Budget should be made and that in its opinion it is unlikely that the depletion will be made good within six months after the date of its recommendation and that the other requirements in this paragraph have been satisfied.
 - (d) The report referred to in sub-paragraph (c) of this Article shall be made publicly available no later than five Working Days after it is sent to the Minister of Finance.
- (2) The payment of state budget assets is not conditioned with bringing a bill of indictment against a person in accordance with this Article.
- (3) In the event that all of the circumstances in paragraph (1) of this Article are satisfied, the State Budget shall forthwith following receipt of the report referred to at paragraph (1)(c) make an asset transfer to the Pension Fund.
- (4) The amount paid to the Pension Fund shall be 80 % of the amount of the depletion as of the date or dates of depletion, adjusted in line with the average performance of all Pension Funds, calculated for the period between the date of depletion and the date of payment.
- (5) If the Agency recommends in a report pursuant to paragraph (1)(c) that payment be made in accordance with this Article, no person may join the Pension Fund until the payment has been made. The provisions from Article 58 to 62 shall be subject to this restriction, too.
- (6) Forthwith upon issuing the report referred to in paragraph (1)(c), the Agency shall notify each Member of the affected Pension Fund in writing that it is likely that a

payment will be made and that it could be contrary to that person's interests to leave the Pension Fund until the payment is made.

Article 126

- (1) In the event that a payment is made from the State Budget, the Agency shall withdraw the approval for the Pension Company to manage the Pension Fund receiving the payment if it considers that the Pension Company was in any way culpable in relation to the loss.
- (2) In the event that a payment is made from the State Budget the Agency shall take all reasonable efforts to trace and recover any depleted assets and seek compensation and redress, whether from those directly responsible for the loss or from those who have received or benefited from such depleted assets.
- (3) To the extent that the Agency is able to trace and recover depleted assets or seek compensation or redress pursuant to paragraph (2) above, such money shall be used to repay any payment from the State Budget in an amount equal to the original payment from the State Budget increased by interest at the discount rate of the National Bank of the Republic of Macedonia. To the extent that there is any surplus money after repaying the State Budget, it shall be paid to the Pension Fund which had its assets depleted provided that the Pension Fund is still in existence and has Fund Members. If the Pension Fund is no longer in existence or does not have any Fund Members, then such excess amount shall also be paid to the State Budget.
- (4) The Agency shall closely regulate the manner and terms of repayment to the Pension Fund from the State Budget.
- (5) In the event that the terms of payment from the State Budget are fulfilled, and the Pension Company does not have its approval to manage a Pension Fund withdrawn, it shall assign to the Agency its rights to take legal action in relation to the declining of the Pension Fund's assets. If it fails to do so, the Agency shall promptly withdraw the license of that Pension Company.

**CHAPTER 16
PENALTIES**

a) CRIMES

Article 127

- (1) Authorized person in a Pension Company who with false presenting or covering up of facts, by misleading or in another illegal way influence a decision in the Pension Company for illegal use or investment of the Pension Fund assets, and because of that cause damage to the Pension Fund assets, shall be punished with imprisonment from one to five years.
- (2) If, due to the act referred to in paragraph (1) of this article, damage to the fund assets of big proportion has been made, the perpetrator will be punished with imprisonment from one to ten years.

Article 128

- (1) An authorized person in a Custodian, who by failing to carry out or irregular carrying out of its legal duties for safety keeping of securities which are the assets of the Pension Fund, causes damage to those assets, will be punished with a fine or with imprisonment for a maximum of three years.
- (2) With the penalty referred to in paragraph (1) of this article will be also punished an authorized person in the Custodian who shall permit realization of a contract for investment transactions of the Pension Fund assets knowing that it is illegal and because of that a damage has been caused to those assets;
- (3) If, because of the act referred to in paragraph (1) of this article, damage to the Pension Fund assets of big proportion has been caused, the perpetrator will be punished with imprisonment from one to five years.

Article 129

An authorized person in the Pension Company or another company who performs the activities related to mandatory fully funded pension insurance, who with passing over or failing to carry out its authorizations, shall violate, deprive, or limit the rights of a Pension Fund Member which belong to him/her according to the Law, will be punished with fine or imprisonment up to three years.

a) BREACHES

Article 130

- (1) The Pension Company shall be charged for a felony with a fine from 100.000 to 300.000 MKD in case of:
1. Carrying out activities not predicted in Article 6 (1) of this Law;
 2. Establishes more than one Pension Fund in first ten years after January 1st 2004 contrary to Article 6 (2);
 3. Failing to increase the equity in accordance with Article 9 (2) of this Law;
 4. Not paying the capital in proper way according to Article 10 of this Law;
 5. The initial capital derives from sources which are not allowed by Article 11 (1) and (2) of this Law;
 6. Not maintaining or increasing the paid in capital according to Article 12 of this Law;
 7. Fails to bring into accordance in a period of six months according to Article 14 (5);
 8. Not applying for a prior consent for transaction of shares pursuant to Article 15 (1);
 9. Buy shares of another Pension Company or reorganize, contrary to Article 16 (5) and (6) of this Law;
 10. Uses own assets for purposes prohibited in Article 19;
 11. Fails to fulfil the requirements predicted in Article 20 of this Law;
 12. Fails to appoint external authorized auditor of good repute according to Article 21 of this Law;
 13. Makes changes without obtaining prior approval from the Agency according to Article 37 of this Law;
 14. Refuses to provide access to business books, documents and other records to an authorized person conducting an inspection on behalf of the Agency according to Article 53 (3) of this Law;
 15. Fails to fulfil the obligations required by Article 63 (1) and (3) of this Law;
 16. Fails to transfer the assets from the account of the Pension Fund Member

who acquired disability pension, into the Pension and Disability Insurance Fund of Macedonia, pursuant to Article 65 of this Law;

17. Fails to fulfil its obligations in a case of death of a Pension Fund Member, stipulated in Article 66 of this Law;
18. To give the assets from the account of Pension Fund Member as security, assign or transfer for the benefit of another person, contrary to the provisions of Article 67 of this Law;
19. Gives or disclosures wrong information referring the Pension Fund, which could mislead the Current or the Future Pension Fund Members or give statements and forecasts for the future investment results of the Pension Fund in accordance with Article 75 (1) and (2) of this Law;
20. Perform marketing activities for the Pension Fund to an individual at his/her working place contrary to Article 76 of this Law;
21. Uses any marketing activities for the Pension Fund, prohibited by Article 79 of this Law;
22. Fails to dispose contributions, transferred assets and investment return to individual accounts of the Pension Fund Members and fails to make record keeping in accordance with Article 81 of this Law;
23. Fails to convert contributions and transferred assets into accounting units according to Article 82 of this Law;
24. Valuation of Pension Fund assets contrary to the rules contained in Article 83 of this Law;
25. Fails to calculate net assets of the Pension Fund and the value of the accounting unit at each date of valuation, according to Article 85 (1) and (2) of this Law;
26. Fails to calculate the investment return of the Pension Fund it manages according to Article 86 of this Law;
27. Fails to respect the requirements referring to the publishing information prospectus contained in Article 94 (1), (2), (3) and (4) of this Law;
28. Fails to provide review in the information prospectus and in the By-Law of its Pension Fund to every person who will apply for a membership in that Pension Fund or to its Member, contrary to Article 94 (5) and (6) of this Law;

29. Fails to fulfil the obligation for informing the Pension Fund Members on regular basis according to Article 95 of this Law;
30. Fails to submit information and data to the Agency and to the Pension and Disability Insurance Fund, or provide inaccurate information and data according to Article 96 and 97 of this Law;
31. Charges fees in a manner or of an amount not prescribed in Articles 98 and 99 of this Law;
32. Fails to notify the Agency and all Pension Fund Members for any change in the level of the fees, in manner and for such period of time as stated in Article 100 of this Law,;
33. Fails to ensure complete concurrence of the fees paid to brokers, pursuant to Article 101 of this Law;
34. Reimburses expenses contrary to Article 103 of this Law;
35. Investing Pension Fund assets contrary to the principals, goals, instruments and investment limits stated in Articles 104 - 109 of this Law;
36. Buying, selling or using the assets contrary to the limits stated in Article 110 of this Law;
37. Delegates the Pension Fund assets management or transfers the responsibility for that to another entity, contrary to Article 112 of this Law;
38. Borrow money contrary to the goals and the limits specified in Article 113 of this Law;
39. Fails to appoint Custodian to whom it commits the responsibility for keeping the Pension Fund assets, or does not have permanently an agreement with the Custodian according to Article 115 (1) and (2) and Article 119 of this Law;
40. Appointed Custodian does not fulfil the requirements specified in Article 116 of this Law;
41. Fails to notify the Agency for the intention to cancel the agreement with the custodian according to Article 121 of this Law;
42. Does not fulfil the obligations stated in Article 117 (1)(a), (b) and (2) of this Law;

43. Does not ensure permanently performance of the services referring to the keeping of the Pension Fund assets, according to Article 123 (1) of this Law;
 44. Fails to delegate its rights for legal proceeding to the Agency, pursuant to Article 126 of this Law;
- (2) If, with the breach referred to in paragraph (1) of this Article, a bigger property is earned or a bigger property damage is caused, the Pension Company can be fined up to twenty times amount from the benefited profit or caused damage.
 - (3) Additionally to the fine referred to in paragraph (1) of this Article, to the Pension Company can be imposed security measure prohibition for managing the Pension Fund for a period to five years and for breach referred to in paragraph (2) of this Article or in a case of repetitive breach, this measure is obligatory imposed.
 - (4) A fine equivalent to 30,000 to 50,000 MKD shall be charged for a breach referred to in paragraph (1) of this Article to an authorized person of the Pension Company;
 - (5) If the breach referred to in paragraph (1) of this Article is committed with theft as a motive, the person in charge of the Pension Company can be fined to a double amount of the maximum prescribed fine in paragraph (4) of this Article.
 - (6) Additionally to the fine referred to in paragraph (4) and (5) of this article, to the authorized person can be imposed security measure prohibition for performing the duty of a general manager, manager, member of the Management Board or the Supervisory Body in the Pension Company, for a period of one year.

Article 131

- (1) A fine equivalent from 50.000 to 200.000 MKD shall be charged for a breach committed by a Pension Company in case the Pension Company:
 1. Fails to proceed according to the requirements stated in Article 36 of this Law;
 2. Fails to provide a copy of the Membership contract to each Member, or fails to notify the Pension and Disability Insurance Fund of Macedonia, according to Article 59 (5) of this Law;
 3. Refuses to enter a Membership contract with an insurer who fulfils the requirements specified in the Pension and Disability Insurance Law, according to Article 59 (7) of this Law;

4. Fails to forward to the Pension and Disability Insurance Fund of Macedonia the provisional Membership contract within the time period specified in Article 61 (1) of this Law;
 5. Fails to ensure the rights to a Pension Fund Member who has ceased to contribute in the Pension Fund before its retirement, according to Article 64 of this Law;
 6. Concludes a Membership contract or provisional agreement with a person without the Sales Agent efforts, contrary to the Article 77 (1) of this Law;
 7. Performs internal accounting contrary to the relevant Macedonian laws and international accounting standards as specified in Article 88 of this Law;
 8. Proceeds contrary to Article 125 (5) of this Law;
- (2) If, with the breach referred to in paragraph (1) of this Article, a bigger property is earned or a bigger property damage is caused, the Pension Company may be fined up to ten times the amount from the earned property or caused damage.
 - (3) Additionally to the fine referred to in paragraph (1) of this Article to the Pension Company can be imposed security measure of prohibition for managing the Pension Fund for a period of up to three years, and for breach referred to in paragraph (2) of this Article or in case of repetitive breach this measure is obligatory imposed.
 - (4) A fine equivalent to 10,000 to 30,000 MKD will be charged for a breach referred to in paragraph (1) of this Article to an authorized person of the Pension Company, as well.
 - (5) If the breach referred to in paragraph (1) of this Article is committed with theft as a motive, the authorized person can be fined to a double amount of the maximum prescribed fine in paragraph (4) of this article.
 - (6) Additionally to the fine referred to in paragraph (4) and (5) of this Article, to the authorized person can be imposed security measure of prohibition in performing the duty of a general manager, manager, member of the Management Board or the Supervisory Board in the Pension Company for a period of up to one year.

Article 132

- (1) A fine equivalent to 100,000 to 300,000 MKD shall be charged for a breach committed by a Custodian in case the Custodian:

1. Fails to keep the assets, operations and record keeping separately for each Pension Fund, strictly segregated from the other clients and from own assets, operations and record keeping according to Article 115 (4) of this Law;
 2. Failing to comply with the requirements of Article 116 of this Law;
 3. Failing to perform the functions specified in Article 117 of this Law;
 4. Refuses to provide access to business books, documents and other records to an authorized person conducting an inspection on behalf of the Agency according to Article 53 (3);
 5. Fails to notify the Agency forthwith in case of any breach of the custodian agreement, the Law or actions contrary to the interest of the Pension Fund Members, done by the Pension Company or any other entity according to Article 118 of this Law;
 6. Covers damages from the Pension Fund assets, contrary to the Article 120 (2) of this Law;
 7. Fails to ensure complete confidence of the data, according to Article 120 (4) of this Law;
 8. Fails to notify the Agency for the intention to cancel the agreement with the Custodian according to Article 121 of this Law;
 9. Fails to fulfil the obligations specified in Article 123 (2) of this Law in case of dissolution of the custody agreement;
- (2) If, with the breach referred to in paragraph (1) of this Article, a bigger property is earned or a bigger property damage is caused, the Custodian can be fined up to twenty times the amount of the earned property or caused damage.
- (3) Additionally to the fine referred to in paragraph (1) of this Article, to the Custodian can be imposed security measure of prohibition in performing the duty of custody for a period to five years, and for the breach referred to in paragraph (2) of this Article or in case of repetitive breach, this measure is obligatory imposed.
- (4) A fine equivalent to 30,000 to 50,000 MKD will be charged for a breach referred to in paragraph (1) of this Article to an authorized person of the Custodian, as well.
- (5) If the breach referred to in paragraph (1) of this Article is committed with theft as a

motive, the authorized person in The Custodian can be fined to a double amount of the maximum prescribed fine in paragraph (4) of this Article.

- (6) Additionally to the fine referred to in paragraphs (4) and (5) of this Article, to the authorized person can be imposed security measure prohibition in performing the duty of a general manager, manager, member of the Management Board, the Supervisory Board, or in another working body in the Custodian, for a period of up to one year.

Article 133

- (1) A fine equivalent to (from) 100.000 to 300.000 MKD will be charged for a breach committed by the Pension and Disability Insurance Fund of Macedonia in case it:
 1. Fails to transfer contributions in the Pension Funds chosen by Members, in percentages and time limits specified in Article 60 and 69 (1)(c) of this Law;
 2. Fails to fulfil the obligations provided by Article 68 (1) and (2) of this Law;
 3. Fails to submit to the Pension Companies data referring the contribution payment, according to Article 69 (1)(d) of this Law;
- (2) A fine equivalent to 30,000 to 50,000 MKD will be charged for a breach referred to in paragraph (1) of this Article to an authorized person of the Pension and Disability Insurance Fund of Macedonia, as well.

Article 134

- (1) A fine equivalent to 30,000 to 50,000 MKD shall be charged for a breach committed by an authorized person of the Agency in case of performing other duties contrary to Article 52 of this Law;
- (2) Additionally to the fine referred to in paragraph (1) of this Article, to the authorized person can be imposed security measure of prohibition in performing the duty of an authorized person in the Agency for a period of up to one year.

Article 135

- (1) A fine equivalent to 100,000 to 300,000 MKD will be charged for a breach committed by an entity that has applied on the public tender and knowingly submitted inaccurate information in the application contrary to Article 29 of this Law;
- (2) A fine equivalent to 30,000 to 50,000 MKD will be charged for a breach referred to in paragraph (1) of this article to an authorized person of the entity that has applied on the public tender, as well.

Article 136

A fine equivalent to 30,000 to 50,000 MKD will be charged for a breach committed by a person in case of:

1. Being a member of more than one Pension Fund, contrary to the Article 59 (8) of this Law, except in cases permitted in Article 59 (9) of this Law;
2. As an agent of the Pension Company fails to comply with the obligations and limits specified in Article 77 (2 - 5) of this Law;

CHAPTER 17
TRANSITIONAL AND FINAL PROVISIONS

Article 137

- (1) The Agency shall commence its operations beginning from the day of appointment of the Director.
- (2) The Government of the Republic of Macedonia shall appoint the Director and the Deputy Director within 30 days of this law coming into force.
- (3) The Government of the Republic of Macedonia shall appoint the members of the Management Board within 60 days of this Law coming into force.
- (4) The Agency shall adopt By-Law within 30 days of appointment of the members of the Management Board.
- (5) The Agency shall adopt regulations for implementation of this Law within 180 days from the date of the commencement of operations of the Agency

Article 138

The contributors who become subject to mandatory pension and disability insurance from 1st January 2003 to 30th September 2003 are required to become a Member of a Pension Fund by 31st December 2003.

Article 139

All contributors who were covered by mandatory pension and disability insurance before 1st January 2003 and in the period from 1st January 2003 to 31st December 2003 were not covered by that insurance may join a Pension Fund within 3 months after their re-entrance into the mandatory pension and disability insurance.

Article 140

This Law shall come into force the 8th day of its publishing in the “Official Gazette of Republic of Macedonia”.