

Act LXXXII of 1997

on Private Pensions and Private Pension Funds

In accordance with the principles set forth in the Constitution of the Republic of Hungary, the State shall ensure the safety of elderly and disabled citizens by means of the mandatory social security system and the associated private pension system. In order to establish and operate the private pension system, Parliament hereby adopts the following Act on private pensions and private pension funds:

Chapter I.

GENERAL PROVISIONS

Objective of the Act

Section 1.

The objective of this Act is to provide uniform regulation for the private pensions of citizens and the system of private pension funds based on membership contributions and individual accounts.

Scope of the Act

Section 2.

- (1) This Act shall apply to:
- a) private pension funds pursuant to this Act (hereinafter referred to as "funds"),
 - b) service providing bodies and organizations established by funds in accordance with the provisions of this Act, as well as bodies and organizations providing services to funds as set forth in this Act,
 - c) organizations conducting state supervision of funds,
 - d) natural persons who are classified as new employees pursuant to the Act on the scope of persons eligible for social security and private pension benefits, and funding of such benefits, and become fund members by law, or voluntarily join a fund,
 - e) organizations establishing funds.
- (2) The provisions of this Act shall, without prejudice to the provisions of the international treaties, apply to persons falling under the scope of international treaties.
- (3) In addition to the provisions of Act CXII of 1996 on Credit Institutions and Financial Enterprises (hereinafter referred to as "CIFE") as well as the provisions of Act CXI of 1996 on the Offering of Securities, Investment Services and the Stock Exchange

(hereinafter referred to as "SecA"), the provisions of this Act shall also apply to financial institutions managing fund assets.

Section 3.

(1) Those natural persons shall, by law, become fund members who prior to reaching the age of 42 become insured for the first time pursuant to PESSPB after 30 June 1998 (hereinafter referred to as "new employees").

(2) Any natural person who, pursuant to PESSPB, became insured prior to 30 June 1998, and entered into agreement to obtain service time entitlement for pension benefits pursuant to PESSPB may become a fund member at his own discretion.

(3) The scope of persons who shall pay membership contributions and the income on the basis of which membership contributions are calculated is specified in PESSPB. With due regard to the differences provided for in this Act, PESSPB regulations shall also apply to performance of membership contribution payment obligations, and the execution proceedings related to such, to cases of non-performance or improper performance of the obligations of reporting, registration, data reporting and filing membership contributions return, to the repayment of pension payments received without legal grounds, to the related liability regulations, to penalties for late payment, to penalties for non-performance, to the repayment of procedural costs, to the enforcement, reduction and waiver of claims, and to the possibilities for legal remedy.

(4) In the course of execution proceedings the fund's membership contributions claim shall be handled on an equal basis with unpaid social security contributions.

Definitions

Section 4.

(1) The abbreviations of the statutes referred in this Act are listed in *Schedule No. 1*.

(2) In the application of this Act:

a) *social security pension*: all items specified as social security pension benefits in SSPB;

b) *retirement age*:

1. the age specified by SSPB as a precondition for eligibility for an old-age pension,

2. the retirement age shall be handled on an equal footing with the time from which the fund member receives a social security pension, old-age pension (including pensions received in the case of early retirement or advance retirement, miners' pension, old-age pension payable in certain fields of art, including the old-age pension from the Hungarian Creative Art Foundation, as well as service pension), disability or accident-related disability pension (including regular disability benefits from the Hungarian Creative Art Foundation, as well as increased old-age or occupational disability benefits;

c) *fund member*: any natural person who, on a mandatory or voluntary basis, becomes a fund member, pays membership contributions pursuant to the provisions of this Act, and receives pension plan benefits from the fund;

d) *membership contributions*: the amount payable to the fund by the fund member, including the sum paid by the fund member or by any other person or organization for the benefit of the fund member to supplement the mandatory amount specified by PESSPB;

e) *individual account*: record of contributions, on the basis of which the fund member's claim during the accumulation period and the fund member's pension plan benefits at the time of retirement shall be calculated;

f) *benefit reserves*: funding for types of benefits being rendered to fund members and records regarding such;

g) *secondary reserves*: reserves intended to offset risks related to individual accounts and benefit reserves;

h) *accumulation period*: the period starting at the time of joining the pension fund until the time the amount of the pension plan benefit is determined;

i) *benefit period*: the period starting when the pension plan benefit is determined and lasting until the end of the utilization of such benefit;

j) *pension plan benefit*: pension payment or a payment received by a surviving relative or beneficiary (hereinafter referred to as "beneficiary") and lump-sum cash payment as regulated in this Act, disbursed from the benefit reserves of the benefit chosen by the fund member, and which is calculated on the basis of the balance, as funding, of the individual account of the fund member at the time of retirement or, at the fund member's request, after attaining retirement age, or to the benefit of a surviving relative in the case of the fund member's death;

k) *normative pension payment*: the minimum pension payment to be disbursed to any fund member, the funding of which shall, at the time of the pension calculation, be guaranteed by the Pension Guarantee Fund of the funds (hereinafter referred to as the "Guarantee Fund") and the central budget in the manner specified in this Act;

l) *normative funding*: capital funding needed to calculate the normative pension payment;

m) *expected return*: a uniform return the funds shall achieve on their investments, specified in advance on an annual basis;

n) *financial plan*: short-term (annual) and long-term (10 year) plans intended to project the expected changes in the fund's financial management and reserves;

o) *actuary's report*: evaluation of the fund's reserves, in the course of which planned revenues and expenses are compared to the actual performance, and which investigates whether the existing benefit reserves are sufficient to cover the payment of pension plan benefits;

p) *organizational and operational regulations (hereinafter referred to as "Fund Regulations")*: the fund document which, pursuant to the provisions of this Act and other legal regulations, contains the key regulations governing organization and operation of the fund;

q) *benefit regulations*: the regulations of the fund which contain the rules pertaining to the determination and disbursement of pension payments and lump-sum payments to fund members, as well as the related rules of calculation and reserve accumulation rules for each type of benefit;

r) *asset management for pension funds*: performance of obligations and exercising, in a specified scope, the ownership rights pertaining to a fund's assets, within the framework of contracts concluded with the fund;

s) *open-end fund*: a fund which does not restrict the scope of potential fund members, with the exception of determining the territorial scope of territorial funds;

t) *closed-end fund*: a fund which restricts the scope of potential fund members on the basis of professional or other organizational principles;

u) *professional association*: an association in which membership is only open to persons practicing certain profession;

v) *member's claim*: the balance of the member's individual account in the accumulation period; or, in the benefit period, the value of benefits payable to the member from the reserves of the benefit chosen by the member;

x) *employer*: the entity with which the fund member is in employment relationship, public employee or civil servant relationship; a court or state attorney's office with which the fund member is in service relationship; as well as the armed forces, law enforcement agencies, civil national security services, irrespective of whether the member is employed full-time or part-time;

y) *close relative*: persons specified in Paragraph b) of Section 685 of the Civil Code and common-law spouses.

Principles of Operation and Fundamental Provisions

Section 5.

(1) In accordance with the principle of self-administration, fundamental decisions related to the fund shall be made exclusively by fund members.

(2) The right to choose a fund may be exercised by joining a fund or switching to a fund the Fund Regulations of which do not restrict such action. No religious, racial, ethnic, political, age or sex discrimination shall be exercised against fund members.

(3) Based on the principle of mutuality and self-support, fund members shall jointly accumulate the reserves required to operate the fund and provide pension benefits, while the funds shall ensure the performance of their obligations by establishing and maintaining the Guarantee Fund in accordance with the provisions of this Act. During the accumulation period fund members shall form an investment risk community, and, in the benefit period, an investment and insurance risk community.

(4) In accordance with the principle of ownership, the claim of the fund member is the fund member's property and may be inherited in compliance with the provisions of this Act, or a beneficiary may be designated. The fund, as well as the Guarantee Fund and the central budget under the conditions specified in this Act, shall guarantee the claim of the fund member.

(5) The principle of closed-end financial management shall mean the concurrent implementation of the following rules:

a) the activity of the pension fund shall aim exclusively at organizing and providing pension plan benefits set out in the law,

b) the fund shall cover its expenses and meet the requirement to establish reserves from its revenues and reserves created from the revenues,

c) the funding reserves shall consist of the individual accounts and the benefit reserves. In the accumulation period the fund shall keep individual accounts for the fund

members, and disburse pension benefits and lump-sum payments from the benefit reserves. The funding of benefits shall be generated from the deposits in the individual accounts and kept in the benefit reserves accounts for pension payments and lump-sum payments specified by the benefit regulations,

d) pension plan benefits offered by the fund shall be exclusively available to natural persons specified in this Act,

e) after the termination of membership or liquidation or voluntary dissolution of the fund, members shall claim their share in accordance with the provisions of this Act and the order of procedure set out in the Fund Regulations of the fund,

f) the individual accounts and benefit reserves, as well as the related secondary reserves shall be used exclusively to satisfy the claims of fund members; they shall neither be confiscated in exchange for other liabilities of the fund or the fund members nor frozen,

g) in order to secure the funding of pension plan benefits, the fund may assume liabilities for up to a percentage of its operational revenues and reserves and its own activity reserves, as specified in the financial plan, within the framework of this Act and in accordance with the Fund Regulations,

h) the fund may employ an organization with proper authorization to fulfill registration and administrative tasks, economic and investment activities related to the fund's operation, as well as to conduct asset management on behalf of the fund.

(6) In accordance with the principle of safe conduct of business activities, the fund shall increase its assets through its business activities, in particular through investment activities, without jeopardizing performance of benefit obligations undertaken by the fund.

(7) In accordance with the principle of a prudent businessman, persons acting on behalf of the fund shall act with great care in the interest of fund members.

(8) In accordance with the principle of transparency and the data protection, data referring to the operation of the fund shall be public, and pursuant to the legal regulations related to the data protection, the handling and storage of such data shall be ensured for ten years after supplying pension benefits. Regarding benefits provided to individual fund members, as well as on the balances on individual accounts only aggregate information may be disclosed, such information being unsuitable for personal identification, except for cases specified in this Act.

(9) In accordance with the principle of comparable performance, the funds shall, in compliance with the provisions of this Act, keep records and disclose information on their operations. This information shall be suitable for comparing the performance of individual funds based on the same data and calculations, in order to facilitate the implementation of the principle of the right to choose between the funds.

Protection of Denomination

Section 6.

(1) The denomination "magánnyugdíj pénztár" ("private pension fund"), or its equivalent in any other language may be used exclusively by organizations established

and operated in accordance with this Act, with the exception of the case specified in Subsection (2).

(2) Organizations representing the interests of funds and such organizations founded by them, as well as any other natural persons or legal entities, or business associations without legal entity may use the denomination specified in Subsection (1) in their name, in advertising or in any other way solely in a context which excludes the impression that said organization is engaged in pension fund activities.

Chapter II.

FUND ESTABLISHMENT

Founders

Section 7.

(1) Funds may be established by:

a) employers separately or jointly, chambers of trade (hereinafter referred to as "chambers") separately or jointly, professional associations separately or jointly, or together with a chamber (or chambers), as well as employees' and/or employers' interest representation organizations, separately or jointly, or together with the aforementioned entities,

b) the Pension Insurance Administration

if such parties project that the number of fund members shall reach 2,000 persons.

(2) Foundation shall be considered to have taken place, if, under the conditions specified in Subsection (1), the general assembly of a voluntary pension fund having a legally valid operational license resolves with a qualified majority (two-thirds) to conduct pension fund activities in accordance with this Act. In this case, the fund and the voluntary pension fund shall be one legal entity operating in compliance with the rules specified in this Act. In the course of the establishment of the fund the voluntary pension fund shall act as the founder. In places where the law refers to a deed of foundation or Fund Regulations, it shall be understood to refer to the joint statutes of the voluntary pension fund and the private fund. In addition to the rules pertaining to the voluntary pension fund, the joint statutes shall state the commencement date of the activities, their territorial scope, the membership of the private pension fund, as well as such information listed in Section 35.

(3) The local governments in Budapest or the counties (hereinafter referred to as "local governments") may establish territorial funds as open-end funds, or participate in the establishment of the regional fund specified in Subsection (4), or may invite tenders from open-end funds to fulfill the tasks of the territorial fund. If no fund for territorial fund functions is established in the territorial jurisdiction of the local government, the Private Fund Supervisory Board shall invite bids for the fulfillment of territorial fund tasks.

Should such a tender fail, the Private Fund Supervisory Board shall appoint an open-end fund to fulfill territorial fund tasks.

(4) The territorial jurisdiction of (regional) territorial funds established by the local government(s) of the capital, cities with county-level rights, and counties, separately or jointly, shall be identical to the administrative jurisdiction of the local government(s).

Section 8.

(1) Prior to the establishment of a fund the founders shall prepare a draft of the deed of foundation.

(2) The draft deed of foundation shall, in accordance with Section 14, specify whether the act of foundation is intended to establish a closed-end or open-end fund, in terms of the membership in the fund. Closed-end funds shall be established by the founders for natural persons belonging to the founders' scope of interest.

(3) For closed-end funds, the draft deed of foundation may, in accordance with the structural principal of the fund, specify membership for

a) employees of the founding employer, for employer funds,
b) members of chambers or the employees of the chambers' member organizations for funds founded by chambers,

c) members of professional associations for funds established by professional associations,

d) members of voluntary mutual pension funds,

e) members of employers' interest representation bodies,

either separately or jointly.

(4) The fund established by the founders specified in Paragraph a) of Subsection (1) and Subsection (2) of Section 7 may either be closed-end or open-end funds.

(5) The fund established by the founders specified in Paragraph b) of Subsection (1) and Subsection (3) of Section 7 may be open-end.

Section 9.

Prior to founding, the founder may conduct a survey among those for whom fund membership is mandatory or optional and may request a declaration of intent whether the signing party will join the planned fund as a member. In the course of requesting such declarations the parties concerned shall be expressly notified regarding their right to choose a fund at their discretion, and this freedom of choosing a fund shall not be restricted in any way.

Section 10.

(1) The fund shall initially inform the organization responsible for the central registration of funds regarding fund members' personal data specified in *Schedule No. 2.*

a) for non-territorial funds, within 270 days

b) for territorial funds, within one year.

(2) The fund shall notify on a monthly basis the organization responsible for the central registration of funds regarding new fund members' personal data specified in *Schedule No. 2* by the tenth day of the month following the month under review.

Section 11.

(1) The organizations listed in Subsections (1)-(3) of Section 7 may undertake to partly or entirely assume the founding and operational costs of the fund.

(2) Foundation costs shall contain:

a) the direct costs of foundation, including the costs of Personnel and material resources necessary for registration,

b) the costs of the first-year operation, including the costs of Personnel and material resources of the fund's organization and registered office.

Section 12.

The territorial funds shall be established by December 31, 1997.

Foundation License

Section 13.

(1) The foundation of a fund shall require the license of the State Private Fund Supervisory Board (hereinafter referred to as "Private Fund Supervisory Board"). Voluntary pension funds shall obtain an operational license from the Private Fund Supervisory Board if they intend to provide fund services in which case the requirements for granting the operational license shall be identical with the provisions governing the foundation license.

(2) The Private Fund Supervisory Board shall grant the foundation license and the operational license if the applicant fulfills the requirements listed in this Act.

(3) The application for the foundation license and the operational license (hereinafter referred to as the "foundation license") shall contain:

a) the draft deed of foundation,

b) well-founded estimates as to the planned membership

c) a presentation of how the founder intends to ensure the Personnel, material and financial resources necessary to establish the fund,

d) the deed of foundation of the founder (articles of association, statutes, etc.).

(4) Based on the foundation license, the founder shall issue a deed of foundation, and, pursuant to the provisions of Section 15, shall convene the first delegates' meeting and commence to organize operation of the fund.

(5) Several founders with foundation licenses may also unite to establish a single fund. In this case the founders shall, in an agreement, specify the founder acting on their behalf, and shall indicate the name of such in the deed of foundation.

(6) The foundation license shall lose its validity if, within 180 days of the receipt thereof, the fund fails to apply to the Private Fund Supervisory Board for an operational license (no justifications shall be accepted for failure to meet this deadline) or if the Private Fund Supervisory Board rejects the fund's request for an operational license.

Deed of Foundation

Section 14.

- (1) The deed of foundation shall contain:
 - a) the founder's name and registered office,
 - b) the name of the fund,
 - c) the date of establishing the fund,
 - d) the scope of activity and the fund's registered office,
 - e) the membership scope,
 - f) the starting date of operation,
 - g) the name and particulars of the person acting on behalf of the founder, the budget made available,
 - h) the date of issuance of the deed of foundation,
 - i) the official signature of the founding organization.
- (2) Within fifteen days of the issuance of the deed of foundation, the fund shall open a bank account at an authorized financial institution. The financial institution may not refuse to open the bank account on the grounds that the court has not yet registered the fund.

The First Delegates' Meeting of the Fund

Section 15.

- (1) The first General Meeting of the fund's delegates shall be convened by the founder within sixty days of the receipt of the foundation license. Decisions at the delegates' meeting are made in an open vote, by a simple majority of votes.
- (2) The members of the General Meeting of delegates shall be nominated by a nominations committee consisting of 3 to 5 persons, such committee being appointed by the founder. The delegates' meeting of the fund may consist of 19 to 35 delegates.
- (3) In the case of employer funds, members of the delegates' meeting shall be elected by fund members working for the same employer. If several employers establish one joint fund, the same persons shall be nominated. If several employers establish one joint fund, each employer may establish a separate nominations committee, but several employers may also establish one common nominations committee. If meetings at individual employers to nominate members of the delegates' meeting are held at different times, previously held meetings shall not be repeated even if a new nominee emerges.
- (4) Members of the delegates' meeting of funds established by chambers or professional associations shall be elected by members of the chamber(s) and the professional association(s), respectively, who are to be future fund members, or employed by member organizations. The nominations committee shall be established by the presidency of the chamber, or the management of the association, respectively, in accordance with the regulations governing chambers and associations.
- (5) Members of the delegates' meeting of territorial funds shall be elected by the assembly of the local government of the given territory. The nominations committee shall be established by the president of the assembly of the local government of the given

territory, or the mayor of Budapest. Members of the delegates' meeting of regional funds shall be elected proportionally by the assemblies of the local governments concerned.

(6) The members of the first delegates' meeting of the fund established by a voluntary pension fund shall be elected by the General Meeting (or delegates' meeting) of the voluntary pension fund. Concurrently with adoption of the resolution specified in Subsection (2) of Section 7, the General Meeting of the voluntary pension fund may also adopt a resolution on transferring its competence, as specified in this Act, to establish a fund to the Board of Directors.

Chapter III.

PRECONDITIONS FOR COMMENCING FUND ACTIVITIES

Fund Registration

Section 16.

(1) The fund shall be registered by the metropolitan or county court with jurisdiction for the fund's registered office. The application for registration shall be submitted by the founder to the competent court within thirty days of the foundation. The founder shall enclose with the application the deed of foundation and the foundation license, and after submitting the application, the certificates of the tax number and the social security registration number, as well as the certificate from the bank stating the fund's account number. The court shall decide on the registration of the fund in non-contentious proceedings, and shall notify the competent state attorney's office and the Private Fund Supervisory Board regarding its decision.

(2) The fund shall enter into existence upon registration by the court, retroactively to the date of issuance of the deed of foundation.

Section 17.

(1) Prior to registration by the court, the fund may obtain rights and undertake obligations associated with its organization. If the fund undertakes obligations prior to court registration, it may not refer to the lack of registration against third parties.

(2) Prior to court registration of the fund, the founders shall have joint and several liability for commitments undertaken on behalf of the fund. Restriction or exclusion of this liability with regard to any third party is void.

(3) Should the fund fail to be registered, legal disputes shall be settled in accordance with the provisions of the Civil Code on civil partnerships.

Operational License

Section 18.

(1) The fund may commence operations - excluding the preparations for operations - after obtaining the operational license from the Private Fund Supervisory Board.

(2) The fund shall attach to the application for the operational license:

- a) the deed of foundation,
- b) the Fund Regulations,
- c) evidence that the application for registration has been submitted to the court, or the final legal decision on registration,
- d) document verifying that the fund has a tax number, a bank account and a social security registration number,
- e) documents verifying the number of members specified in Subsection (1) of Section 7,
- f) the financial plan,
- g) the regulations governing asset management, benefit provision, and, if the fund's assets valuation regulations is more detailed than required by the legal regulation, the assets valuation regulations,
- h) the particulars of the members of the Board of Directors, the Board of Supervisors and the auditor,
- i) documents verifying fulfillment of the Personnel and material conditions necessary for conducting fund activities in accordance with the law,
- j) a declaration on the intended starting date of operation,
- k) a declaration certifying that the fund is prepared for the data reporting obligation in accordance with the law,
- l) the regulations referring to the fund's internal control and auditing system,
- m) any contracts concluded by the fund commissioning other organizations to conduct operational and administrative activities,
- n) the contract concluded with the custodian,
- o) a declaration certifying that the fund shall disclose to an independent assessor registered by the Private Fund Supervisory Board information as is indispensable for evaluation of the fund's performance, such information, however, shall not include trade secrets.

(3) If the foundation license is legally final, the tax authorities may not refuse issuance of the tax number on the ground that the fund has not received an operational license.

Section 19.

(1) The fund's application for the operational license shall be rejected by the Private Fund Supervisory Board if the application and the attached appendices fail to meet the requirements established by law, and the fund fails to fulfill any request for remedy of deficiencies by the given deadline.

(2) The Private Fund Supervisory Board may call for the modification of the submitted documents if, based on such documents, it can be assumed that the fund's operation is not safe, or if the submitted documents contain professionally inappropriate provisions.

(3) If the Private Fund Supervisory Board rejects the fund's application for the operational license, the fund shall submit, within thirty days, a new application for a foundation license and then for an operational license, or resolve its termination.

Section 20.

(1) Until the operational license takes effect, the fund may use the amount paid to its account under any title exclusively to cover expenses related to the organization of the fund.

(2) If the provision specified in Subsection (1) is violated, persons acting on behalf of the fund shall have unlimited, joint and several liability for the damage caused. Such persons may be subject to a fine of between HUF 100,000 to HUF 1,000,000 by the Private Fund Supervisory Board. Payment of such fines may not be assumed by the fund.

Chapter IV.

MEMBERSHIP

Rights and Responsibilities of Fund Members

Section 21.

(1) With the exceptions listed in this Act, fund members shall have the equal rights and responsibilities.

(2) Unless the law stipulates otherwise, any natural person may become a member of one fund only.

(3) Fund members shall have the right to

- a) participate in electing the bodies of the fund,
- b) be elected as members or officers of the fund's bodies,
- c) be regularly informed regarding the operation and financial management of the fund, as well as the balance of their accounts,
- d) receive fund pension plan benefits in accordance with the Fund Regulations, as well as to be informed regarding the related activities of the fund.

(4) The responsibilities of fund members:

Fund members shall

- a) continuously maintain membership, in a fund chosen by the fund member, during the period of insurance relation pursuant to PESSPB,
- b) fulfill their data reporting obligations,
- c) pay membership contributions,
- d) completely return to the fund all benefits and the interest thereon received without legal grounds by the given deadline,
- e) observe the provisions of the Fund Regulations.

Establishment of Membership

Section 22.

- (1) The starting date of the membership shall be
 - a) the date specified by PESSPB as the date of establishing the legal relationship, for mandatory membership,
 - b) the date of acceptance of the application for membership by the fund, for voluntary membership.
- (2) Any insured person may apply for membership in a chosen fund by submitting a written application for membership.
- (3) Mandatory membership in the fund chosen by the insured person shall become effective upon acceptance of the application by the fund, retroactively to the date specified in Paragraph a) of Subsection (1).
- (4) The fund may not refuse the application for membership if the insured person meets the membership criteria set out by the law or the Fund Regulations. If the application for membership is not refused within 15 days of receipt, it shall be regarded as accepted. Should the fund refuse an application for membership, it shall concurrently notify the Private Fund Supervisory Board thereof.
- (5) The insured person shall notify his employer regarding the name of the chosen fund in the period available for fund selection.
- (6) If the fund refuses the application for membership, the insured person shall notify his employer regarding this within three days of the receipt of the refusal.
- (7) The employer shall notify the central registration organization regarding the fund member's choice of fund within 15 days of the fund member's notification thereof.
- (8) The employer shall notify the territorial funds through the central registration organization of the funds on the insured person's personal data specified in Schedule No. 2 within 15 days of
 - a) the deadline specified therein, if the insured person does not meet his reporting obligation specified in Subsection (5), or
 - b) the receipt of the application, in the case specified in Subsection (6).
- (9) If the insured person fails to fulfill the obligations set out in Subsection (5), or if the fund rejects the application for membership, the insured person shall become a member in the territorial fund for the area. Membership in the territorial fund shall be established through a notification sent to the insured person retroactively to the date specified in Paragraph a) of Subsection (1).
- (10) It is prohibited to use any method providing any financial benefit to a person recruiting fund members, or any third party, based on the maintenance of membership of the fund member who joined the fund through the said person (maintenance commission).

Termination of Membership

Section 23.

- (1) Fund membership shall cease if
 - a) the member switches to another fund,

- b) the member dies,
 - c) the condition for membership set out in the Fund Regulations ceases to exist in a closed-end fund, or
 - d) the fund member becomes eligible for disability pension specified by SSPB, in accordance with the decision of the member, or
 - e) if the member withdraws in accordance with Subsection (2) of Section 123.
- (2) Failure to pay membership contributions shall not result in termination of membership.
- (3) The fund shall notify the Private Fund Supervisory Board regarding the fact and method of termination of membership.
- (4) Membership in a fund may be terminated by switching to another fund at the earliest six months after the establishment of the membership relation, except for the case specified in Paragraph c) of Subsection (1).

Section 24.

- (1) A fund member may switch funds upon giving notice to this effect and after paying any membership contributions in arrears.
- (2) The provisions of Subsection (1) shall not apply if switching funds is due to the merger, demerger or termination of the fund.
- (3) If the fund member switches funds, the amount corresponding to the fund member's claim shall be transferred by the fund to the fund chosen by the fund member upon the request of the latter fund. The actual costs related to the transfer between funds, which may not exceed 0.1% of the fund member's claim, may be deducted from the member's claim by the fund which performs the transfer.
- (4) Fund members who are temporarily left without income (specified in PESSPB) on the basis of which income membership contributions are calculated may - pursuant to PESSPB - enter into an agreement with a social security administrative organization to receive social security benefits, and any person who wishes to become a fund member of his own free will may enter into an agreement with the fund on the payment of membership contributions. On the basis of an assistance agreement, other persons or entities may undertake to pay such membership contributions. The beneficiary of such assistance shall be the fund member. The utilization of the support shall be regulated by the rules pertaining to membership contributions.
- (5) Any fund member who has no income on the basis of which membership contributions can be calculated and has not entered into an agreement on the payment of membership contributions, or has no assistance agreement concluded in his favor (hereinafter referred to as "account holder"), shall have the same rights and responsibilities as specified in the provisions on fund members' rights and responsibilities, with the exception that account holders may not vote in elections and may not be elected to the bodies of the fund. This rule shall also apply to the fund member's heirs, as well as to fund members receiving disability pensions who intend to maintain their membership in the fund.
- (6) In the case specified in Paragraph d) of Subsection (1) of Section 23, the fund shall ensure that the fund member's claim be transferred to the Pension Insurance Fund within 15 days of the receipt of the legally final resolution determining eligibility for disability pension.

Section 25.

Neither the creditors of the fund member, nor the creditors of the fund may bring forth claims against the amount deposited in the fund member's individual account.

Membership Contributions

Section 26.

(1) The membership contributions base shall be the taxable income specified by PESSPB as the pension contribution base.

(2) The rate of membership contributions shall be specified by PESSPB.

(3) In respect of payment of membership contributions, as well as the amount of membership contributions the fund receives, the fund shall issue, within sixty days, a statement to the fund member, or to the contributor, if this is not the same person.

(4) The rules governing the method of payment of membership contributions shall be specified by PESSPB. Fund membership shall cover only periods for which membership contributions are paid to the fund.

(5) By undertaking a unilateral commitment, employers may supplement their employees' membership contributions, or fund members may supplement their own membership contributions by up to 10% of the membership contributions base. The employers' commitment shall cover each employee to the same extent and under the same conditions.

Chapter V.

FUND BENEFITS

Pension Payment Benefit

Section 27.

(1) The fund shall provide the fund member with pension plan benefits in the form of a pension payment benefit of the type chosen by the fund member, or as a lump-sum payment in accordance with Section 28. The eligibility title and extent of the benefits provided by the fund, as well as the period thereof, shall be determined by the benefit regulations of the fund based on the provisions of this Act.

(2) Pension payment benefits (benefit types) may be:

a) a pension payment (life annuity) disbursed to the fund member in advance in monthly installments until the end of his life,

b) a life annuity which the fund shall pay to the fund member or his beneficiary (heir) for a specified period of time (period certain) from the beginning of the pension plan

benefit, and following expiration of the set period, until the end of the fund member's life (life annuity with a fixed beginning period),

c) a life annuity which the fund shall pay to the fund member until his death, and afterwards to the fund member's beneficiary for a period of time (period certain) determined in advance in the benefit regulations of the fund (life annuity with a fixed end period);

d) a joint survivorship life annuity: a pension plan benefit paid to the fund member and his beneficiary (or beneficiaries) as long as at least one of them is alive.

Lump-Sum Payment

Section 28.

(1) The fund shall effect lump-sum payment:

a) as a benefit to the beneficiary, pursuant to conditions specified in Paragraph b), after the fund member's death. In lieu of a lump-sum payment, the beneficiary may decide to continue membership and leave the amount in the fund, or roll it over into another fund,

b) if the balance of the individual account is more than twice the size of the normative funding, and if, upon commencement of the disbursement of the pension payment, the person eligible for the benefit requests lump-sum payment above the pension payment. The amount in excess of twice the size of the normative funding shall, in accordance with the member's instructions, be paid to the fund member, or his beneficiary,

c) at the request of any fund member who, even if the membership periods in various funds are combined, has not paid membership contributions for at least 180 months upon attaining retirement age. If the fund member does not request lump-sum payment, a pension payment benefit shall be calculated for such person. The guarantee offered by the Guarantee Fund and the central budget shall not cover such pension payment benefits.

Beneficiary

Section 29.

(1) The fund member may designate a beneficiary who is eligible for his individual account and pension plan benefit in the event of the death of the member. If the fund member fails to designate a beneficiary, the member's legal heir, a natural person, shall be regarded as the beneficiary. In the absence of such an heir, the amount of the member's individual account shall be transferred to the Guarantee Fund.

(2) If the fund member dies during the accumulation period, the beneficiary may choose whether he wishes

a) to withdraw his share of the individual account in a lump sum,

b) to continue membership and leave such share in the fund,

c) transfer it to another fund.

(3) Membership may be continued in the accumulation period only if the Fund Regulations of the fund permits the beneficiary to become a fund member, and if the beneficiary terminates his membership in his previous fund, or remains an account holder.

(4) The beneficiary of a lump sum payment may be designated in the case specified in Paragraph *b)* of Section 28, before commencement of the pension plan benefit.

Basic Requirements of the Benefit, Minimum Benefits

Section 30.

(1) Any person eligible for pension payment benefits may apply for disbursement of the pension plan benefit at the time of or after applying for a social security pension.

(2) The fund member's normative pension payment, which at the time of calculation shall be the minimum pension payment, may not be less than 25% of the pension benefits of the fund member, pursuant to the rules of calculating social security pensions, with consideration of a maximum of five service years recognized without contribution payment.

Funding and Calculation of Benefits

Section 31.

(1) In the benefit period, the fund may provide pension payment benefits by means of payment of pension payments in accordance with Section 32, or pension payments purchased from insurance companies. The mode of disbursement may, according to the fund's benefit regulations, vary according to the type of pension payment.

(2) Pension payment benefits shall be calculated by converting the balance of the individual account, with actuarial methods, into the life annuity chosen by the fund member, or into a lump-sum payment in accordance with the provisions of Paragraph *b)* of Section 28. When calculating the pension payment, the mortality rate of both men and women shall be considered in the applied unified mortality table. When calculating the pension payment, costs related to the formation of secondary reserves and disbursement of the pension payment shall also be taken into consideration.

(3) The fund shall prepare an annual actuarial statistics report on the fund's membership base and mortality rates for the Private Fund Supervisory Board. Statistical data related to the fund shall also be taken into consideration when preparing the actuary's report. The regulations governing establishment and application of the mortality table and regulations for the actuarial statistics report shall be determined by the Government in the form of a decree.

(4) Funding for the chosen benefit shall be generated by transferring the total funding for the benefit in a lump-sum from the individual account to the reserves account of the chosen benefit.

Pre-Requisites for Fund Benefits

Section 32.

(1) The fund may commence its benefit activity after approval of its benefit regulations by the Private Fund Supervisory Board. The benefit regulations, which shall also include provision of pension payment benefits by the fund, shall be approved by the Private Fund Supervisory Board if the requirements set forth in Subsection (3) are fulfilled.

(2) The fund's benefit regulations shall include regulations pertaining to at least the life annuity and one type of benefit involving the beneficiary, as well as rules for the formation and utilization of secondary reserves associated to the benefits. The benefit regulations of a newly established fund shall not contain a pension payment disbursed by the fund itself. If the fund wishes to disburse any of its pension payments on its own, it shall obtain a license from the Private Fund Supervisory Board at least three years prior to the commencement of such activity if the fund has fewer than 25,000 members, or one year prior to starting the provision of such benefit in other cases.

(3) The fund may provide its own pension payment benefits if:

a) it has prepared the statistical data in connection with demographic changes within the fund, as prescribed in this Act; if it has prepared the relevant mortality table; if there are a sufficient number of retirement age members in the fund to ensure safe payment of benefits, and the fund has submitted the supporting calculations to the Private Fund Supervisory Board,

b) it has its own activity reserves pursuant to Section 58,

c) it accumulates secondary reserves in accordance with Subsections (5) and (8) of Section 53,

d) it employs an actuary with the qualifications specified in Subsection (2) of Section 47.

(4) The Private Fund Supervisory Board shall, on the basis of the expected number of annuitants, as well as the expected funding and secondary reserves of benefits, approve benefit regulations including conditions for pension payments disbursed by the fund itself. The detailed rules of the benefit regulations shall be determined by the Government in the form of a decree.

(5) The Private Fund Supervisory Board may order modification of the benefit regulations, may take measures or impose penalties if the regulation contains false data, or if it does not comply with the legal regulations pertaining to the benefit regulations.

(6) The fund shall regularly check the availability of funds for financing pension payments in disbursement through actuary's reports and, in the case of a deficit, the fund shall notify the Private Fund Supervisory Board and the Guarantee Fund.

Pension Payment Benefits Purchased from Insurance Companies

Section 33.

(1) The fund may also fulfill its pension payment benefit obligations through the purchase of pension payments from insurance companies which are governed by InsA and belong to a customer protection fund. The benefit shall be purchased from the relevant benefit reserves of the fund. This benefit may be chosen by any fund member. Pension payments which can be purchased from insurance companies shall be identical to the pension payments the fund itself may offer [Subsection (2) of Section 27].

(2) The insurance company providing the pension payment benefit may be selected either by the fund, or the fund member using such benefits. The fund member may choose to have a pension payment benefit from another insurance company even if the fund provides the same pension payment benefit. The contract for the provision of pension payment benefits shall be concluded between the insurance company and the fund, which shall also act on behalf of the fund member(s).

(3) Pension payment benefits disbursed via a pension payment purchased from an insurance company (pension payment calculation, lump sum payment, inheritance) shall be governed by the provision of InsA with the exception that the person eligible for pension payment benefits shall receive at least a life annuity, of which the regular, monthly installments may not be less than the amount guaranteed by the Guarantee Fund, if the pension plan benefits are disbursed by the fund. Life annuities purchased from insurance companies may not be terminated by fund members.

(4) Pension payments purchased from insurance companies shall not be eligible for the guarantee of the Guarantee Fund.

Chapter VI.

RULES RELATED TO THE STRUCTURE AND OPERATION OF THE FUND

Legal Status and Structure of the Fund

Fund Regulations

Section 34.

(1) The fund is a legal entity.

(2) The bodies of the fund are:

a) the General Meeting, partial General Meetings, delegates' meeting, (hereinafter jointly referred to as "General Meeting"),

b) the Board of Directors,

c) the Board of Supervisors,

d) expert committees established in accordance with Fund Regulations.

(3) The fund shall have either a General Meeting (partial meeting), or delegates' meeting.

(4) The form, mode and detailed rules of the General Meeting shall be specified in the Fund Regulations.

(5) The General Meeting shall comprise all fund members. At the General Meeting each member shall have one vote.

(6) A partial meeting shall mean a General Meeting held separately by different groups of fund members. At partial meetings each member shall belong to one and only one group. The partial meeting shall pass its resolutions by totaling the votes of the individual group meetings. At the partial meeting each member shall have one vote. The scope of authority and the procedural rules of the partial meeting shall be specified in the Fund Regulations.

(7) The delegates' meeting is a General Meeting held with the representation of fund members by delegates.

(8) The senior officers of the fund are:

- a) the Chairman and the members of the Board of Directors,
- b) the Chairman and the members of the Board of Supervisors,
- c) any officer, specified in the Fund Regulations, who is elected to his post by an election within the scope of authority of the General Meeting.

(9) Senior officers may only be persons without a prior criminal record. The mandate of senior officers shall be terminated after the expiration of the fixed period, by dismissal, resignation, death, termination of fund membership, or through prohibition of their involvement in public matters.

(10) The members of the Board of Directors and the Board of Supervisors shall be elected by the joint General Meeting of the voluntary pension fund and the fund. The General Meeting of the voluntary pension fund and the fund shall decide jointly on issues affecting both organizations.

(11) At the joint General Meeting specified in Subsection (10) the members shall have one vote per membership. In other issues the rules of the joint General Meeting shall be specified in the Statutes.

Section 35.

The Fund Regulations shall specify:

- a) the data pertaining to the legal status and establishment of the fund;
- b) the prerequisites for membership and organizational principles of the fund;
- c) procedures to be followed upon joining the fund, switching to another fund, returning to the social security pension system, termination of fund membership, or, if the fund so decides, procedural rules for the membership by beneficiaries;
- d) the rights and responsibilities of fund members;
- e) provisions ensuring the implementation of the rights and responsibilities of fund members;
- f) the membership contribution scheme, including the procedures to be followed if a third party wishes to assume the payment of membership contributions;
- g) types of fund benefits;
- h) the rules of procedure related to pension payment benefits and other claims lodged by fund members, including the internal arbitration of disputes;
- i) the rules pertaining to the structure of the fund, the form of the General Meeting, or the election and recall of delegates if the fund has a delegates' meeting,

j) the key regulations pertaining to the Board of Directors, the Board of Supervisors and the election of members thereof, as well as the expert committees, the Managing Director and the activities, transfer of authorization of such, and the representation of the fund;

k) the key regulations pertaining to the business activities, financial plan and operational management of the fund;

l) the key regulations governing the fund's asset management, administration, registration, reporting and pension payment benefit obligations, including regulations to be observed if the fund intends to carry out these activities on its own, or partially or fully commission outside service suppliers. In this latter case the regulations shall also contain provisions on the outsourcing of such activities to external companies; and

m) any other items or information specified by this Act or which the General Meeting finds necessary.

General Meeting

Section 36.

(1) The fund's supreme body shall be the General Meeting.

(2) In the case of delegates' meeting, the delegates' meeting may consist of 25 to 100 delegates. The delegates shall be elected by and from among the fund members, proportionate to the membership of the fund, for a period of five years.

(3) The rules of the election and recall of delegates shall be included in the fund's Fund Regulations. The Fund Regulations shall also regulate the representation of new members, or members transferring in from other funds.

(4) The mandate of a delegate shall terminate upon expiration of the mandate period, or if the delegate is recalled, or if he resigns, dies, his membership terminates, or he is prohibited from involvement in public matters.

Section 37.

(1) The General Meeting shall be convened at least once every year to approve the annual report and the financial plan. The annual report shall be submitted to and approved by the General Meeting within 90 days of the end of the financial year, while the financial plan shall be submitted to and approved by the General Meeting within 90 days prior to the end of the financial year. The General Meeting shall also be convened if either the court, or the Private Fund Supervisory Board so decides, or if the Board of Supervisors, or at least ten per cent of the fund members calls for a General Meeting in writing, listing the causes and purposes, or if the Board of Directors deems it necessary. The Fund Regulations may call for the convocation of the General Meeting in other cases as well.

(2) The mode of convening the General Meeting shall be set forth in the Fund Regulations of the fund. The notice on convening the General Meeting shall indicate the place, the date and time, and the agenda of the General Meeting, as well as the time and location where the documents related to the agenda may be inspected. The

convocation of annual and extraordinary General Meetings shall be announced, at least 15 days prior to the set date, in a national daily newspaper, and in the local or company periodical at least once. The announcement shall indicate the place, the date and time, and the planned agenda of the General Meeting, as well as the procedure by which the motions may be inspected.

(3) Notification of convocation of the delegates' meeting shall be forwarded to the delegates at least 15 days prior to convocation of the delegates' meeting. The court or the Private Fund Supervisory Board may specify shorter notice than specified in this Act.

(4) Convocation of the General Meeting is the responsibility of the Board of Directors. If the Board of Directors fails to arrange for convocation of the General Meeting, the initiating parties may appeal to the Private Fund Supervisory Board, or, in the case of a rejected appeal, to the court within 30 days of such negative decision. A General Meeting may also be convened by the court or the Private Fund Supervisory Board.

(5) A representative of the Private Fund Supervisory Board shall also be invited to the General Meeting. The representative of the Private Fund Supervisory Board shall attend the General Meeting with the right of consultation.

Section 38.

(1) The General Meeting shall have quorum if representation of at least fifty per cent of fund members is ensured.

(2) If the General Meeting does not have quorum, a second General Meeting to be held within 15 days shall be considered to have quorum in terms of the original items on the agenda together with resolution proposals submitted in advance, irrespective of the number of fund members represented.

(3) At the General Meeting each delegate shall have as many votes as many fund members he represents.

(4) The General Meeting shall pass its resolutions with a simple majority of votes, unless the Fund Regulations stipulates otherwise.

Section 39.

(1) The following items fall under the exclusive authority of the General Meeting:

- a) modification of the deed of foundation;
- b) approval and modification of Fund Regulations;
- c) election and removal of the members and the Chairman of the Board of Directors, as well as determination of their remuneration;
- d) election and removal of the members and Chairman of the supervisory Board, as well as determination of their remuneration;
- e) approval of the annual report of the Board of Directors, including the balance sheet and the actuary's report, and resolution on the settlement of deficits in certain reserves;
- f) approval of the fund's financial plan;
- g) validation of claims for damages against persons acting on behalf of the fund, members of the Board of Directors, and the Board of Supervisors before the operational license takes effect, as well as representation of the fund in legal proceedings initiated against persons entitled to represent the fund;
- h) resolution on joining or leaving any interest representation body;

- i)* resolution on termination, demerger, or merger of the fund with another fund;
- j)* resolution on any issue which is assigned to the responsibility of the General Meeting by this Act or any other legal regulation;
- k)* election and removal of the auditor;
- l)* resolution on the method of collecting membership contributions.

(2) At the General Meeting an attendance list and minutes shall be drawn up. The minutes shall contain the essential points of the comments and the resolutions passed. A copy of the reports of the Board of Directors and the Board of Supervisors shall be attached to the minutes. A copy of the minutes, and the attached documents, shall be submitted to the Private Fund Supervisory Board within thirty days of the General Meeting. The approved report and the balance sheet shall be published in at least one national newspaper pursuant to the rules of announcement.

(3) Fund members, delegates and the Private Fund Supervisory Board may lodge an appeal against resolutions of the General Meeting with the county court having territorial jurisdiction over the place of the registered office of the fund within 90 days following adoption of the resolution.

Board of Directors

Section 40.

(1) The Board of Directors is the managing body of the fund. The Board of Directors shall have an odd number of members (no fewer than seven). The Board of Directors shall include representatives of fund members. The mandate of the Board of Directors shall last for five years from the election, or until the new General Meeting establishes a new Board of Directors following expiration of the five-year term.

(2) The Board of Directors shall

a) prepare decisions which are the responsibility of the delegates' meeting, and ensure implementation of resolutions passed at the General Meeting,

b) ensure that the books of the fund are kept in accordance with the rules,

c) decide on the fund's business policy,

d) approve the regulations on asset management and valuation, as well as the benefit regulations,

e) decide on the method of asset valuation, on selection of the trustee, as well as the mode of administration and registration of the fund and, if necessary, the selection of the organization to be entrusted with this task,

f) ensure the smooth operation of the fund. In the interest thereof the Board of Directors may regroup resources subject to the limits specified in the financial plan and the legal regulations. This regrouping of resources may not lead to a decrease in funding reserves,

g) in compliance with legal regulations, the Board shall decide on replenishing and utilizing its own activity and secondary reserves,

h) approve the rules of procedures.

(3) The Board of Directors shall exercise employer's rights over the Managing Director. It shall have the right to appoint the deputy (or deputies) of the Managing Director and the chief accountant.

(4) Unless the Fund Regulations stipulate otherwise, the Board of Directors shall convene at least every three months. The Managing Director shall attend the meetings of the Board of Directors with the right of consultation. The Board of Directors shall also convene if a resolution by the General Meeting calls for such meeting, or if such a meeting is initiated by the Board of Supervisors, or if one-third of the members of the Board of Directors, or the Managing Director requests such a meeting.

(5) The meeting of the Board of Directors shall have quorum if at least fifty per cent of the members are present.

(6) The Board of Directors shall pass its resolutions by a simple majority of votes of the members present, unless otherwise stipulated in the Fund Regulations. In the event of a tie vote, the Chairman shall cast the deciding vote.

(7) The Board of Directors shall decide by a qualified majority of votes, i. e. a consensus of two-thirds of the members of the Board of Directors:

- a) on the approval of the annual report submitted to the General Meeting,
- b) on selection by way of tender of the Managing Director, the trustee and the custodian,
- c) on transferring its right to exercise powers.

(8) Minutes shall be drawn up at the meetings of the Board of Directors. The minutes shall contain the names of the persons present, the essential points of comments made at the meetings and the resolutions passed. A copy of each written report and other documents shall be attached to the minutes.

Section 41.

Without the curtailment of their responsibilities, and in addition to requiring regular reports, the Board of Directors may transfer their right to exercise powers mentioned in Paragraphs *a)*, *b)* and *g)* of Subsection (2) of Section 40 to the Managing Director. The mode and extent of exercising such powers shall be fixed in the rules of procedures of the Board of Directors.

Representation of the Fund

Section 42.

- (1) The fund shall be represented collectively by
- a) the Chairman of the Board of Directors and an employee of the fund vested with the right of representation;
 - b) two members of the Board of Directors;
 - c) two employees of the fund vested with the right to represent the fund;
 - d) the Managing Director and an officer of the fund vested with the right of representation.

(2) Officers or employees of the fund may be vested with the right of representation by two members of the Board of Directors.

Powers and Duties of the Board of Supervisors

Section 43.

(1) The General Meeting shall establish a Board of Supervisors consisting of at least five, but no more than maximum of seven members. The majority of the members of the Board of Supervisors shall be fund members. The mandate of the Board of Supervisors shall last for five years from the election, or until the new delegates' meeting establishes, at the first session, a new Board of Supervisors following expiration of the five-year term.

(2) The Board of Supervisors shall regularly review and inspect the fund's finances, accounting and management, as well as the balance between the fund's solvency and assumption of commitments. The Board of Supervisors shall recommend an auditor to the General Meeting in an open tender.

(3) The Board of Supervisors shall submit its report to the General Meeting annually. The Board of Supervisors may request an extraordinary meeting of the Board of Directors if this is deemed necessary on the basis of the findings of the inspection.

(4) The Board of Supervisors shall examine reports within its scope of authority which shall be submitted to the General Meeting and the annual report of the Board of Directors. On issues reserved to the Board of Supervisors, the General Meeting may not pass a final resolution without the report of the Board of Supervisors. The report of the Board of Supervisors on the annual report and the financial plan, as well as the latter two documents shall be made available to fund members prior to the General Meeting.

Personnel and Material Requirements

Section 44.

(1) The fund may commence fund activities only if the personnel requirements are fulfilled, the technical, data processing conditions and the equipment necessary for providing services and admitting new members are available, and it has premises suitable for its operation and activities. Furthermore, the fund shall have established accounting rules and internal regulations required for safe operation in compliance with the legal regulations, as well as the financial resources and reserves necessary for complying with the financial requirements set out for certain activities.

- (2) The fund shall employ or employ the services of
- a) a Managing Director (Deputy Managing Director)
 - b) a senior accounting officer (chief accountant),
 - c) a manager responsible for investments,
 - d) an actuary,
 - e) an auditor,
 - f) a legal expert,

g) an internal inspector.

The fund may employ persons listed in Paragraphs *a)*, *b)*, *c)* and *g)* exclusively in the framework of an employment relationship.

(3) The Managing Director may also fulfill tasks specified in Paragraphs *c)* and *f)* of Subsection (1), if he meets the relevant requirements.

(4) To provide the Private Fund Supervisory Board and the Guarantee Fund with the required information, the fund shall have data processing equipment which meets the reporting and registration requirements.

Managing Director

Section 45.

(1) The Managing Director of the fund shall be a person in an employment relationship with the fund. The Managing Director may not be the Chairman or any other elected officer of the Board of Directors.

(2) The person employed as Managing Director (Deputy Managing Director) shall:

a) have no prior criminal record;

b) have a degree from an institution of higher education in finances, economics or law, with a minimum of two years of experience in activities that may be applied in fund activities, as well as a certificate of successful completion of an exam in fund management.

(3) At the request of the Board of Directors the Private Fund Supervisory Board may, for a specified period of up to three years, exempt the Managing Director from completing the exam in fund management.

(4) The Managing Director shall be responsible for the implementation of the resolutions of the Board of Directors, and for the profitable and continuous operation of the fund. The Managing Director shall exercise the employer's rights over the fund's employees, except for rights which are reserved to the partial General Meeting or the Board of Directors as per this Act or the Fund Regulations.

(5) If a resolution or directive of the Board of Directors violates the law, the Managing Director may turn to the Board of Supervisors or the Private Fund Supervisory Board.

Auditor

Section 46.

(1) The fund shall employ an auditor.

(2) The fund's auditor may not be the founder or a member of the fund, its Managing Director, a member of the Board of Directors or Board of Supervisors, the founder's auditor, a senior employee or senior officer of the founding organization, or an auditor of the organization managing the assets or maintaining records on the financial management of the fund, or a custodian of the fund, or a close relative of any of the aforementioned parties.

(3) Auditing activities may also be carried out by a duly authorized organization. In this case the provisions of Subsection (2) shall apply to the employees of the organization which carries out the auditing activities.

(4) The auditor may be employed for a term of a maximum of three years which may not be extended. The same auditor may undertake to fulfill auditing tasks in not more than three funds at the same time.

(5) The auditor may inspect the books and records of the fund, may request information from the members of the Board of Directors, Board of Supervisors and the employees of the fund, and may examine the reserves, contracts, bank account and securities portfolio of the fund. The auditor may be present at the meetings of the Board of Directors and the Board of Supervisors, and shall be present at the General Meetings.

(6) The auditor shall examine all reports and financial plans specified in Paragraphs e)-f) of Subsection (1) of Section 39 and submitted to the fund's General Meeting in order to determine whether or not they contain accurate information and comply with provisions of the legal regulations, and shall disclose his opinion on such reports. Otherwise no final resolution may be passed by the General Meeting.

(7) If it comes to the auditor's knowledge that the fund's assets or reserves are expected to significantly decline, the auditor shall notify the Board of Supervisors, or the fund's Board of Directors and shall initiate the convocation of the General Meeting of the fund, as well as report such fact to the Private Fund Supervisory Board.

(8) If the General Meeting of the fund is not convened by the Board of Directors within eight days, the auditor shall have the right to convene such meeting. If the fund's General Meeting fails to pass the necessary resolutions, the auditor shall notify the Private Fund Supervisory Board and the court.

Actuary

Section 47.

(1) The actuary shall countersign:

a) the financial plan, the actuary's evaluation in the annual report, the actuarial statistics report, as well as any calculations related to the method and rate of reserves accumulation,

b) the fund's benefit regulations prior to the decision of the Board of Directors,

c) risk pooling contracts to be concluded with insurance companies,

d) the accuracy of data and calculations relating to Paragraphs a)-c). The actuary shall also attest to the fact that the available data were complete, and the methods applied in the calculations were appropriate.

(2) The fund may employ as an actuary any person who:

a) has a higher education degree in this field, and is a qualified actuary pursuant to a separate legal regulation,

b) has at least five years' experience at an insurance company, fund, voluntary mutual insurance fund, the Private Fund Supervisory Board (at the Supervisory Board of Voluntary Mutual Insurance Funds), the State Insurance Supervisory Board, an institution of higher education, the interest representation body of actuaries, or at a

corporation dealing with insurance brokerage, or has worked as an insurance consultant,

c) has an employment relationship with the fund, or is commissioned by the fund,

d) has no prior criminal record.

(3) A higher education degree in the field shall be a degree earned at a university, or at a college of finance and accounting, providing the degree requires at least four semesters of study and final exams in mathematics and statistics, in particular actuarial studies pursued in special undergraduate, or post-graduate courses for at least four semesters at any university or college of finance and accounting.

(4) The organizations concerned shall certify the existence of the requirements specified in Paragraph *b*) of Subsection (2). The Private Fund Supervisory Board may grant a three-year exemption from the actuarial degree or the required experience.

Manager in Charge of Investments

Section 48.

(1) The fund shall employ a manager in charge of investments even if it commissions a trustee to manage the fund's assets.

(2) The manager in charge of the fund's investments shall, pursuant to a separate legal regulation, be a person with no prior criminal record, be a qualified securities investor and, if the investment portfolio includes real estate, be a qualified real estate trader having passed the required exams. The manager shall be in an employment relationship with the fund, and shall have a higher education degree and at least two years' of experience in the field. In addition, he shall comply with the personnel requirements set out in Section 14 of SecA.

(3) A higher education degree in the field shall be a degree in law, public administration, economics or finance earned at a university or college, or a diploma in auditing.

Rules of Responsibility and Conflict of Interest pertaining to Officers of the Fund

Section 49.

(1) The fund's senior officers shall be the individuals specified in Subsection (2) of Section 44, and any other officers specified in the Fund Regulations, if they are employed by the fund and are not elected or appointed by the General Meeting.

(2) Senior officers and employees of the fund, as well as the actuary, auditor and legal expert of the fund shall, if they fulfill their duties outside the framework of an employment relationship, act with the utmost care that may be expected from persons in such position. Should such persons violate their obligations, they shall be held responsible for

the damage caused to the fund in compliance with the rules of the Civil Code, even though they are or were employed by the fund.

(3) The members of the Board of Directors, the supervisory Board and other bodies specified in the Fund Regulations shall have joint and several liability for the decisions of the respective bodies. No responsibility shall be held by a person who objected to a certain resolution or measure, and submitted this objection to the Board of Directors and the Board of Supervisors in writing, or to the General Meeting in cases concerning the members of the Board of Directors or the Board of Supervisors.

(4) Any person:

a) who has or had a ten per cent or greater share in an investment enterprise, financial institution or insurance company which, in the past five years, became insolvent, or the insolvency of which could have been avoided only through measures taken by supervisory authorities, or whose operational license was withdrawn by the competent authority,

b) who was a senior officer in a voluntary mutual insurance fund, a fund, an insurance company, a financial institution or an investment enterprise which, in the past five years, became insolvent or whose operational license was withdrawn by a supervisory authority,

c) who has seriously or repeatedly violated legal regulations issued in accordance with this Act, as well as SecA, CIFE, CE&T, IF, InsA, VMIFA, and upon whom therefore the competent supervisory authority, other authority, or the court has imposed a penalty in a legally final verdict dated not earlier than five years ago,

d) who was a senior officer of an enterprise or co-operative falling under the scope of the Companies Act which was subject to bankruptcy or liquidation proceedings in the past five years,

e) whose other ownership interest and business activities would jeopardize safe operation of the fund,

may not be elected a senior officer and shall not be employed in senior positions of the fund.

(5) In the application of Paragraph e) of Subsection (4), the fund's safe operation would be particularly jeopardized if:

a) the activity and influence of the would-be senior officer in the fund endangers the independent, reliable and thorough management of the fund,

b) the nature of business activities and relations of the would-be senior officer, or the structure of direct or indirect ownership in enterprises of the would-be senior officer hampers the management and/or controlling of the fund.

(6) A senior officer shall immediately notify the fund's Board of Directors and the Private Fund Supervisory Board if:

a) he is elected or employed as a senior officer in another fund, investment enterprise, financial institution, insurance company or voluntary mutual insurance fund, or if he terminates any such position,

b) he obtains an influencing share or right to vote in any of the undertakings listed in Paragraph a), or parts with such a share,

c) criminal proceedings are initiated against him.

(7) Senior officers may not be involved in preparing or making a decision in which they, a close relative of theirs or a business owned directly or indirectly by them have a business interest.

Business Activities of Funds

Section 50.

- (1) Within the framework of its business activities, the fund:
- a) shall ensure the investment and management of the fund's assets,
 - b) may acquire ownership in organizations entrusted with the management and investment of the fund's assets, as well as with performing administrative, registration, pension payment disbursement and collection tasks of the fund, in the framework of operating the fund or investing the fund's assets.
 - c) shall fulfill its financial obligations towards the Guarantee Fund, and utilize the services thereof.
- (2) The fund may utilize its revenues from business activities exclusively for ensuring funding of benefits, maintaining and improving the quality of services, and covering the operational expenses of the fund and shall create reserves from such revenues. The fund shall not distribute its assets in the form of dividends or shares.
- (3) Revenues from the fund's business activities shall not be regarded as income from business activities in respect of corporate income tax obligations and local business tax obligations.
- (4) The business activities, asset management, provision of benefits, records and book-keeping of a private pension fund run by a voluntary pension fund shall be performed separately from that of the voluntary pension fund.

Section 51.

If the fund has start-up assets, these assets shall be distributed among the reserves by a resolution of the first General Meeting.

Section 52.

The fund shall conduct its financial transactions through a current account held with a bank. The fund shall notify the Private Fund Supervisory Board and the Guarantee Fund of the name of its bank and the number of its account immediately following opening of such. The fund may use sub-accounts of its current account for carrying out transactions related to its investment and benefit provision activities, membership contributions collection and the operation of its organization.

Financial Plan of the Fund

Section 53.

(1) The Board of Directors shall, on an annual basis, submit the fund's short-term and long-term financial plans to the General Meeting. The fund shall prepare the first long-term financial plan in the fifth year after it starts operating. The financial plan shall be

prepared in compliance with the management and reporting rules applying to funds, as well as with the fund's regulations.

(2) The financial plan shall include the figures that determine the revenues and expenses of the fund:

- a) the expected changes in the number of members;
- b) the definition of benefits, and the expected utilization and value thereof;
- c) anticipated revenues, including membership contributions, the expected return on investments, as well as other revenues;
- d) expected expenditures, including expenses for benefits, operation, investments and other expenses;
- e) regrouping between the individual accounts and benefit reserves at the time of the calculation of benefits, as well as the accumulation of reserves in connection with investments and benefits;
- f) regrouping between reserves.

(3) Within projected revenues the following items shall be indicated separately:

- a) membership contributions paid by members;
- b) the value of donations or regular support from legal entities, partnerships without legal entity, or natural persons;
- c) in respect of investments;
 - 1. the gross return,
 - 2. the net return,
- d) revenues from the sales of assets, including losses or gains on exchange rates;
- e) revenues from ownership in the trust company;
- f) revenues from ownership in the organization entrusted with tasks related to administration, record keeping and pension payment benefit payment;
- g) amounts corresponding to the claims of fund members brought over from other funds;
- h) other contributions of fund members;
- i) revenues from borrowings;
- j) other revenues.

(4) Within projected expenses the following items shall be shown separately:

- a) expenses per type of benefit;
- b) expenses related to benefits;
- c) amounts corresponding to the fund member's claim and transferred to other funds by members;
- d) costs of day-to-day operation, itemized by cost types;
- e) financial investments;
- f) the book value of assets to be sold;
- g) expenses related to investment of fund reserves;
- h) expenses related to the Guarantee Fund and the Private Fund Supervisory Board;
- i) expenses related to the collection of membership contributions, and the costs of collecting pension payments taken without legal grounds;
- j) costs of the procurement, establishment and renewal of tangible assets;
- k) amounts reimbursed to fund members;
- l) expenses related to loan repayment.

(5) Pursuant to the financial management and investment rules, the financial plan shall contain:

- a) the opening stock of the reserves,
- b) the investment of the reserves,
- c) planned revenues and expenses related to the reserves,
- d) changes in the asset value of the reserves,
- e) the closing stock of the reserves.

(6) The changes of the reserves shall indicate the predicted difference in assets revaluation.

(7) The financial plan shall also indicate operational costs, expenses, and revenues, as well as changes in the operational reserves.

(8) Within the funding and liquidity reserves it shall be planned separately how the funding for the benefits shall be accumulated in the benefit accounts, as well as the development of the reserves for return adjustment, the demographic reserves and other secondary reserves related to benefits.

Section 54.

(1) The annual financial plan shall be broken down into quarterly schedules.

(2) The long-term plan shall primarily indicate expected operational costs and funding for benefits of the fund. The long-term plan shall have a simplified structure in comparison to the annual financial plan, with annual schedules within the projected period, and shall be supplemented with long-term assumptions.

Section 55.

(1) The fund shall submit its financial plan as approved by the General Meeting to the Private Fund Supervisory Board within thirty days of such General Meeting.

(2) The Private Fund Supervisory Board may require the fund to adjust the financial plan if it fails to comply with provisions of the legal regulations or the Fund Regulations. The fund shall adjust the financial plan within sixty days with due regard to the comments of the Private Fund Supervisory Board. The detailed rules pertaining to the content and the method of compilation of the financial plan shall be determined by the Government in the form of a decree.

Specific Rules Applicable to the Financial Plan of Funds Operated by Voluntary Pension Funds

Section 56.

(1) The financial activities and the financial plan of funds run by voluntary pension funds shall be governed by Sections 50-55, with due regard to the provisions specified in Subsections (2)-(5).

(2) The working structure of the voluntary pension fund shall be established and operated in such a manner that the impact of economic events directly related to both the voluntary pension fund and the fund may be continuously recorded and attributed to the various fund activities.

(3) Revenues, costs and expenses which are related to both types of funds, or which may not be attributed to any of the funds proportionately to revenues, shall be divided between the sources through the application of internal settlement regulations.

(4) The fund's financial plan shall include the portion of common expenses and revenues attributed to individual fund activities.

(5) For the common activities, the fund shall draw up a plan which includes expenses and revenues incurred in relation to the fulfillment of joint tasks.

(6) The detailed rules pertaining to funds operated by voluntary pension funds shall be determined by the Government in the form of a decree.

Fund Reserves and the Operation Thereof

Section 57.

(1) From its revenues, the fund shall create funding and liquidity reserves and shall utilize such reserves exclusively in accordance with the provisions of the law.

(2) In addition to the mandatory reserves specified by the law, the fund may create other reserves specified in the Fund Regulations.

Section 58.

(1) From its revenues, the fund shall accumulate appropriated reserves, its own activity reserves, if it does not entrust an external organization with its asset management activities and the provision of pension payment benefits. These reserves shall be used to replenish the funding reserves after the secondary reserves become exhausted in the event of operational problems with the aforementioned activities.

(2) The fund's own activity reserves shall total HUF 100 million.

Section 59.

(1) The funding reserves shall be utilized to accumulate and finance the funding of benefits.

(2) Within the funding reserves, individual accounts and benefit reserves shall be handled separately.

(3) Revenues of the funding reserves are as follows:

a) a portion of the membership contributions paid by the members, or the donations paid, as membership contributions, for benefit to members temporarily without income from employment (due to maternity allowance, child care benefit, military service), such portion being specified by the Fund Regulations or the financial plan,

b) a portion of other contributions paid by the members, such portion being specified by the Fund Regulations or the financial plan,

c) returns on the investment of funding reserves,

d) revenues from the sale of assets of the funding reserves,

e) donations for the benefit of the funding reserves in accordance with the will of the grantor,

f) amounts corresponding to the fund member's claim and transferred from other funds.

(4) The expenses debiting the funding reserves shall be:

a) benefit expenses according to benefit type,

b) amounts corresponding to the fund member's claim and transferred to other funds by members,

c) expenses related to the investments of individual accounts and benefit reserves,

d) amounts reimbursed to fund members.

Section 60.

(1) The liquidity reserves shall be utilized to accumulate temporarily unutilized assets, to offset investment and demographic risks, to secure the solvency of the fund and to keep record of the funding of the valuation difference.

(2) If the fund does not entrust an external organization with the provision of pension payment benefits, it shall create an appropriated benefit reserve fund within the liquidity reserves, in compliance with the methods used by the fund.

(3) Revenues of the liquidity reserves are as follows:

a) a portion of the membership contributions paid by the members, or the donations paid, as membership contributions, for benefits to members temporarily without income from employment (due to maternity allowance, child care benefit, military service), such portion being specified by the Fund Regulations or the financial plan,

b) other contributions paid by the members in compliance with the Fund Regulations or the financial plan,

c) returns on the investments of the liquidity reserves,

d) revenues from the sale of assets of the liquidity reserves,

e) donations for the benefit of the liquidity reserves in accordance with the will of the grantor

f) a portion of revenues which shall contribute to the liquidity reserves from ownership of organizations performing administration, record keeping and benefit service tasks for the fund as specified in Paragraph b) of Subsection (1) of Section 50, as well as from ownership of the fund's assets managing organization,

g) a portion of other revenues which shall be contributed to the liquidity reserves.

(4) Only such expenses as are incurred in relation to the investment of liquidity reserves may be debited to the liquidity reserves. Resources of the liquidity reserves may be regrouped into the funding reserves and for operational purposes, in accordance with the financial plan and the legal regulations.

Section 61.

(1) The fund shall maintain separate records of operational revenues, costs and expenses.

(2) Operational revenues are as follows:

a) a portion of the membership contributions paid by the members, or the donations paid, as membership contributions, for benefits to members temporarily without income from employment (due to maternity allowance, child care benefit, military service), such portion being specified by the Fund Regulations or the financial plan,

- b) a portion of other contributions paid by the members, such portion being specified by the Fund Regulations or the financial plan,
 - c) returns on the investment of operational revenues,
 - d) revenues from the sale of operation related assets,
 - e) donations for operational purposes in accordance with the will of the grantor,
 - f) revenues from the ownership of the asset management organization which may be spent on operations,
 - g) revenues from the ownership of the organization performing administration, record keeping and benefit services for the fund which may be spent on operations,
 - h) other revenues which may be spent on operations.
- (3) Operational costs and expenses shall include:
- a) current operational expenses, broken down by cost types,
 - b) financial obligations towards the Guarantee Fund and the Private Fund Supervisory Board,
 - c) expenses related to the collection of membership contributions and pension payments taken without legal grounds,
 - d) expenses for procurement, establishment and renewal of tangible assets related to the operation of the fund,
 - e) expenses related to the investment of operational revenues.

Section 62.

(1) Reserves, as well as operational revenues and expenses, including the revenues and expenses of individual accounts and benefit reserves, shall be accounted at least on a monthly basis.

(2) The net return revenues on the investment of the funding reserves (the difference between the return revenues and investment costs) shall be credited to the individual accounts of the fund members and the benefit reserves on a quarterly basis, proportionally to their balance at the time of crediting of the return.

(3) In the course of accounting the investment revenues and costs, the principle of gross accounting shall be applied.

(4) In the event of individual settlements with fund members (termination of membership, calculation and disbursement of benefits) costs specified in the Fund Regulations and the benefit regulations of the fund shall be accounted for as operational revenues which debit the individual accounts or benefit reserves, respectively.

(5) All resources for the funding of the pension plan benefits and the related costs, i. e. the balance of the fund member's individual account, shall be transferred, in a lump sum, to the reserves of the benefit chosen by the fund member.

(6) Within the funding reserves, contributions and related expenses pertaining to individual accounts and benefit reserves shall be settled against the respective individual accounts, benefit and liquidity reserves. The reserves, individual accounts and benefit reserves shall bear the investment costs and costs proportionate to the assets, proportionately to their balances at the time of settlement.

(7) Separate investment portfolios shall belong to the liquidity and funding reserves, and within these, the individual accounts and benefit reserves. After the settlement of contributions and related expenses, the reserves, individual accounts and benefit reserves shall be adjusted proportionately to their balances, so that their amount plus

the valuation difference reserves will be equal to the market value of assets in the respective portfolios.

(8) In the accumulation period, the total registered claims of members shall equal the balances on their individual accounts. In the benefit period, the claims of members shall equal the amount of the benefit reserves.

Section 63.

(1) The rate of return on fund investments shall be determined on a quarterly basis.

(2) The fund's rate of return shall annually be compared with the expected rate of return specified for the funds, as well as the minimum and maximum rates of return. Comparison shall be based on the average annual return calculated from the net rate of return accounted by the fund and adjusted to the market value. This shall be the basis of creating, and utilizing for individual reserves, the return adjustment reserves, so that the fund can credit at least the minimum return to the individual accounts and benefit reserves at the end of this procedure.

(3) If the rate of return on the fund's investments exceeds the maximum rate of return, a portion of the surplus in the funding reserves shall be transferred to the return adjustment reserves of the liquidity reserves. The funding reserves shall be reduced by debiting an amount proportionate to the accounts or reserves, so that the growth rate of each account and the reserves will be higher than the minimum rate of return required, even after the reduction.

(4) Funds from the return adjustment reserves can be regrouped only to the funding reserves. If the return on the fund's investments is lower than the required minimum return, the revenues of the funding reserves shall be topped up from the return adjustment reserves. The funding reserves shall be increased by crediting an amount proportionate to the accounts or reserves, so that the growth rate of each account and the reserves will be higher than the minimum rate of return required and lower than the maximum rate of return required. If the return adjustment reserves runs short, the Private Fund Supervisory Board and the Guarantee Fund shall be notified immediately.

(5) The return adjustment reserves shall not be lower than 0.5% of the funding reserves. In years when the reserves are below the required level, they shall be replenished with 0.5% of the contributions.

(6) Regrouping such as specified in Subsection (3) shall not be carried out, nor shall the reserves be replenished as per Subsection (5), if the return adjustment reserves have reached the required level.

(7) The expected rate of return, and the minimum and maximum rates of return shall be determined in advance on an annual basis by the Private Fund Supervisory Board, with the involvement of the Private Fund Council.

(8) The detailed rules pertaining to Subsections (1)-(7) shall be determined by the Government in the form of a decree.

Section 64.

It is within the authority of the Board of Directors to decide on the ways of utilizing the portion of the assets of the liquidity and the operational reserves, if the fund creates such reserves, which is above the scheduled level. The portion of the benefit reserves

constituting a part of the funding reserves which exceeds the scheduled level shall not be utilized outside the funding reserves.

Section 65.

(1) If, during the pension benefit disbursement period, the actuary's report indicates that the benefit reserves, per member or combined, do not amount to the level necessary to provide the benefits corresponding to the fund members' claims, the difference, according to the actuary's report, shall be regrouped from the secondary reserves to the benefit reserves of the relevant funding reserves. If these reserves do not cover the deficit, the Private Fund Supervisory Board shall be notified.

(2) The fund shall not assume responsibility towards third parties which lead to any encumbrance of its funding reserves, except for performing its investment activities and meeting its obligations to provide benefits. The fund may not issue bills of exchange or any securities embodying loan relations, nor shall it draw credit or loan at the expense of the funding reserves. The detailed rules of credit lines and borrowing shall be determined by the Government in the form of a decree.

(3) The fund shall not assume financial responsibility for other organizations or persons. It shall not extend loans, including the purchase of instruments issued for debt embodying loan relations, but excluding investment activities performed in accordance with Sections 66-68; it shall not accept bills of exchange, checks or other promissory notes; it shall not undertake surety for debt or provide collateral. These restrictions shall not apply to loans extended to organizations owned by the fund which perform management record keeping and actuarial tasks, as well as asset management activities for the fund.

(4) In the interest of securing fund benefits, the Government may, in the form of a decree, require the creation of further secondary reserves.

Asset Management

Section 66.

(1) To reduce risks and to prevent unilateral dependence, the fund shall in all cases divide its investments according to investment assets types (investment portfolio rules). The division of investments may not jeopardize the continuous solvency of the fund and the provision of fund benefits.

(2) Investments made by the fund shall be in line with the fund's short-term (within one year) and long-term (longer than one year) liabilities, maintaining the continuous solvency of the fund.

(3) Investments shall be chosen in such a way that the rate of return on individual investments shall depend on the rate of return on other investments to the smallest possible extent.

(4) The fund may

a) manage its assets on its own,

b) partly or entirely entrust an external asset managing company with the management of its assets.

(5) The fund may manage its assets on its own, without the involvement of a trustee if:

a) the fund's Fund Regulations so stipulate,

b) the fund has asset management and asset valuation regulations,

c) the fund creates its own activity reserves,

d) the fund accumulates return adjustment reserves in accordance with Section 63,

e) the fund, in order to manage the asset management activity, employs an expert with the qualifications specified in Subsection (2) of Section 48, and, if the fund's investment portfolio includes real estate, a real estate expert.

(6) The external organization entrusted with the management of the fund's assets may only be an investment enterprise, a financial institution or an investment fund management organization which is properly authorized by the State Supervisory Board of Money and Capital Markets.

Section 67.

(1) The fund shall not directly own more than 10% of the registered capital of an economic organization for a period longer than one year, except for organizations owned by the fund and responsible for the fund's asset management, record keeping, benefit provision, administration and debt collection.

(2) The fund shall notify the Private Fund Supervisory Board within fifteen days of temporary acquisition of ownership as specified in Subsection (1).

(3) The fund shall not acquire ownership in a economic organization against which bankruptcy or liquidation proceedings have been initiated, or against which bankruptcy or liquidation proceedings had been initiated in the two years preceding the year under consideration.

(4) The fund

a) may not, except for service providers founded by or partly owned by the fund, have ownership in economic organizations in which the founders of the fund, the employers of the fund members, the grantors or service providers of the fund own more than 10% of the registered capital,

b) may, with the exception of government securities, invest a maximum 10% of its assets in securities issued by any single issuer,

c) may not, with the exception of government securities, acquire more than 10% of the securities issued by any single issuer,

d) may, with the exception of service providers established or partly owned by the fund, invest its assets exclusively in securities traded on recognized stock exchanges (Section 25 of Section 3 of FE).

(5) The fund's bank deposits in financial institutions belonging to any given banking group, excluding the current account, and the overall value of securities issued by an organization belonging to any single banking group, may not exceed 20% of the invested fund assets.

(6) The value of securities issued abroad may not exceed 30% of the fund's assets.

(7) The fund's assets may not be invested in investment certificates issued by the investment fund managing organization which manages the fund's assets.

Section 68.

(1) In its investment records, the fund shall create asset types, then investment portfolio categories from the invested assets, then determine their relative ratios. The fund shall also ensure compliance with the provisions and framework regulations set out in this Act and in the related implementing legal regulations.

(2) The detailed rules of restrictions to investment activities specified in Subsection (1) of Section 67 shall be stipulated by the Government in the form of a decree, with regard to Section 70. In terms of investment certificates issued by mutual funds, and with respect to the investment assets type specified in the funds' rules of procedure, the decree may depart from the restrictions specified in Subsection (4) of Section 64.

Administrative, Record Keeping and Reporting Obligations of Funds

Section 69.

(1) The fund shall maintain business administration double entry book-keeping. The fund's books and records shall contain the value of assets and the changes in the value thereof. The assets of the investment portfolio and the valuation difference shall be listed separately according to reserves and operation-related invested assets.

(2) The fund's reports shall indicate changes in the funding and liquidity reserves and the operational profit, based on the revenues and expenses of the fund, as well as changes in the value of the fund's assets.

(3) The market value evaluation shall be carried out on a quarterly basis, and shall appear in the books and records as valuation difference in the case of assets, or valuation difference reserves in the case of liabilities. The valuation difference shall be determined on the basis of the value of the investments without interest.

(4) The fund shall disclose the profit or loss of its investment activities, and the figures indicating the cost-efficiency of expenses (fund performance indicators), in order to ensure the provision of information to the fund members and to the general public, as well as the comparability of fund performance and the transparency of the entire fund system. Investment performance shall be measured by the method of return calculation based on the market value of assets. Among the indicators of cost-efficiency expenses on investments, the internal operation of the fund and of external service providers shall be differentiated.

(5) The purpose of asset valuation is to provide a realistic picture of the assets in the fund's portfolio, and the rights based on it, through a prudent, itemized value assessment taking into consideration market demand.

(6) The detailed rules of asset valuation, with regard to Section 70, and the method of calculation of the fund's performance indicators shall be determined by the Government in the form of a decree.

Section 70.

(1) Investment portfolio and valuation assets groups are as follows:

- a) petty cash,
- b) current accounts,
- c) fixed-term deposits,
- d) bonds
 - 1. fixed-income securities,
 - 2. variable-income securities,
 - 3. discount treasury bills,
 - 4. tap securities,
- e) stocks,
- f) investment certificates,
- g) mortgage bonds,
- h) real estate,
- i) futures transactions,
- j) options transactions.

(2) In the course of formulating the portfolio categories and the rules of valuation, the risks of the issuer shall be taken into account. It shall also be considered whether the portfolio item is listed or not, and whether the transaction was carried out on a recognized stock exchange.

(3) Valuation shall be based primarily on the price which can be determined in a recognized stock exchange. In the absence of this, a conservative estimate shall be used which shall be based on a similar value judgment of the open market. If the market price cannot be determined, the value shall be determined on the basis of expected revenues. In the case of long-term investments, a method which disregards the short-term market volatility and accumulates accrued returns or one which is based on average calculation, may also be applied.

(4) In the case of fund reports and return calculations the investment portfolio shall be valued separately, pursuant to Subsection (7) of Section 62, by reserves, invested operational assets and, within funding reserves, individual accounts and benefit reserves.

(5) The report, including the market valuation of assets and performance evaluation, shall be prepared on a quarterly basis; the actuary's valuation and statistical report shall be drawn up on an annual basis.

(6) The following information shall be disclosed:

- a) the starting date of the operation of the fund,
- b) the names and titles of the fund's officers,
- c) the balance sheet excerpt of the fund (showing changes compared to the previous year),
- d) the number of members in the fund,
- e) revenues from contributions and other sources,
- f) the breakdown of revenues between the reserves,
- g) the value of benefits provided by the fund (changes in the value),
- h) the operational costs of the fund,
- i) the main indicators of the investment performance of the fund (changes),
- j) the name of the fund's trustee (changes),
- k) the penalties imposed by the Private Fund Supervisory Board and the reasons for the imposition of such penalties,
- l) the utilization of the Guarantee Fund,

m) all other major indicators which ensure comparability of the performance of the funds.

(7) Brochures, leaflets and announcements prepared by the fund shall not contain misleading data and information. In addition, any description of the fund's performance shall contain prudent and professionally founded projections, in particular in terms of expected returns, and it shall be indicated that these are not binding requirements, and that the fulfillment thereof is not guaranteed. In connection with the past performance of the fund, only data and facts specified in this Act may be made public. When presenting the fund's performance, the changes in the official consumer price index (inflation rate) of the same period shall also be indicated.

(8) The data specified in Subsection (6) shall be made available pursuant to the Fund Regulations of the fund, and shall be disclosed in the Financial Gazette within 150 days of the end of the financial year.

Section 71.

(1) The fund's report, attested by the auditor, shall be submitted to the General Meeting within ninety days of the end of the financial year under consideration. The report shall contain the asset valuation and performance evaluation reports, as well as the actuary's report.

(2) In order to monitor the fund's solvency, the Private Fund Supervisory Board may also request the fund to submit its report during the course of the year.

(3) The rules governing fund reporting obligations, the book-keeping obligations which underlie the report, as well as the actuary's report shall be determined by the Government in the form of a decree.

Section 72.

(1) If the report reveals losses which cannot not be compensated from the secondary or liquidity reserves or own activity reserves, the Board of Directors shall notify the Private Fund Supervisory Board and the Guarantee Fund regarding such losses, as well as the fund's stabilization plan intended to eliminate the losses.

(2) The Private Fund Supervisory Board shall continuously check the level of the return adjustment, demographic, secondary and other reserves required by the legal regulations. In the case of any losses, the Private Fund Supervisory Board shall initiate supervision measures.

(3) The provisions of Subsection (2) shall also apply to the utilization of the reserves specified therein, and also to cases when the report indicates a decrease in the value of individual accounts and benefits which include the contributions compared to the initial status, or if it indicates higher expenses than specified by this Act.

(4) If the Private Fund Supervisory Board finds the stabilization plan of the Board of Directors inadequate, it may require the revision thereof.

Entrusting External Organizations with the Administration, Record Keeping, Actuarial Tasks and Asset Management of the Fund

Section 73.

(1) Funds may entrust their administration, record keeping and actuarial tasks as well as asset management to organizations (hereinafter collectively referred to as "service providers") who are engaged in such activities on a commercial basis and are registered with the Private Fund Supervisory Board. Administration, record keeping and actuarial tasks may also be fulfilled by the same organization.

(2) Asset management may not be transferred to the organization which carries out the administrative, record keeping and actuarial tasks of the fund.

(3) The service provider shall act for the benefit of the fund, in compliance with the rules governing the fund which are related to financial management, accounting, actuarial and investment activities.

Section 74.

(1) The contract on asset management shall contain:

a) the description of the assets transferred for management,
b) the rules governing management of the fund's assets separately from the assets of the trustee and such assets managed on the basis of other commissions,

c) guarantees for compliance with the investment restrictions and asset management rules,

d) a provision which requires the trustee to keep records which contain valid data on the basis of which the fund can comply with reporting and accounting obligations,

e) a provision stating that the trustee shall also provide the fund or, upon the request of the fund, other service providers and the Private Fund Supervisory Board, in a form specified by legal regulations, with fund information necessary to meet the record keeping and reporting obligations set out by the law.

(2) If the fund uses the services of a trustee, it shall ensure that the information necessary to ensure compliance with the asset management rules shall be available for the Private Fund Supervisory Board.

(3) The contract on asset management shall be void if:

a) the trustee does not have a license issued by the Supervisory Board for performing asset management activities, or a relevant agreement approved by the Hungarian Banking and Capital Market Supervisory Authority,

b) the contract on asset management does not contain the provisions specified in Subsection (1).

Section 75.

(1) The fund shall submit the contract signed with the service provider to the Private Fund Supervisory Board within 15 days of signing a contract.

(2) The Private Fund Supervisory Board may within 30 days call on the fund to terminate the contract concluded with the service provider, if the content of the contract breaches the provisions of the legal regulations pertaining to the administration of the fund's business management, the performance of actuarial or investment tasks, or the property and assets valuation regulations of the fund, or if the service purchased from an insurance company is not compatible with the fund's service system specified in this Act.

If, upon the order of the Private Fund Supervisory Board, the fund fails to take measures to ensure compliance with the law, the Private Fund Supervisory Board may initiate the annulment of the contract by the court with jurisdiction over the registered office of the fund, and the service provider shall, on the basis of a resolution, suspend the services provided under the contract.

Utilization of Investment Services, Management of Investment Assets

Custodianship and Custodian

Section 76.

(1) The fund shall entrust a custodian, and only one custodian, specified in SecA, with its safety deposit tasks.

(2) The fund's custodian shall monitor, to the extent necessary to fulfill his duties, the service provider and the organization keeping the current account in terms of the investment activities carried out on commission by the fund.

(3) Acting on behalf of the fund, the fund's custodian shall carry out his duties arising from the assignment for custodianship for the benefit of the fund. He shall warn the fund or the trustee if the execution of an investment infringes (would infringe) or jeopardizes (would jeopardize) the interests of the fund.

(4) The custodian shall refuse to carry out any instructions which are incompatible with the legal regulations on fund investments. If the composition of the fund's investments does not meet the requirements, the custodian shall report this to the fund, and shall notify the fund's service provider(s), if such exist(s), within three business days.

(5) The fund shall notify the Private Fund Supervisory Board of the appointment of the custodian, and forward the contract signed, within 30 days.

Section 77.

(1) The fund shall not commission economic organizations involved in asset management and service provision for the fund with the tasks specified in Subsection (1) of Section 76.

(2) There shall be no direct or indirect ownership relationship between the fund's service provider and the custodian in excess of 10%, or other economic relationship which is incompatible with the custodian's tasks.

(3) No person who manages the investments of the fund as an employee of the fund nor any person working for the organizational unit dealing with investments shall be an officer or senior employee of the fund's custodian, or any other person who may give instructions in connection with the custody of assets.

(4) At the fund's trust company, a person responsible for asset management, or investing the assets of the fund in question may not be an officer or senior employee of the fund's custodian, or any other person who is in charge of the management of the organizational unit responsible for custody, or is in the position to give direct instructions.

Chapter VII.

CONFIDENTIALITY

Business and Fund Secrets

Section 78.

(1) Any fact, information, solution or data related to the activities of the fund shall be regarded as business secrets if the maintenance of their secrecy is in the justified interests of the fund, or which the fund has specified as business secrets, or has taken the necessary measures to maintain their secrecy.

(2) Any fact, information or data regarding any fund member's identity, particulars, financial standing, business activities, financial management, ownership and business relations, as well as the balance in his individual account kept with the fund, the contributions made by the fund member and the pension plan benefits for which he is eligible, shall be regarded as fund secrets which are available, or become available to the fund or the fund's service provider through their activities, but which may not be collected or managed by the fund or the fund's service provider. The personal data of fund members which may be kept in the records are listed in Schedule No. 2 of this Act.

(3) Members of the fund's Board of Directors and the Board of Supervisors, employees of the fund, including persons, organizations and the employees thereof employed on the basis of commission shall maintain the confidentiality with regard to business and fund secrets disclosed to them in connection with the operation of the fund without any limitation in time, even after such information becomes obsolete.

(4) The confidentiality requirement specified in Subsection (3) shall apply to persons and organizations which have obtained information regarded as business or fund secrets.

(5) The Private Fund Supervisory Board may, in compliance with the rules on business secrets, provide information appropriate for the identification of individual funds to:

- a) the Central Statistical Office for statistical purposes,
- b) the Ministry of Finance for purposes of planning economic and budget policies,
- c) the Private Fund Council and the Guarantee Fund for purposes of analyzing economic and money market processes, to improve the efficiency of the investment activities of the funds, as well as to evaluate whether the funds can fulfill their service obligations.

Section 79.

(1) The confidentiality provision required by Subsection (3) of Section 78 shall not be maintained with relation to:

- a) the Private Fund Supervisory Board,
- b) the Guarantee Fund,
- c) the State Audit Office,

d) the General Prosecutor's office in charge of the legal supervision of the funds,
e) investigating authorities and the General Prosecutor's office acting in the framework of a pending trial and supplementing the indictment,
f) organizations authorized to collect confidential information under the conditions specified in a separate law,
g) public notaries involved in the execution of wills, or the guardianship authorities acting within their scope of responsibility,
h) the national security agency, acting within their scope of responsibility pursuant to the legal regulations, upon ad-hoc permission from the general director,
i) the court, in the framework of bankruptcy and liquidation procedures, in the case of criminal actions and civil actions related to estate, as well as in debt servicing procedures of local governments,
j) the tax authorities, customs authorities and social security administration involved in proceedings to inspect compliance with the tax, customs duty and social security contribution obligations, and to enforce the instrument executing such debts,
k) the Economic Competition Office,
acting within their scope of responsibility, if the above organizations request information from the fund in writing.

(2) No fund secrets may be disclosed to third parties unless:

a) the fund member or his duly authorized representative gives authorization in writing in a public document, or a private document with full probative value, defining exactly the data to be disclosed,

b) the law grants an exemption from the obligation to maintain confidentiality regarding fund secrets,

c) this is required in the interest of the fund to collect (sell) outstanding debts of its members, or to enforce overdue claims.

(3) Nobody who possesses business or fund secrets shall use them to gain direct or indirect advantage for himself or for any other person, nor to cause any detriment to the fund or the fund members.

Chapter VIII.

MERGER, DEMERGER, TERMINATION AND LIQUIDATION OF FUNDS

Merger of Funds

Section 80.

(1) Funds of the same organizational structure may merge if the General Meetings of the funds concerned so decide. The merger may be carried out through acquisition or consolidation. Funds of different organizational structures may also merge into territorial funds.

(2) In the case of an acquisition, the rights and responsibilities of the acquired fund shall be transferred to the acquiring fund, as a general legal successor. In the case of an acquisition, the deed of foundation and the Fund Regulations of the acquiring fund shall be amended.

(3) In the case of consolidation the merging funds shall cease to exist, and the rights and responsibilities thereof shall be transferred to the new fund, as legal successor, upon approval of the deed of foundation of the new fund.

Demerger of Funds

Section 81.

(1) A fund may demerge into several funds if the General Meeting so decides, and if the new funds approve their respective deeds of foundation. The resolution on the demerger shall also regulate the question of legal succession.

(2) The instances of merger or demerger of funds shall be governed by the relevant provisions of the law on establishing new funds, with the following exceptions observed:

a) the legal successors shall fulfill their service obligations even without being registered in court or being granted the operational license;

b) the legal successor fund shall submit to the Private Fund Supervisory Board a declaration to affirm the fulfillment of the conditions necessary for granting the operational license;

c) the plan for transformation, the draft statement of sources and application of funds certified by the auditor, and a document containing the volumes of liabilities and receivables shall be attached.

Termination of Funds

Section 82.

Intention to terminate the fund shall be reported to the Private Fund Supervisory Board. If the fund ceases to exist without a legal successor, except in the case of liquidation, the Private Fund Supervisory Board may appoint an officer in charge of voluntary dissolution if the General Meeting so requests in the form of a resolution. The payment of the officer in charge of voluntary dissolution shall be borne by the fund.

Section 83.

(1) With the exception of the case of liquidation, a fund may cease to exist only after voluntary dissolution, and with the prior reporting to the Private Fund Supervisory Board.

(2) The termination of a fund shall be reported to the competent court. The fund or funds which come into being through merger or demerger shall be registered concurrently.

(3) If a fund ceases to exist without a legal successor, the fund members may:

- a) take their respective holdings to another fund if they join another fund, or
- b) deposit their respective holdings temporarily, for a maximum of six months, in the Guarantee Fund.

Section 84.

(1) In the course of liquidation proceedings of a fund, the provisions of Act IL of 1991 on Bankruptcy Proceedings, Liquidation Proceedings and Voluntary Dissolution shall be applied, with due regard to the following exceptions:

a) the fund is regarded as insolvent if it fails to fulfill its due, acknowledged commitments within sixty days, and services undertaken for the benefit of its members within ninety days of the due date,

b) bankruptcy proceedings may not be initiated against a fund

c) the fund's court-appointed liquidator may exclusively be a public service partnership as specified in Subsection (3) of Section 177 of CIFE.

(2) From the starting date of liquidation

a) any measures may only be taken by the liquidator;

b) no new member may be admitted, and outstanding payments shall be suspended,

c) membership contributions may only be collected by the Guarantee Fund.

(3) The Private Fund Supervisory Board shall, upon commencement of liquidation proceedings, withdraw the operational license of the fund, and ensure continuous membership and the payment of pension payment benefits through the Guarantee Fund or by appointing another fund.

(4) Within 60 days of the starting date of liquidation proceedings, the Private Fund Supervisory Board shall appoint the fund in which membership may be continued. The appointed fund shall not refuse the admittance of the persons concerned. The appointment shall not affect the right of fund members to choose any fund they wish. Settlement between the funds shall be governed by the rules pertaining to switching funds.

(5) On the starting date of liquidation proceedings, the list of assets belonging to the fund shall be immediately closed and transferred to the liquidator. During liquidation proceedings these assets shall be handled separately, and can be utilized to meet other liabilities only after the fulfillment of the claims of fund members or their relatives, payable from the funding reserves.

Chapter IX.

ALLIANCE OF FUNDS

Section 85.

(1) The funds may establish an alliance (alliances) to represent their interests and implement their common objectives.

(2) The alliance is a public organization which shall operate as a legal entity.

(3) The alliance may issue professional recommendations concerning the operation of the funds.

Chapter X.

GUARANTEE FUND OF THE FUNDS

Section 86.

- (1) The Guarantee Fund shall come into being upon this Act entering into effect.
- (2) Funds which have an operational license shall join the Guarantee Fund and pay a guarantee fee to the Guarantee Fund.

Legal Status of the Guarantee Fund

Section 87.

- (1) The Guarantee Fund is a legal entity with its registered office in Budapest.
- (2) The Guarantee Fund shall not be deprived of its financial assets and such assets may not be withdrawn and shall be used exclusively for the purposes specified in this Act.
- (3) The Guarantee Fund shall not pay corporate income tax, local taxes or duties on its assets, revenues and income.
- (4) The equity of the Guarantee Fund shall not be divided.
- (5) The Guarantee Fund shall be represented against third parties by the Chairman of the Board of Directors or the Managing Director in court or before the authorities.
- (6) Legal supervision of the Guarantee Fund's operation shall be carried out by the Private Fund Supervisory Board.
- (7) The Guarantee Fund shall bear the costs related to its operation.

Responsibilities of the Guarantee Fund

Section 88.

- (1) The responsibility of the Guarantee Fund is
 - a) to effect the payments specified in Section 89,
 - b) to analyze the investment performance of funds in connection with the required rate of return and the availability of provisions to cover pension payment benefits, and to make recommendations to the Private Fund Supervisory Board and the Private Fund Council,

c) to represent injured parties in arbitration or liquidation proceedings on commission by fund members eligible for damages,

d) to collect membership contributions and, if a fund ceases to exist without a legal successor, to manage the assets deposited in the Guarantee Fund by the fund members after liquidation proceedings are initiated,

e) upon the request of a fund member or account holder, the Guarantee Fund shall take over and temporarily, for a maximum of six months, manage the member's individual account and shall take over his pension payment benefit funding and disburse his pension payment.

(2) The Guarantee Fund shall notify the Private Fund Supervisory Board of any request submitted to it.

Disbursements from the Guarantee Fund

Section 89.

(1) The financial assets of the Guarantee Fund may be disbursed if:

a) the claims of a fund member or a beneficiary of a member of the Guarantee Fund have been frozen in the case of a switch of funds, a return to the social security pension system, or the provision of pension payment benefits, or in the case of the death of the fund member,

b) if a member's claim at the time of retirement is smaller than the normative funding,

c) if the level of the benefit reserves hampers fulfillment of service obligations in the period of payment of pension benefits.

(2) Assets are deemed to be frozen if a Guarantee Fund's member may not pay all receivables to a fund member within five days of the due date stipulated in the Fund Regulations.

(3) Pursuant to Subsection (1) the Guarantee Fund shall:

a) top up the payment made by the fund to the amount of the member's claim to the benefit of the Pension Insurance Fund or the chosen fund if the fund member switches funds in the accumulation or benefit period, or returns to the social security pension system,

b) if necessary, top up the individual funding to reach the level of normative funding at the time that the pension payment benefit of a fund member is calculated,

c) top up the benefit reserves if the actuary's report shows that in the pension payment disbursement period the level of the benefit reserves will not reach the amount of the claim determined for each fund member eligible for services, even after the utilization of the demographic and return adjustment reserves of the liquidity reserves.

(4) The Guarantee Fund shall begin paying the frozen claims within 30 days of the claims freeze. If a liquidation procedure is initiated against a member of the Guarantee Fund, payment shall be started within fifteen days of disclosing the court's verdict on ordering liquidation proceedings.

(5) The Guarantee Fund shall disclose, in a national daily newspaper and in "Hungarian Official Gazette" [Magyar Közlöny], the first day place and mode of enforcing the claim, as well as the name of the organization entrusted with such payments.

Section 90.

(1) The fund, whose payment obligations have been assumed by the Guarantee Fund, shall reimburse the Guarantee Fund for the amount and other related costs incurred in a manner determined by the Board of Directors of the Guarantee Fund. The Guarantee Fund shall initiate, in the line of duty, a proceeding at the Private Fund Supervisory Board to determine personal responsibility.

(2) Claims of the client shall be transferred to the Guarantee Fund to the extent of the amount paid by the Guarantee Fund.

(3) The Guarantee Fund shall enforce its claims specified in Subsection (1) within the framework of liquidation proceedings, as required.

Members of the Guarantee Fund, Guarantee Fee

Section 91.

All Guarantee Fund members must pay a guarantee fee to the Guarantee Fund. The rate of the guarantee fee, determined on the basis of the same principles for each fund, shall be determined by the Board of Directors of the Guarantee Fund.

Section 92.

The guarantee fee shall be transferred to the bank account of the Guarantee Fund on a quarterly basis, at the latest by the 30th of the month which follows the quarter under review. The guarantee fee shall equal 0.3% to 0.5% of the revenues from membership contributions of the quarter under review.

Section 93.

(1) The average annual value of the guarantee Fund's assets may not be less than 0.3 or more than 1.5 per cent of the total combined assets of the funds.

(2) The Board of Directors of the Guarantee Fund may order extraordinary deposits if the assets of the Guarantee Fund do not cover the financial obligations of the Guarantee Fund set out in this Act. Funds shall effect extraordinary deposits in the manner and at the time determined by the Board of Directors of the Guarantee Fund. The Government may set the upper limit of extraordinary deposit in the form of a decree.

(3) If the assets of the Guarantee Fund exceed the upper limit set out in Subsection (1), the Board of Directors of the Guarantee Fund shall suspend the depositing of guarantee fees.

Organizational Structure of the Guarantee Fund

Section 94.

(1) The Guarantee Fund shall be managed by a Board of Directors consisting of seven members.

(2) Members of the Board of Directors are as follows:

a) two members elected from the members of the Private Fund Council by the Council,
b) one person delegated by the Alliance of Funds, or if several such alliances exist, one person jointly delegated by all associations,
c) four persons, who are experts independent from the Guarantee Fund, appointed by the Minister of Finance based on the recommendation of the Private Fund Supervisory Board.

(3) Members of the Board of Directors shall be appointed or nominated for a term of three years.

(4) Membership in the Board of Directors shall cease

a) upon expiration of the term specified in Subsection (3),
b) if the nomination is withdrawn or the member is recalled,
c) if the member is removed from his function,
d) upon death of the member,
e) if the member resigns.

(5) The Board of Directors shall elect a Chairman from among its members.

(6) The Board of Directors shall convene at least on a quarterly basis. The Board of Directors shall be summoned to convene if a situation, pursuant to the regulations of the Guarantee Fund, occurs or is expected to occur which involves payment of a large sum, or if the Private Fund Supervisory Board so requests. Meetings of the Board of Directors shall be called by the Chairman.

(7) The representative of the Private Fund Supervisory Board and the Managing Director of the Guarantee Fund shall attend the meetings of the Board of Directors with the right of consultation.

(8) The Board of Directors shall have quorum if at least five members are present at the meeting. The Board of Directors shall pass its resolutions by a simple majority of votes. In the event of a tie vote, the Chairman shall cast the deciding vote. Affirmative votes of at least four members of the Board of Directors are required for the Guarantee Fund to undertake any commitments.

Duties of the Board of Directors

Section 95.

(1) The Board of Directors shall

a) approve the regulations of the Guarantee Fund,
b) manage the Guarantee Fund's financial and other activities,
c) determine the tasks of the executive organization of the Guarantee Fund,
d) appoint and dismiss the Managing Director, the chief accountant and senior mathematician (actuary) of the Guarantee Fund, and determine their duties and remuneration,
e) determine the rules of procedure, location and time of the meetings of the Board of Directors,

- f) determine the frequency and content of reports to be submitted by the Guarantee Fund's members,
 - g) determine the annual budget of the Guarantee Fund, and it shall prepare the annual report of the Guarantee Fund,
 - h) determine the order of payments the Guarantee Fund must effect pursuant to the law,
 - i) report on a quarterly basis to the Private Fund Supervisory Board and the Guarantee Fund members on the volume and utilization of assets managed by the Guarantee Fund,
 - j) prepare a report on its annual activities by March 31 following the year under review, in which it shall present the Guarantee Fund's financial standing, financial assets and the utilization thereof, and submit this report to the Private Fund Supervisory Board, the Guarantee Fund members and the State Audit Office,
 - k) decide on the exclusion of members,
 - l) fulfill other tasks set by the law.
- (2) The Board of Directors of the Guarantee Fund shall determine in its regulations:
- a) the amount of the annual fee and extraordinary deposits payable by Guarantee Fund members, as well as the rules of procedure relating to the calculation of the fee contribution,
 - b) the rules pertaining to the management of the Guarantee Fund
 - c) the rules pertaining to payment from the Guarantee Fund,
 - d) the rules pertaining to the reimbursement of amounts paid as indemnification,
 - e) the rules of procedure of the Board of Directors.
- (3) The Guarantee Fund shall publish its regulations and the public resolutions of the Board of Directors in the "Financial Gazette" [Pénzügyi Közlöny].

Duties of the Board of Supervisors

Section 96.

- (1) The operation of the Guarantee Fund shall be supervised by a three-member Board of Supervisors.
- (2) The members of the Board of Supervisors shall be appointed by the Minister of Finance upon the recommendation of the Private Fund Supervisory Board.
- (3) The mandate of the Board of Supervisors shall last for three years, and the term shall coincide with the mandate of the Board of Directors.
- (4) The Board of Supervisors shall regularly inspect and analyze the financial activities, accounting and administration of the Guarantee Fund, and shall make recommendations regarding the auditor of the Guarantee Fund. It shall inform the Board of Directors of the Guarantee Fund, or the Private Fund Supervisory Board, if required, of its findings and recommendations. The committee shall make recommendations to the Private Fund Supervisory Board to convene the Private Fund Council in matters pertaining to the competency thereof.
- (5) The Board of Supervisors shall itself determine its rules of procedures.

(6) No member of the Board of Supervisors may be a member or employee of the Board of Directors of the Guarantee Fund; apart from this legal relationship he may not be in any work-related legal relationship with the Guarantee Fund, may not be a senior officer in an alliance of funds, or owner, senior officer or senior colleague of any organization providing services for the funds.

Managing Director and Executive Organization of the Guarantee Fund

Section 97.

- (1) The Guarantee Fund shall have an executive organization.
- (2) The operative management of the Guarantee Fund's activities shall be carried out by the Managing Director. The Managing Director shall exercise employer's rights over the Guarantee Fund's employees.
- (3) With the approval of the Board of Directors, the Managing Director may transfer or assign various tasks outside the framework of employment relations, and may sign co-operation agreements. In these cases the rules of conflict of interest set out in the law shall be properly applied.
- (4) The Guarantee Fund shall employ an auditor.

Accounting, Cash Management and Investments of the Guarantee Fund

Section 98.

- (1) The accounts of the Guarantee Fund shall be managed by the National Bank of Hungary.
- (2) The Guarantee Fund shall hold its liquid assets exclusively in cash or in Government securities.
- (3) The financial activities of the Guarantee Fund shall be supervised by the State Audit Office.
- (4) The specifications related to the Guarantee Fund's annual reports and bookkeeping shall be determined by the Government in the form of a decree.
- (5) The Guarantee Fund may take out a loan from the National Bank of Hungary, or, in the case of temporary or permanent deficit, may draw a credit. The central budget shall assume cash surety for the repayment of the loan taken out from the National Bank of Hungary.

Resignation and Expulsion from the Guarantee Fund

Section 99.

(1) A Guarantee Fund member may resign from the Guarantee Fund at its own discretion only after voluntary dissolution, after terminating all fund activities, and upon giving evidence that it has fulfilled all obligations towards the fund members and the Guarantee Fund.

(2) The Guarantee Fund shall expel a member if

a) the Private Fund Supervisory Board has withdrawn the operational license of the fund, or

b) the Guarantee Fund member has not met its financial obligations towards the Guarantee Fund even upon notice by the Board of Directors.

(3) Expulsion of a fund from the Guarantee Fund shall not affect the assumption of responsibility for claims that it incurred in the period of membership.

(4) The Guarantee Fund shall notify the Private Fund Supervisory Board of the expulsion within one business day. The Private Fund Supervisory Board shall withdraw the operational license of the expelled member with immediate effect, and shall immediately, within a maximum of five business days, publish an announcement to this effect in two national daily newspapers.

Chapter XI.

STATE GUARANTEES, STATE SUPERVISION OF FUNDS

Section 100.

The State shall secure the operation of the private pension system by enforcing the rules of institutional protection, by maintaining state supervision and by assuming financial guarantees from the central budget for the solvency of the Guarantee Fund, which guarantee the payment of the fund members' claims.

Section 101.

Legal supervision of the funds shall be carried out by the General Prosecutor's office in compliance with the relevant governing rules, and state supervision shall be carried out by the Minister of Finance through the Private Fund Supervisory Board.

Legal Status and Scope of Responsibility of the Private Fund Supervisory Board

Section 102.

(1) The Private Fund Supervisory Board is a national, administrative organization of first instance operating as an independent central office under the supervision of the Minister of Finance.

(2) The Private Fund Supervisory Board is a legal entity and operates as an organization funded by the central budget, with semi-independent finances. The Fund Regulations of the Private Fund Supervisory Board shall be approved by the Minister of Finance. The registered office of the Private Fund Supervisory Board is in Budapest.

(3) The authority of the Private Fund Supervisory Board includes the supervision of the activities of organizations specified in Section 2 of this Act, as well as tasks and authority specified by VMIFA.

(4) The Private Fund Supervisory Board shall act in compliance with SAPR with due regard to the provisions listed in this Act.

(5) Appeals against the resolution of the Private Fund Supervisory Board may be submitted to the Minister of Finance.

(6) The Private Fund Supervisory Board has the right in the preparation phase to examine legal regulations related to the system of social security, mandatory and voluntary pension funds, and to make recommendations on the formulation of relevant legal regulations and the amendments thereof.

(7) The Private Fund Supervisory Board may sign agreements of co-operation, may exchange information which is not classified as personal data with foreign supervisory authorities or international organizations established by such authorities, and may join such organizations as a member. The Private Fund Supervisory Board may utilize data and information received from foreign supervisory authorities to improve its performance, as well as to have a better basis to judge applications, pass resolutions, take measures or impose sanctions. The Private Fund Supervisory Board may disclose data and other information to the above mentioned organizations for the same purposes, within the framework of international co-operation.

(8) The Private Fund Supervisory Board shall officially publish its resolutions and opinions in the "Financial Gazette".

Section 103.

(1) Any person who serves or served in a civil service capacity, other work-related, or commissioned legal relationship with the Private Fund Supervisory Board, shall maintain business and fund secrets related to the activities of the funds which are/were disclosed to him while carrying out supervisory tasks. Secrecy shall be maintained without any limitation in time, even after the termination of the legal relationship with the Private Fund Supervisory Board.

(2) Any such person as referred to in Subsection (1) shall not use business or fund secrets disclosed to him to gain advantage for himself or for any other person directly or indirectly through such secrets, nor to cause any detriment to the fund or fund members.

Power of Appointment

President of the Private Fund Supervisory Board

Section 104.

(1) The President of the Private Fund Supervisory Board shall be appointed for a term of six years, and the vice-president(s) for an indefinite period, by the Minister of Finance, who shall also exercise the employer's rights over the President and the vice-president(s).

(2) The status of the President, vice-president(s) and employees of the Private Fund Supervisory Board shall be governed by the provisions of CSA, with respect to the provisions of this Act, with the exception that the rates set out in Subsection (3) of Section 30/A, Paragraph *b*) of Subsection (5) of Section 42 and Subsection (1) of Section 44 of CSA may be increased to the extent specified by legal regulations pertaining to the ministries.

(3) The President and the vice-president(s) of the Private Fund Supervisory Board shall be Hungarian citizens with no prior criminal record, a higher education in the field, and at least five years of management experience in the field of finance, business, or public administration. The Minister of Finance may grant a two year exemption from the five-year experience requirement; furthermore, the Minister of finance may also grant an exemption from the requirement that the higher education degree be in the field, provided that the candidate has had five years experience in the field.

(4) As regards the appointment of the actuary of the Private Fund Supervisory Board, the provisions of Subsections (2)-(4) of Section 47 of this Act shall apply.

(5) The appointment of the President and the vice-president of the Private Fund Supervisory Board shall be terminated through discharge if:

a) according to a final judgment of the court they have committed a crime, or have become unworthy of their positions in any other way,

b) they have permanently become unable to fulfill their functions,

c) they have not eliminated conflicts of interest with their functions.

(6) The President of the Private Fund Supervisory Board shall

a) represent the Private Fund Supervisory Board in Hungary and abroad;

b) manage the activities of the Private Fund Supervisory Board;

c) exercise the employer's rights over the employees of the Private Fund Supervisory Board, and make recommendations on exercising employer's rights related to the vice-president(s);

d) exercise rights related to the financial management of the Private Fund Supervisory Board;

e) order measures and impose penalties;

f) exercise all rights vested in him by the Fund Regulations of Private Fund Supervisory Board pursuant to this Act.

(7) The President of the Private Fund Supervisory Board may transfer his powers specified in Paragraphs *c*)-*e*) of Subsection (6) with the exception of the right to make recommendations on exercising employers rights related to the vice-president(s).

Conflict of Interest

Section 105.

(1) The President, vice-president(s) and civil servants of the Private Fund Supervisory Board shall not be in an employment relationship, in any legal relationship with the purpose of work, in a membership relationship in terms of a corporation or partnership involving personal contribution, or ownership relationship with any fund, legal entity in contractual relationship with that fund, the Guarantee Fund, or any organization involved in social security activities. The said persons may not be senior officers of or members of any organization entrusted with the supervision thereof.

(2) The President, the vice-president(s) and the civil servants of the Private Fund Supervisory Board, and the persons listed in the Subsection (1) shall not be close relatives of each other, and shall not act in issues in which they or their close relatives have interest.

(3) Persons specified in Subsection (1) shall immediately notify the person exercising the employer's right of the existence of conflicts of interest specified in Subsections (1) and (2) and eliminate any conflict of interest as specified in Subsection (1) with immediate effect. The party exercising employer's rights may require the person concerned to eliminate such conflict of interest, even if he fails to fulfill the requirement of notification. If the persons concerned fail to eliminate such a conflict of interest, the civil servant status of such persons shall be terminated by the Private Fund Supervisory Board. In the event of conflicts of interest specified in Subsection (2), the party exercising employer's rights shall decide whether or not the cause of conflict of interest shall be eliminated, and whether the person notifying the Board is entitled to act in the given circumstance.

Responsibilities of the Private Fund Supervisory Board

Section 106.

(1) The Private Fund Supervisory Board shall:

a) supervise compliance with the provisions of the law and the legal regulations issued on the basis of authorization conferred by the law;

b) evaluate applications for licenses, and ensure that the funds operate in compliance with such licenses;

c) appoint a Supervising Commissioner in the events specified in this Act;

d) co-operate in discovering and eliminating obstacles which hamper the development of the funds and the Guarantee Fund, in co-ordinating the co-operation of the above with the social security bodies;

e) operate an auditing and information system;

f) determine, in advance, on an annual basis, the expected and minimum return requirement on the funds' investments with a method of calculation specified by law;

g) approve the regulations of the funds.

(2) The Private Fund Supervisory Board shall permanently make the following documents and data of the funds available to anyone interested, free of charge:

a) deed of foundation,

b) Fund Regulations,

c) benefit regulations,

- d) minutes and resolutions of the General Meetings,
- e) registered office, site(s), branch(es), affiliate(s),
- f) tax number,
- g) the assets of the fund,
- h) names, addresses and positions of the authorized representatives,
- i) mode of representation,
- j) names and addresses of senior officers,
- k) name and address of the auditor,
- l) annual reports.

(3) The Private Fund Supervisory Board shall fulfill its tasks related to the voluntary mutual interest funds in compliance with a separate law.

Section 107.

(1) In fulfilling its tasks, the Private Fund Supervisory Board shall have the right to issue licenses, exercise control, take measures and impose penalties.

(2) While exercising its rights, the Private Fund Supervisory Board shall not compel the fund to carry out financial management other than approved in the Fund Regulations and in the financial plan, unless the fund is temporarily insolvent.

Licensing Authority

Section 108.

The license of the Private Fund Supervisory Board shall be obtained:

- a) to establish a fund;
- b) to start the fund's operation;
- c) to implement the benefit regulations, and to start the provision of fund services.

Right of the Private Fund Supervisory Board to Control, Take Measures and Impose Penalties

Section 109.

(1) The Private Fund Supervisory Board shall have the right at all times and an obligation to monitor every second year whether the activities performed by the fund are in compliance with the law and other legal regulations related to the fund activities, the licenses granted by the Private Fund Supervisory Board and the safety of the fund members. To this effect, the Private Fund Supervisory Board shall have the right to require the production of data, reports, statements and inspection materials related to the performance of the fund, or which are necessary to carry out the audit, and to examine these documents on site, even without prior notice, as well as to request reports.

(2) The Private Fund Supervisory Board shall operate an information system through which it can be connected directly to the information system of the funds and the Guarantee Fund. The detailed rules pertaining to the common information database shall be determined by the Government in the form of a decree.

(3) In order to carry out the supervisory tasks specified in Subsection (1), the Private Fund Supervisory Board may send an employee, an independent auditor or other experts to the fund to carry out a general or specific audit, as well as to enforce the fund's reporting and accounting obligations.

Section 110.

(1) For the purpose of the fulfillment of the obligations of the fund, the protection of fund members' interests, as well as the implementation of the relevant legal regulations, the Private Fund Supervisory Board may take the following measures:

a) it may issue a notice, and set the deadline, if required, for the full implementation of provisions specified in this Act and in other legal regulations relating to the activities of funds;

b) it may require the submission of an action plan by a given deadline, and may also set a deadline for the implementation of such an action plan;

c) it may initiate accountability or discharge proceedings in respect of the manager concerned;

d) it may convene the meeting of the Board of Directors;

e) it may convene an extraordinary General Meeting;

f) it may impose a supervision penalty;

g) it may withdraw the operational license granted for fund activities and, in this case or in the case of voluntary dissolution, it may temporarily order that the fund members pay their membership contributions to the Guarantee Fund; it shall ensure, by the designation of the appropriate fund, that fund members may become members of the designated fund within sixty days at the latest;

h) it may initiate the revision of the financial plan, and the modification of the Fund Regulations;

i) it may initiate legal proceedings in court to liquidate the fund;

j) it may appoint a Supervising Commissioner;

k) it may suspend the admission of fund members;

l) it may suspend the operation of the fund while concurrently appointing a Supervising Commissioner, and may suspend the admission of fund members.

(2) The operational license may be withdrawn if:

a) the fund fails to start operating within 180 days of the date the license takes effect, or if it suspends operation without the approval of the Private Fund Supervisory Board;

b) the fund has disclosed false information or statements in the application for license, and, upon notice, fails to modify the information or statements accordingly within thirty days;

c) the fund fails to meet the requirements specified in the license;

d) the fund seriously breaches the provisions of legal regulations related to fund activities, or does not comply with the resolutions of the Private Fund Supervisory Board, and therefore seriously jeopardizes the interests of fund members;

e) the fund is involved in activities other than those for which it is licensed;

f) the conditions for the issuance of the license are no longer fulfilled, and remedy of this situation is not possible within an appropriate period of time.

Section 111.

(1) The Private Fund Supervisory Board may impose penalties on any members of the Board of Directors or the Private Fund Supervisory Board who violate the Fund Regulations, are involved in activities which are contradictory to the Fund Regulations, operate a fund without an operational license, or fail to abide by measures taken or resolutions passed by the Private Fund Supervisory Board. The amount of the penalty may range from HUF 100,000 to HUF 1,000,000. The payment of the penalty shall not be assumed by the fund.

(2) The Private Fund Supervisory Board may impose penalties on the fund if the fund does not change any unlawful practices or practices violating the Fund Regulations, or violates the relevant accounting and financial requirements. The upper limit of the penalty shall be 0.3 per cent of the annual membership contributions, and may be imposed repeatedly. If the fund deviates from the rules and general regulations on investments, and repeatedly violates the rules relating to conflict of interest, the upper limit of aggravated penalty shall be one per cent of the annual membership contributions.

(3) The penalty imposed by the Private Fund Supervisory Board shall be paid within fifteen days of the receipt of the legally final judgment, to the account specified in such judgment.

Section 112.

The Private Fund Supervisory Board shall not impose any penalty beyond six months after the default or the violation of obligations becomes known to the Private Fund Supervisory Board, or beyond two years after the default or the violation of obligations.

Supervising Commissioner

Section 113.

(1) The Private Fund Supervisory Board may recommend that the fund prepare an action plan if it is assumed that the fund will not be able to meet its obligations.

(2) If the fund fails to comply with the provisions of the action plan, or the action plan fails to promote safe operation of the fund, the Private Fund Supervisory Board may appoint a Supervising Commissioner. The Private Fund Supervisory Board may also appoint a Supervising Commissioner if the deficiencies discovered in the accounting or internal control system of the fund are so grave that it is impossible to evaluate the actual financial standing of the fund, or if the Board or Directors of the fund may not fulfill its duties, and thus jeopardizes the fund members' interests.

(3) The Supervising Commissioner may only be a person who has no business relations with the fund and is not a member thereof.

(4) The Commissioner shall investigate the financial standing and financial assets of the fund, and prepare the fund for the production of a report. The Supervising Commissioner shall convene a General Meeting within fifteen days of the completion of his inspection.

(5) The activity of the Supervising Commissioner shall aim to restore the fund's operability. In this period the fund shall act in compliance with the directives of the Supervising Commissioner appointed by the Private Fund Supervisory Board, and the Supervising Commissioner shall exercise the rights of the Board of Directors and the Managing Director.

(6) The Supervising Commissioner may be appointed for a period of maximum 180 days; this period, however, may be extended pending the appointment of a liquidator. In the event of liquidation proceedings, the appointment of the Supervising Commissioner shall end upon appointment of a liquidator.

Section 114.

(1) The commission of the Supervising Commissioner shall specify his duties and scope of authority, which shall exclusively include compliance with and enforcement of the rules specified in this Act, and legal regulations implementing this Act.

(2) The Board of Directors of the fund shall be notified of the appointment of a Supervising Commissioner.

(3) Upon request, the Supervising Commissioner shall notify the Board of Directors of the fund of the measures taken by him in writing within three days.

(4) The Supervising Commissioner shall be eligible for remuneration, the amount to be determined by the President of the Private Fund Supervisory Board and payable by the fund concerned.

Section 115.

If the financial standing of the fund does not enable the fund to operate in accordance with the Fund Regulations, the Private Fund Supervisory Board may order the suspension of the fund's operation, and may initiate legal proceedings to liquidate the fund.

Revenues of the Private Fund Supervisory Board

Section 116.

Revenues of the Private Fund Supervisory Board are as follows:

- a) supervision fee,
- b) other revenues.

Section 117.

(1) The funds shall pay the supervision fee to the Private Fund Supervisory Board from their operational reserves.

(2) The supervision fee shall total 0.2% of the membership contributions paid.

Section 118.

(1) The supervision fee shall be transferred by the funds to the account of the Private Fund Supervisory Board on a quarterly basis, by the thirtieth day of the month following the quarter under review, on the basis of the fund's actual membership revenues in the quarter under review.

(2) The supervision fee shall be utilized to cover the operational expenses of the Private Fund Supervisory Board. Calculation, accounting and utilization of residual funds at the end of the year shall be governed by legal regulations applicable to financial planning, financial management and the reporting systems of state-funded organizations.

Data Management by the Private Fund Supervisory Board

Section 119.

(1) In order to fulfill its tasks as specified in this Act, the Private Fund Supervisory Board may manage, i. e., store and use data, including personal data specified in this Act.

(2) In order to fulfill its tasks, the Private Fund Supervisory Board may store and use the data, specified in Schedule No. 2 to this Act, of fund members and the senior officers of the funds, as well as data pertaining to the conflict of interest and qualification requirements of the fund's officers and employees.

Section 120.

The central record keeping of the funds shall be carried out by the Private Fund Supervisory Board within its own organization. If the Private Fund Supervisory Board judges from the available data that in any fund the safety of benefits is jeopardized due to some malfunction, or the performance-related data of the funds show remarkable disproportion, or it is presumed that the law or legal regulation has been violated, the Private Fund Supervisory Board shall take the necessary measures.

Chapter XII.

THE PRIVATE FUND COUNCIL

Section 121.

(1) The Private Fund Council is the consulting body of the Private Fund Supervisory Board.

(2) Members of the Private Fund Council are as follows:

a) the representatives of the Ministry of Finance, the Ministry of Health and the Ministry of Social and Family Affairs (one representative each),

b) the representative(s) of the Alliance(s) of Funds;

c) four independent experts invited by the Minister of Finance upon the recommendation of the president of the Private Fund Supervisory Board;

d) the representatives of the State Insurance Supervisory Board, the State Supervisory Board of Money and Capital Markets, the National Bank of Hungary and the Budapest Stock Exchange (one representative each);

e) the representative of the Guarantee Fund;

f) the General Director of the Central Administration of the National Pension Insurance Fund.

g) the representative of chambers in which fund service providers are members,

h) interest representation bodies in which fund service providers are members.

(3) Members of the Private Fund Council shall be elected from among Hungarian citizens with no prior criminal records, who have a higher education degree and a high-level of expertise in the field of pension systems, investment or insurance.

(4) The President and vice-president of the Private Fund Council shall be appointed by the Minister of Finance from among the persons referred to in Paragraph c) of Subsection (2).

(5) The members of the Private Fund Council, with the exception of the President and the vice-president, shall not be eligible for any remuneration for carrying out the tasks assigned to them. The operational conditions of the Private Fund Council shall be ensured by the Private Fund Supervisory Board.

(6) The Private Fund Council shall

a) make recommendations concerning the activities of the funds and the Guarantee Fund, as well as concerning changes in their operational conditions, their roles in the money and capital markets, concerning experience with regard to the implementation of legal regulations related to the funds, concerning the bills and drafts of legal regulations related to the scope of responsibilities of the funds, the practice of consistent asset evaluation and performance assessment techniques of the funds, the regulations on investment diversification and concerning the minimum return requirements of the funds,

b) put forward proposals in the given field and in terms of ethical conduct, and shall publish these proposals in co-operation with the Private Fund Supervisory Board,

c) prepare, have others prepare, and publish professional publications related to the funds.

Chapter XIII.

FINAL PROVISIONS

Entry Into Effect

Section 122.

(1) This law shall enter into effect on 1 September 1997, with the exception of the provisions of Subsections (2)-(3),

(2) Subsection (1) of Section 3, and Section 92 shall enter into effect on 1 January 1998.

Transitional Provisions

Section 123.

(1) The mandate of the first delegates' meetings of the funds shall last for 180 days after the delegates' meeting or, in the case of territorial funds, until 31 December 1998.

(2) If a person becomes a fund member on a voluntary basis, he may return, on one occasion, to the social security pension system up until 31 December 2000.

(3) Within two years of this Act entering into effect, the acquisitions of the funds shall be exempt from duties.

(4) a) The fund shall keep initial membership contributions of fund members in a designated sub-account with the bank managing its current account.

b) The fund shall submit a written report with data on new fund members to the Private Fund Supervisory Board, within three business days. The Private Fund Supervisory Board shall submit a written report with data on new fund members to the administrative body of the territorial jurisdiction of the Pension Insurance Administration, and shall concurrently notify the fund to this effect.

c) The fund may transfer the contributions from the designated sub-accounts to the current account of those members of whom it has received notification from the Private Fund Supervisory Board.

(5) A fund member may exercise his right to join a fund at his own discretion pursuant to Section 22 within two years of this Act entering into effect. If the eligibility for a disability pension of the recipient of a disability pension is terminated due to improvement in the said person's state of health, he may again exercise the right to choose a fund at his own discretion.

(6) The fund's own activity reserves, specified in Section 58, shall be created, within the first three years of the fund's operational license entering into effect, if the value of the fund's invested assets reaches HUF 2 billion according to the annual report.

(7) The provision pertaining to foreign investments, as specified in Subsection (6) of Section 67, shall first be applied from 1 January 2002. The rate of foreign investments may amount to

a) 0% through 31 December 1999,

b) 10% through 31 December 2000,

c) 20% through 31 December 2001.

(8) Costs of the foundation and first year operations of the Guarantee Fund shall be borne by the central budget.

(9) The Supervisory Board of Voluntary Mutual Insurance Funds shall cease to exist on 1 September 1997; thereafter its legal successor shall be the Private Fund Supervisory Board.

(10) Wherever a legal regulation refers to the Supervisory Board of Voluntary Mutual Insurance Funds, the Private Fund Supervisory Board specified in this Act shall be indicated.

(11) The Private Fund Supervisory Board shall act in cases that are pending before the Supervisory Board of Voluntary Mutual Insurance Funds when this Act enters into effect.

(12) The Board of Directors of the Guarantee Fund shall be established within 90 days of this Act entering into effect.

(13) The Private Fund Council shall be established by 1 January 1998.

Authorization Provisions

Section 134.

The Government shall be authorized to regulate, in the form of a decree:

a) certain rules on financial management conducted by the funds, including regulations on borrowing, investments, reporting and accounting obligations, assets valuation and performance assessment, as well as the requirements related to the organizations in charge of the assessment of the funds;

b) regulations on the mandatory content of the benefit regulations of the funds, the actuary's report, actuarial content of benefits, the accumulation of other secondary reserves, rules on the expected minimum return, calculation of return, as well as the reserves offsetting investment risks, provisions on the application of the mortality table, and detailed rules on granting license for service providing and on managing reserves;

c) provisions governing the information database of the Private Fund Supervisory Board and its tasks related to the funds, including the responsibilities and powers of the Private Fund Supervisory Board in connection with central record keeping;

d) particulars of the Fund Regulations, annual report and book-keeping of the Guarantee Fund;

e) the detailed rules pertaining to the data reporting obligation of the employers in connection with new employees and fund members;

f) the scope of data to be disclosed which is related to the funds and service providers of the funds in terms of such activities;

g) the general contractual terms of the contracts on asset management.

Schedule No. 1 to Act LXXXII of 1997

Abbreviations of the Acts referred to in this Act

1. SAPR: Act IV of 1957 on the General Rules of State Administration Procedures;
2. SBA: Act XXXVIII of 1992 on the State Budget;
3. CE&T: Act XXXIX of 1994 on the Commodity Exchange and Transactions on Commodity Exchange;
4. IF: Act LXIII of 1991 on Investment Funds;
5. InsA: Act XCVI of 1995 on Insurance Institutions and Insurance Activities;

6. Bankruptcy Act: Act IL of 1991 on Bankruptcy Proceedings and Liquidation Proceedings, and Voluntary Dissolution;
7. FE: Act XCV of 1995 on Foreign Exchange;
8. SecA: Act CXI of 1996 on the Offering of Securities, Investment Services and the Stock Exchange;
9. "CIFE": Act CXII of 1996 on Credit Institutions and Financial Enterprises;
10. NBH Act: Act LX of 1991 on the National Bank of Hungary'
11. CSA: Act XXIII of 1992 on the Legal Status of Civil Servants;
12. VMIFA: Act XCVI of 1993 on Voluntary Mutual Insurance Funds;
13. Civil Code: Act IV of 1959 on the Civil Code of the Republic of Hungary;
14. PESSPB: Act LXXX of 1997 on the Scope of Persons Eligible for Social Security and Private Pension Benefits, and Funding of Such Benefits;
15. SSPB: Act LXXXI of 1997 on Social Security Pension Benefits;
16. PITA: Act CXVII of 1995 on Personal Income Tax.

Schedule No. 2 to Act LXXXII of 1997

Personal data to be treated as fund secrets

1. Personal information:
 - a) name, maiden name
 - b) mother's maiden name
 - c) place of birth
 - d) date of birth
2. Marital status
3. Citizenship
4. Permanent and temporary place of residence
5. Name and address of employer
6. Data related to salary and income
7. Registration identification number and/or social security identification number.