

**Republic of Macedonia**

**LAW ON MANDATORY FULLY FUNDED PENSION INSURANCE**

**Revised version 2015**

## CHAPTER 1

### GENERAL PROVISIONS

#### Article 1

(1) This Law regulates the mandatory fully funded pension insurance, establishment and operation of mandatory pension funds and their managing Companies, which shall operate as part of the pension and disability insurance system.

(2) The mandatory pension funds and Companies from paragraph (1) of this Article are established to receive contributions from insured persons, who are bound by Law to pay such contributions, to invest those contributions in financial instruments, to allocate accumulated assets and to make payouts of scheduled withdrawals, in accordance with the Law.

(3) The Law provides for the establishment of the Agency for supervision of the fully funded pension insurance (hereinafter referred to as: the Agency).

#### Article 2

(1) No entity other than a Company authorized under this Law and company managing mandatory and voluntary pension funds established according to the Law on Voluntary Fully Funded Pension Insurance may market or offer a mandatory pension fund, pension scheme or similar pension arrangement, or use in its name the terms "company managing mandatory pension funds", "mandatory pension fund", "Pension Scheme" or similar expressions, whether in Macedonian or a foreign language.

(2) The provisions of paragraph (1) shall not apply to the Pension and Disability Insurance Fund of Macedonia to the extent of performing its functions in accordance with the Law on Pension and Disability Insurance and this Law.

#### Article 3

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

(1) **"Company"** is a company managing mandatory pension funds which is established and operated according to this Law.

(2) **"Mandatory pension fund"** is an open end investment fund established and managed by a company managing mandatory pension funds and company managing mandatory and voluntary pension funds.

(3) **Custodian** - means an institution to whom it shall be delegated the responsibility for the keeping of the assets of the mandatory pension fund and other activities established with this Law. The Custodian of the domestic assets is a bank licensed by the National Bank of Republic of Macedonia and a sub-custodian shall keep the assets outside the Republic of Macedonia and can be a bank or an authorized depositary institution licensed by an authorized body and is authorized for such activity by the laws of the mother country.

- (4) **“Affiliated entity”** in relation to a legal entity or person shall mean:
- a) a single shareholder or group of shareholders holding a minimum of 10% of voting shares or it a smaller percentage than this and have direct or indirect control to the decisions making in that entity;
  - b) any other legal entity in which the first legal entity holds, directly or indirectly, a minimum of 10% of voting shares or holds a smaller percentage than this and have direct or indirect control to the decisions making in that entity;
  - c) any other legal entity in which a shareholder holds, directly or indirectly, more than 20% of voting shares and in the same time period the same shareholder holds more than 20% of voting shares in the first legal entity;
  - d) a person or legal entity that has direct or indirect control or are controlled by or are under common control by the legal entity;
  - e) a member of the management board, the supervisory board or other decision making or supervisory body of the legal entity;
  - f) the persons connected to persons listed in this item are the ones: in a relationship of marriage or adoption; children and parents; siblings; half-siblings; grand parents and nieces; on the other way in blood relation to second degree; persons in relation: parent, tutor and child, stepmother or stepfather and stepchild, daughter in law, son in law and the parents of the marriage spouses.”

4-a) **“Control”** within the meaning of item 4 of this Article shall mean, when a person:

- a) Directly or indirectly owns a major share in other legal entity, or
- b) Directly or indirectly owns a majority of voting rights in other legal entity, or
- c) has the right to appoint and dismiss the majority of members of the management bodies of other legal entity, directly or indirectly, including the contract concluded with one or more shareholders of the other legal entity for renouncing or joining of their voting rights for the achievement of common interests or
- d) has a right to make, directly or indirectly, a significant influence in the management and policy making and in financial and business decisions of other legal entity

5) **“Member of a mandatory pension fund”** - means an individual who has entered into a contract to be a member of a mandatory pension fund, or in whose name an account has been opened in a mandatory pension fund in cases specified in the Law, and his/her membership lasts until he/she acquires the right to a retirement.

5-a). **„A retired member”** is an individual who is entitled to a pension from the mandatory fully funded pension insurance, received through scheduled withdrawals, and who has an individual account in a mandatory pension fund from which such individual withdraws the assets;

5-b). **„Authorized Actuary”** is an individual who is licensed by the Insurance Supervision Agency to work as an authorized actuary;

6) **“Transfer of assets”** is transfer of assets from the account of the member open in one pension fund to another pension fund managed by other company

managing mandatory pension funds or company managing mandatory and voluntary pension funds.”

7) „**Agent**” is an individual who performs marketing activities for the pension funds;

8) “**Transaction commissions**” are the fee for stock exchange, fee for securities depository and the commission of the legal entities that perform services with securities directly connected with trade with mandatory pension funds’ assets.

9) “**Company managing mandatory and voluntary pension funds**” is a joint stock company which manages mandatory and voluntary pension fund according to this Law and to the Law on Voluntary Fully Funded Pension Insurance.

10) “**Pension Company**” is a company managing mandatory pension funds, company managing voluntary pension funds and company managing mandatory and voluntary pension funds.

11) “**Good reputation**” is honesty, competence, diligence and holding attributes that give security that the person with the way of its working shall not influence to imperil the stability and security of the pension company and the managed fund, as well damage the authority and confidence;

12) „**Independent Member of the Supervisory Board**” is an individual who:

a) in the last five years:

- did not have any material interest or any business relationship with the pension company as a business partner or as a holder of a managing position, as a member of the Management Board or as a member of the Supervisory Board at any business partner of the pension company or

- was not employed, is not a member of the Management Board nor is a member of the Supervisory Board of the pension Company;

b) is not affiliated entity of the company, employed in the affiliated entity of the company or represents the affiliated entity of the company;

c) is not affiliated person with member of the Management Board or Supervisory Board of the company and

d) has not worked and does not works in the audit company that in the last three years has conducted external audit of the company working;

13) “**Marketing material**” is entire material for advertisement, promotion or information, related to mandatory pension fund or the managing company.

14. „**Marketing activities**” are all activities related to advertising of the mandatory pension fund Company managing mandatory pension funds and of the mandatory pension fund, informing and signing of membership contracts and contract for the payout of assets from the mandatory pension fund, which includes:

a) advertising of the Company activities and the activities of the mandatory pension fund under its management;

b) informing on the features of the mandatory fully funded pension insurance;

- c) informing on the fees and commissions on transactions;
- d) informing on the return of the mandatory pension fund;
- e) informing on the investment portfolio of the mandatory pension fund;
- f) informing on the individual accounts;
- g) membership activities and transfers of members from one to another mandatory pension fund;
- h) signing scheduled withdrawal contracts and
- i) other activities related to advertising and provision of information related to the operations of the Company and the mandatory pension fund.

## **CHAPTER 2**

### **COMPANIES FOR MANAGING MANDATORY PENSION FUNDS**

#### **Article 4**

- (1) A Company for managing mandatory pension funds shall be established and shall operate in accordance with the Trade Company Law unless otherwise stipulated in this Law.
- (2) The Agency shall prescribe the manner of good corporate governance of the Company.
- (3) The Company is obligated to adopt a Good Corporate Governance Code, in accordance with the provision of paragraph (2) of this Article.

#### **Article 5**

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

#### **Article 6**

The registered name of every Company must contain the words "Company for managing mandatory pension funds".

#### **Article 7**

- (1) The only object of activity of Companies is the management of mandatory pension funds, representing them in front of third parties and other activities related to the mandatory pension fund's management.
- (2) For a period of ten years after the date of commencement of contribution payment in the mandatory fully funded pension insurance referred to in Article 58 paragraph (4) of this Law a Company and Company managing mandatory and voluntary pension funds may only establish and manage one mandatory pension fund.

(3) After the expiry of the deadline set forth in paragraph (2) of this Article, the Company or the Company managing mandatory and voluntary pension funds may manage more than one mandatory pension fund in a manner and according to a procedure prescribed by the Agency and upon prior opinion from the Ministry of Labor and Social Policy. In such instance the Agency shall specify the number of mandatory pension funds which may be managed by one Company and Company managing mandatory and voluntary pension funds and any restrictions imposed on such pension funds, who may join such pension funds, transfer arrangements between mandatory pension funds managed by the same Company and Company managing mandatory and voluntary pension funds and such other matters which the Agency considers appropriate according to the conditions and the level of development of the mandatory fully funded pension insurance and financial market.

### **Article 8**

A Company charges a fee under conditions and on a manner stipulated in this Law.

### **Article 9**

(1) The nominal assets of a Company may not be increased by public offer of shares.

(2) The shares of a Company shall be registered as common shares.

(3) A Company cannot issue preferred shares.

(4) The shareholders of the Company, in accordance with their participation in the Company's nominal assets, have equal position in the Company. The By-Law of a Company shall not award any additional rights or privileges to certain shareholders, limit their rights or impose on them additional responsibilities.

### **Article 10**

(1) The minimum nominal assets of the Company shall be 1.5 million Euros in MKD equivalent at the average exchange rate of the National Bank of the Republic of Macedonia on the date of the payment.

(2) Once the assets of the mandatory pension fund managed by the Company exceed 100 million Euros and on each subsequent occasion that the assets of the mandatory pension fund increase for a further 100 million Euros, the Company is obligated, within 45 working days, to increase its assets at least up to the following amount:

<i>Mandatory pension fund assets</i>				<i>Company assets</i>	
From	100,000,001	Euros	to	2,500,000 Euros	6
	200,000,000 Euros				

From 200,000,001 Euros 300,000,000 Euros	to 3,500,000 Euros
From 300,000,001 Euros 400,000,000 Euros	to 4,500,000 Euros
From 400,000,001 Euros 500,000,000 Euros	to 5,500,000 Euros
From 500,000,001 Euros 600,000,000 Euros	to 6,500,000 Euros
From 600,000,001 Euros 700,000,000 Euros	to 7,500,000 Euros
From 700,000,001 Euros 800,000,000 Euros	to 8,500,000 Euros
From 800,000,001 Euros 900,000,000 Euros	to 9,500,000 Euros
Above 900,000,001 Euros	10,000,000 Euros

3) The Euros shall be calculated in MKD equivalent at the average exchange rate of the National Bank of the Republic of Macedonia on the payment date.

(4) The Company is obligated to maintain the amount of assets at any time, but no less than  $\frac{1}{2}$  of the amount of nominal assets specified in paragraph (1) of this Article.

(5) If the assets of the Company increased according to paragraph (2) of this Article, the company is obligated to maintain the increased amount of that the assets.

(6) The Company is obligated to maintain own assets, at any time, in amount not less than  $\frac{1}{2}$  of the amount of nominal assets specified in paragraph (1) of this Article.

(7) If the assets of the Company increased according to paragraph (2) of this Article, the company is obligated to maintain the own assets in amount not less than  $\frac{1}{2}$  of the amount of assets specified in paragraph (2) of this Article.

(8) The own assets of the Company specified in paragraphs (6) and (7) of this Article consist of nominal assets, reserves and other items, calculated according to methodology prescribed by the Agency.

(9) The Company is obligated to maintain liquid assets, at any time, as a percentage of the nominal assets of the Company specified in paragraph (1) of this Article, respectively the assets specified in paragraph (2) of this Article.

(10) The minimum percentage of liquid assets specified in paragraph (9) of this Article shall be prescribed by the Agency.

### **Article 11**

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

### **Article 12**

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

### **Article 13**

- (1) The Company shall notify the Agency, without delay, of any reduction in its nominal assets, assets, own assets and liquid assets below the amounts specified in Article 10 of this Law.
- (2) The Agency may abrogate the approval for managing a mandatory pension fund of the Company, if after reduction of the nominal assets, assets, own assets and liquid assets under required amount the Company do not increase them, in term not longer than 12 months.

### **Article 14**

- (1) A Company for managing mandatory pension funds may be founded by domestic and foreign legal entities.
- (2) Founders that hold 51% of the nominal assets of the Company shall be banks, insurance Companies, Companies that manage mandatory pension funds and other financial institutions, as well as other legal entities that directly or indirectly hold more than 50% of the voting shares of those institutions. If there is no founder or founders that shall hold 51% of the nominal assets of the Company, all founders shall fulfill this condition.
- (3) The same legal entity may not be a shareholder of more than one Company managing mandatory pension funds.
- (4) Affiliate entities together can be shareholders only in one Company for



managing mandatory pension funds.

(5) If there shall be disruption of relations set forth in paragraphs (3) and (4) by virtue of an organizational or statutory change or a change in the ownership or legal status of legal entities referred to in paragraphs (3) and (4) of this Article, the legal entities shall have a period of six months to make the necessary adjustments.

### **Article 15**

(1) A founder of a Company for managing mandatory pension funds shall be a legal entity satisfying the following criteria:

- a) Minimum capital of 20 million Euros in MKD counter value at the middle exchange rate of the National Bank of Republic of Macedonia at the date of application for a license;
- b) A minimum three years of existence;
- c) Solvent in continuity, whether in the Republic of Macedonia or abroad;
- d) Permanent management team comprised of competent, expert and experienced persons.

(2) If a foreign financial institution wants to become a founder, besides the provisions of paragraph (1) of this Article, it must have for at least one year prior to that time a minimum investment grade level rating by reputable international rating agencies.

(3) The Agency shall closely prescribe the requirements in Articles 14 and 15 of this Law.

### **Article 16**

(1) Each acquisition or transfer of shares of a Company requires the prior consent of the Agency. Otherwise, it shall be considered null and void.

(2) The Company shall submit to the Agency the request for consent to an acquisition or transfer of shares on behalf of the entity intending to acquire or transfer shares.

(3) The Agency shall give its consent to the acquisition or transfer of shares of the Company within thirty days from the day of submission of the application referred to in paragraph (2) of this Article, if the applicant fulfils the conditions set out in this Law for the founders of a Company.

(4) The requirement referred to in paragraph (1) of this Article does not apply to any transaction of shares where after the transaction, the party purchasing or any affiliate entities to that party would not together hold more than 3% of the nominal assets of the Company.

(5) In case there are only two Companies, one of the Companies may not buy shares in the other Company managing mandatory pension funds and they may not merge, take over, divest or in other way reorganize.

(6) In case there are more than two Companies, one of the Companies may not buy shares in another Company managing pension funds, except in case of merger or takeover.

### **Article 17**

(1) The Management Board of the Company shall be composed of a minimum two members.

(2) The Supervisory Board of the Company shall be composed of a minimum four members.

(3) If the number of the members of the Management Board is reduced below the numbers specified in paragraph (1) of this Article, the Supervisory Board shall appoint a member from its own members as acting Management Board member. The member of the Supervisory Board that is appointed as acting member of the Management Board, in the period of appointment shall not participate in the decision making of the Supervisory Board. The acting member of the Management Board shall be registered in the Central Register.

(4) A member of the Management Board or Supervisory Board of a Company may be a person who fulfils the requirements of the Company Law and meets the following conditions:

- a) has a university degree;
- b) has a professional work experience in the fields of law, banking, accounting, insurance, asset management and investment, mandatory pension fund management or financial services of at least five years and three of each to be experience on the managerial position;
- c) has not been imposed a security measure prohibition to carry out a profession, activity or duty in the fields listed in item (b) of this paragraph;
- d) has not been convicted for criminal act in the field of finance and banking and evoking the bankruptcy of the legal entity and
- e) has a reputation that shall ensure the safety and stabile working of the Company and pension fund.

(5) The Agency shall obtain the information listed in paragraph (4) items c) and d) of this Article from the institutions in Republic of Macedonia and foreigner shall provide the information from foreign country by himself.

(6) In addition to the conditions of paragraph (4) of this Article the member of the Management Board shall meet the following conditions:

- a) to have knowledge of the regulation of fully funded pension insurance and
- b) to submit a program, according to his competence, for the Company and the pension fund working.

(7) Minimum one of the Management Board members shall have passed the exam for investment counselor or other appropriate exam lectured by a foreign institution.

(8) During the appointment of the Supervisory Board members, the independent members have to be appointed.

(9) The members of the Management Board of the Company shall be employed in the Company after obtaining the approval by the Agency.

(10) The Agency shall in detail prescribe the procedure and the manner of appointment of the Management board and the Supervisory board members.

(11) The Agency shall nullify the approval of the Management board and the Supervisory board member if it establishes that:

a) the decision for approval has been made using the unreal and incorrect data;

b) in after issuing approval period, obtained documented proof that the member does not fulfill the conditions prescribed in this Article and

c) the member does not work according to the good corporate management rules, the submitted program for work, business policy of the Company and the pension fund, or on the other way imperils the interests of the pension fund members.

### **Article 18**

(1) A member of the Management Board, of the Supervisory Board or a holder of a managing position in the Company may not be a member of the Management Board, a member of the Supervisory Board or a holder of a managing position in:

a) any other Company;

b) foreign asset manager appointed to manage the assets of the pension fund;

c) custodian holding the assets of the pension fund;

d) any affiliate entities and/or persons in relation to the entities listed in subparagraphs a) to c) of this paragraph.

(2) The prohibition referred to in paragraph (1) also applies to persons who are in a relationship of employment or commission with entities listed in paragraph (1) of this Article.

(3) A person referred to in paragraphs (1) and (2) of this Article shall only be required to fulfil the terms of this Article once he/she is a serving member of the Management Board or Supervisory Board of a Company. The person shall not be required to meet these criteria at the time an application is made for a Company license or an application is made to serve on a Management Board or Supervisory Board.

### **Article 18-a**

(1) A member of the Management Board, of the Supervisory Board or a holder of a managing position in the Company and a Company's body, has a fiduciary duty to operate only in the interest and on behalf of the members and the retired members of the mandatory pension fund. This duty shall be discharged by applying the utmost standards of ethics and integrity, without any conflicts of interest and it shall be applied by every employee or person hired by the Company.

11

(2) A member of the Management Board, of the Supervisory Board or a holder of a

managing position in the Company must have adequate managerial and operational competence in order to be able to discharge the duties assigned to him/her and he/she should be informed at all-time about matters in his/her scope of work.

#### **Article 18-b**

(1) The Company is obligated to establish efficient control mechanisms, which should be documented in its internal acts in order to mitigate all risks that affect the interests of the members and the retired members of the mandatory pension fund.

(2) The Company is obligated to implement an internal procedure and to assign persons who shall monitor and provide for the compliance with the laws, secondary regulation and internal acts of the Company.

#### **Article 19**

(1) The Company is liable before its members and retired members from the mandatory pension fund for all the damages which had occurred as a consequence of non-compliance, mis-compliance or negligent compliance of assigned tasks and obligations as per this Law, and which are related to the management and representation of the mandatory pension fund, unless the unsatisfactory and inadequate results had occurred due to circumstances out of the Company's control and which could not have been changed by the Company even if the Company had applied the utmost diligence.

(2) The damages, referred to in paragraph (1) of this Article resulting from the non-performance or improper performance of the tasks, cannot be covered with the mandatory pension fund assets.

(3) Entrusting a third party with the performance of certain obligations shall not exempt the Company from liability.

#### **Article 20**

(1) A Company cannot use its own assets to:

a) acquiring or takeover any shares, other securities or participation units in other legal entities, except of government notes and bonds issued by the Republic of Macedonia;

b) granting any loans and providing any guarantees or other sureties except as provided for in this Law; or

c) taking any loans and credits and issuing bonds in the total amount surpassing a certain percentage of the share capital, prescribed by the Agency or

d) buying or selling securities, if such trading would disable buying or selling of securities with the mandatory pension fund's assets or if such buying or selling of securities with the mandatory pension fund's assets would be realized under conditions harmful for the Mandatory pension fund.

(2) As an exception of paragraph (1) sub-paragraph a) of this Article, a Company may use its own assets to purchase shares in another entity that performs activities of record keeping, long-term securities trading, marketing or other administrative function for the Company, but under the condition that such entity exclusively provides services to that Company. If the entity ceases to comply with the requirements of this paragraph, the Company shall be obliged, within three months, to divest its shares in such entity.

(3) If a Company intends to purchase shares in other entities pursuant to paragraph (2) of this Article, the total capital for those purchases cumulated with the price that has been paid for all previous purchases of shares that Company holds, can not exceed 10% of the total value of the share capital of that Company at the date of purchase.

## **Article 21**

(1) The Company or the Company managing mandatory and voluntary pension funds is obligated to keep a complete, accurate and updated records of the individual account of each Member and of each retired Member of the mandatory pension fund, for the paid in contributions, or the paid out assets or transferred assets, the number of accounting units on the accounts and the value of assets on the accounts, and other data prescribed by the Law.

(2) The Company or the Company managing mandatory and voluntary pension funds is obligated to archive and keep, in accordance with the law, all documents and any other evidence related to the mandatory pension fund, and especially:

a) data on current members and retired members, as well as data on the former members and former retired members, including name, surname, address, unique identity number and the amount on the account at the moment of departure from the mandatory pension fund under its management;

b) data on all bought and sold assets for the mandatory pension fund under its management, dates of transactions, identity of the other contractual party and the price.

(3) The Company or the Company managing mandatory and voluntary pension funds is also obligated to keep on an external medium all the records of all data on the individual accounts and sub-accounts, based on the information as of the last working day of each calendar year.

(4) All documents and other records must be kept for a period of fifty years.

(5) After a period of ten years has elapsed from the creation of a document or record it may be kept in electronic form only.

(6) If the Company or Company managing mandatory and voluntary pension funds ceases to manage a mandatory pension fund, it must act according to the provisions of paragraphs (2) and (4) of this Article.

(7) The Agency shall prescribe the content and manner of record keeping mentioned in paragraphs (1) and (2) of this article.

### **Article 21-a**

(1) The Company shall have the separate organizational unit for internal audit responsible to the Supervisory Board of the Company.

(2) The organizational unit specified in paragraph (1) of this Article performs permanent and total control of the legality and diligence of the Company operations, especially the management of the mandatory pension fund assets through, but not limited to:

- a) assessment of the adequacy and effectiveness of the internal control systems;
- b) assessment of the IT system;
- c) assessment of correctness and truthfulness of the financial statements of the Company and the mandatory pension fund;
- d) checking of correctness, truthfulness and timeliness in the reporting according to the laws and secondary regulation of the appropriate area;
- e) following the compliance with the regulations, policies and procedures of the working area of the Company including the risk management politics and ethical codex of the Company;
- f) assessment of the money laundering prevention systems;
- g) assessment of the services that Company receives by the external cooperators
- h) evaluation of the general effectiveness of the Company operations.
- i) assessment of the process of payouts as scheduled withdrawals and
- j) assessment of the risk management process.

(3) The organizational unit specified in paragraph (1) of this Article shall prepare an annual working plan for the next year, obligatory stating the subject of audit with description of the planed audit contained in separated areas and the time schedule of the controls during the year with the planed time duration of the controls. The Supervisory Board of the Company shall approve the annual working plan and shall submit it to the Agency within 15 days from the day of its approval.

(4) The organizational unit specified in paragraph (1) of this Article shall prepare its working report for the previous year and shall send it to the Supervisory Board of the Company for adoption and in the same time to the Agency, not later than 31st of March.

(5) The Supervisory Board of the Company shall send the adopted report, specified in paragraph (4) of this Article, to the Company Shareholder Assembly and in the same time to the Agency.

(6) The person employed in the organizational unit specified in paragraph (1) of this Article shall perform the duties only for the internal audit.

### **Article 21-b**

(1) The Company is obligated to appoint an authorized actuary, who shall report to

the Management Board of the Company.

(2) Should the authorized actuary discontinue performing actuarial tasks within the Company, the Company is obligated to inform the Agency within 5 days from the discontinuity.

(3) The Company is obligated to appoint a new authorized actuary within 30 days from the day when the previously appointed actuary has discontinued his actuarial duties within the Company.

(4) The Company may not appoint as authorized actuary a person who is affiliated person as per this Law.

(5) The authorized actuary is obligated to give guidelines for the calculations of the scheduled withdrawals and to check whether the calculations and the used mortality tables and the interest rates have been calculated in accordance with the law and the secondary regulations prescribed by the Agency.

(6) The authorized actuary is obligated to check the liquidity of the mandatory pension fund.

(7) Each quarter, the authorized actuary, prepares a written statement, with his/her opinion on the undertaken activities as per the paragraphs (5) and (6) of this Article, on the manner, contents and form of such statement prescribed by the Agency.

(8) The statement with the opinion, as per paragraph (7) of this Article, authorized actuary shall submit to the Management Board of the Company.

(9) The authorized actuary prepares a report for his/her operations in the previous year and submits it for adoption to the Supervisory Board of the Company.

(10) In case the authorized actuary determines that the calculations for the scheduled withdrawals are not in accordance with the Law and the secondary regulations prescribed by the Agency, he/she is obligated to report such miscalculation to the Management Board of the Company. In case the Management Board does not take into consideration such report, the actuary shall notify the Agency, immediately.

#### **Article 21-c**

(1) The Company is obligated to set up risk management activities for the mandatory pension fund.

(2) The Company is obligated to appoint a responsible person for risk management who should be adequately qualified to discharge risk management and who is free of conflicts of interest.

(3) The person from paragraph (2) of this Article should have access to the Company's data. The person is obligated to provide impartial analysis of the risks and to advise adequately the Management Board in the decision making process, taking into consideration all relevant risks.

(4) The person from paragraph (2) of this Article submits a report to the Management Board of the Company.

15

(5) The Company is obligated to submit the report from paragraph (4) of this Article

to the Agency, at least once a year, or immediately in case there is serious threat for the interests of the members and retired members.

## **Article 22**

(1) The Company shall appoint an external authorized auditor with good reference, who can not be an affiliated entity of the Company or its shareholders, foreign assets manager or the Custodian. The same external authorized auditor can perform at most three successive annual audits for the same Company.

(2) The Company shall be obligated to publish an excerpt of the audited financial report with an opinion by the authorized auditor in at least one daily newspaper and on its website within 15 days from the adoption of the report by the Company's Assembly.

(3) The Agency shall prescribe the content of the external auditing of pension companies in accordance with the international standards.

## **Article 22-a**

(1) Companies' representatives shall be obligated to participate in trainings in the field of fully funded pension insurance, organized by the Agency.

(2) The Agency shall prescribe the type of trainings and the manner of their implementation.

## **Article 22-b**

The Company is obligated to give, issue, maintain record, archive, submit, and publish correct and updated notifications, data and information.

## **CHAPTER 3**

### **ESTABLISHMENT OF COMPANIES MANAGING PENSION FUNDS AND ISSUING LICENCE FOR ESTABLISHMENT AND AUTHORIZATION TO MANAGE A PENSION FUND**

The articles from 23 to 39 shall cease to apply on the base of article 76 of this Law Stipulated from article 23 to 39 "Official Gazette of the Republic of Macedonia" no. 88/08.

## **CHAPTER 3 a**

### **ESTABLISHING COMPANIES MANAGING MANDATORY PENSION FUNDS**

## **Article 39-a**

(1) A company managing mandatory pension funds shall be established based on a license issued by the Agency and it shall manage a mandatory pension fund based on an approval for management of a mandatory pension fund.

(2) The Central Registry of the Republic of Macedonia may register the company only if it holds a license issued by the Agency according to the



conditions prescribed in this Law.

(3) The Agency shall regulate the method and procedure for granting a license for establishment and an approval for management of a mandatory pension fund.

#### **Article 39-b**

(1) In order to get a license for establishment of a company, the interested parties shall apply to the Agency and include the documentation stipulated in Article 39-c and a business plan that includes the details about all fees and commissions which are going to be charged according to this Law. The application for approval for management of a mandatory pension fund and the request for registration of a mandatory pension fund in the Register of mandatory and voluntary pension funds shall be submitted together with the application for license for establishment of a company.

(2) The applications stipulated in paragraph (1) of this article shall be submitted signed by authorized signatories of the entity or entities which would establish the company in a form prescribed by the Agency. In case there are several entities that are interested to act as single applicant, the applications and the documentation shall be submitted jointly on behalf of all entities.

#### **Article 39-c**

(1) The following documentation shall be submitted in addition to the applications stipulated in Article 39-b paragraph (1) of this Law:

- a) draft Statute of the company;
- b) draft Statute of the mandatory pension fund that will be managed;
- c) draft contract with a custodian;
- d) statement signed by authorized signatories of all entities that would be founders, that if they are granted a license, they will establish a company and a mandatory pension fund according to this Law;
- e) list of founders and data about the connection of the legal entities and elaboration of the character of the connections;
- f) for each entities that would be founders, certified copies of the Statutes or other corporate acts and a document by the institution where they are registered, names and addresses of the Management Board members and certified copies of the last three financial statements reviewed by an external authorized auditor, as well as any additional evidence necessary to show that the requirements of Article 15 of this Law are satisfied;
- g) documents confirming that on the application date, founders that shall hold 51% of the nominal assets of the company have great experience in asset management;
- h) proof of the origin of the funds that will be paid as company's nominal assets;
- i) list of candidates for management board members and supervision board members including statements that they agree to perform these duties in

case they are granted establishment license and that they will meet all the conditions prescribed in this Law, including withdrawal from any office that may cause conflict of interests and is banned with this Law, as well as description of their professional qualifications and previous experience with recommendations;

j) data on the persons that shall occupy the managing positions and other persons proposed to hold the positions as responsible for investment decisions, risk management, internal audit, individual accounts, marketing, sales agents control and calculation of scheduled withdrawals;

k) Repealed with the Decision of the Constitutional Court of the Republic of Macedonia num. 165/08 declared in Official Gazette of the Republic of Macedonia num. 40/90;

l) plan of implementation of the founding of the company and mandatory pension fund as well as organization plan of the company structure;

m) a informational prospectus of a mandatory pension fund and a investment strategy program of a mandatory pension fund and;

n) other documents prescribed by the Agency.

o) signed statements, from the authorized signatories of all founders, that after being granted the approval to manage a mandatory pension fund, the Company shall enter in the Center for electronic system of quotations (herein after: the Center), according to the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance.

(2) After the acceptance of the applications stipulated in article 39-b paragraph (1) of this Law, the Agency may request additional documents and data.

(3) The Agency may additionally inspect certain facts regarding the requirements and documentation and for that purpose it may:

a) Ask for information from Office for Prevention of Money Laundering and Terrorist Financing or an appropriate institution in abroad and to address to the other relevant regulatory and supervisory bodies and institutions in Republic of Macedonia and abroad and and

b) Collect documents and data from other sources.

#### **Article 39-d**

To the interested parties, the Agency issues the license for establishment and a conditional approval for managing a mandatory pension fund, based on the documents and data as per Article 39-c of this Law, unless this is contrary to the interests of the insured persons, who might be potential members or retired members in such future mandatory pension fund, which will be established according to this Law and after meeting the following conditions:

a) the documents and data received show that if a license is issued the proposed company will be paid nominal assets prescribed in this Law;

b) the documents and data received show that the applicants have the funds

for that purpose;

- c) the documents and data received show that the applicants fulfill the conditions for founders stipulated in articles 14 and 15 of this Law;
- d) the documents and data received show that the persons nominated for members of the management board and supervision board and the persons responsible for investment management fulfill the conditions prescribed in this Law;
- e) the documents submitted as per Article 39-c of this Law contain provisions which are not threatening to the interests of the members and retired members of the mandatory pension fund or those documents are not missign provisions which provide adequate protection of those interests;
- f) the applicants have proved that they have provided or will provide timely signing of contracts for financial accounting and audit of the company according to this Law;
- g) the suggested title of the future company and the future mandatory pension fund shall not mislead the members and the retired members of the fund, the future members and retired members or any other person that might be in contact with the company and the mandatory pension fund;
- h) the operations of the company and pension fund will be in accordance with the pension funds management standards and good business practice; and
- i) the documents and data show that the future company will not perform other activities except the ones it is authorized to perform based on this Law and which are directly connected to management of a pension fund.

#### **Article 39-e**

- (1) The Agency shall decide upon the applications stipulated in article 39-b paragraph (1) of this Law within 60 days from the receipt of the applications.
- (2) The interested entities whose applications have been accepted, the Agency shall issue license for establishment and conditional approval for management of a mandatory pension fund.
- (3) The interested entities which have been issued a license for establishment and conditional approval for management of a mandatory pension fund are obligated to establish a company according to the documentation submitted, based on the Law on Companies and this Law. The company has to be established within 90 days from the receipt of the license, and the Agency may extend the deadline for not more than 90 days due to justified reasons.
- (4) If the interested entities which have been issued a license for establishment fail to establish a company within the deadline prescribed in paragraph (3) of this article, after the expiration of the deadline, the Agency shall<sup>19</sup> revoke the establishment license.

#### **Article 39-f**

(1) The interested entities which have not been issued a license, the Agency shall issue a decision, elaborating the refusal. These decisions shall be accessible to the public.

(2) Against the decision stipulated in paragraph (1) of this article, the interested entity may file a complaint to initiate an administrative dispute to the competent court. The complaint shall not delay the enforcement of the decision.

#### **Article 39-g**

(1) The company shall inform the Agency about the establishment and the registration in the Central Registry of the Republic of Macedonia, within 30 days from the registration. The company shall be obligated to submit certified copy of the bylaw of the company, the last versions of the documents stipulated in Article 39-c paragraph (1) items b) and c) of this Law, a copy of the conditional approval stipulated in article 39-c of this Law and other documents for the operations of the mandatory pension fund, prescribed by the Agency.

(2) After the fulfillment of the conditions envisaged in Article 39-e paragraph (3) of this Law and paragraph (1) of this article, the conditional approval for management of a mandatory pension fund shall become valid.

(3) After the validity of the approval for management the mandatory pension fund, the Agency shall register the mandatory pension fund in the Register for mandatory and voluntary pension funds and assigns an identification number.

(4) The registration of the mandatory pension fund in the Register for mandatory and voluntary pension funds has a legal effect toward third person the following day from the day of the registration in the Register for mandatory and voluntary pension funds..

(5) The Company is obligated within 90 days after the validity of the approval for managing a mandatory pension fund as per paragraph (2) of this Article, to enter the Center as per the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance.

(6) The company may not start the activities of management of a mandatory pension fund, as well as marketing and public opinion research activities before it is granted the license for establishment, approval for management of a pension fund and registration in the Central Registry of the Republic of Macedonia.

#### **Article 39-h**

(1) All the changes of the shareholders, members of the management and supervision boards, the persons with special authorities and responsibilities or changes and additions to the documents and data stipulated in article 39-c of this Law, shall be a subject of approval by the Agency, except if the

changes are out of the control of the company and it has undertaken all the necessary measures to prevent such changes. For the changes that took place out of the control of the company, it is obligated to inform the Agency.

(2) The Agency shall decide upon such changes according to the provisions of Article 39-d of this Law.

(3) The Agency shall prescribe the manner and the procedure of granting the approval stipulated in paragraph (1) of this Law.

#### **Article 39-i**

(1) The Agency may withdraw or cancel the approval for managing a mandatory pension fund for the same reasons for which it refuses a request due to not submitting of documents as per Article 39-c of this Law, not meeting the requirements as per the Article 39-d and 39-g paragraph (5) of this Law, misuse of data of temporarily allocated insured persons, members or retired members, upon request from the Company or the company managing mandatory and voluntary pension funds, flagrant breach of the provisions of this Law and other reasons stipulated with this Law.

(2) Before the Agency withdraws or cancels the approval for management with a mandatory pension fund the Agency shall summon the Company and shall grant the opportunity to the Company to remove all irregularities and inconsistencies within a deadline determined by the Agency, unless the Agency finds that such an opportunity would be against the interest of the members and the retired members of the mandatory pension fund or against the public interest.

(3) The Agency shall immediately inform the company about the decision for revocation or cancellation of the approval for management of a pension fund.

(4) Against the Agency's decision stipulated in paragraph (1) of this article, the company may file a complaint to initiate an administrative dispute to the competent court. The complaint shall not delay the enforcement of the decision.

(5) The Agency shall regulate in detail the procedure for revocation or cancellation of the approval for management of a mandatory pension fund stipulated in paragraph (1) of this article.

(6) After the abrogation of the approval for management of a mandatory pension fund, to a company that manages that fund, provisions for company liquidation listed in Company Law or the provisions of the Bankruptcy Law shall apply.

#### **Article 39-j**

(1) The company which has been revoked the approval for management of a mandatory pension fund based on article 39-i of this Law shall continue with operations under Agency's supervision in a way prescribed by the Agency.

(2) In case the approval or managing a mandatory pension fund is cancelled, as per Article 39-i of this Law, due to protection of the interests of the mandatory pension fund members and retired members, the Agency shall take over the management and administration of such mandatory pension fund, in a manner prescribed by the Agency.

(3) When the decision for cancellation of the approval is final and in case there are at least two established companies, the Agency shall distribute the members and the retired members in the existing mandatory pension funds managed by those companies, as per Article 58 paragraph (8) of this Law, in a manner prescribed by the Agency.

#### **Article 39-k**

A Company for management of mandatory pension funds may merge only with another Company for management of mandatory pension funds.

#### **Article 39-l**

(1) By merger of two companies pursuant to Article 39-k of this Law a new company shall be established.

(2) The new company shall be established on the basis of license given by the Agency, and after establishment shall be given by the Agency an approval to manage a mandatory pension fund.

(3) In order to get a licence to establish a new company for management of mandatory pension funds, companies for management of mandatory pension funds should jointly submit to the Agency a request together with the documentation listed in paragraph (5) of this Article and a business plan that shall contain details for all fees and commissions that shall be charged according to this Law. The application for an approval to manage a mandatory pension fund and the application for registration of mandatory pension fund in the Register of mandatory and voluntary pension funds shall be submitted together with the application for a licence to establish a company for management of mandatory pension funds.

(4) The requests from paragraph (3) of this Article shall be submitted signed by authorized signatories of the existing companies for management of mandatory pension funds who would become founders of the new company for management of mandatory pension funds. The form and the content of the requests shall be prescribed by the Agency.

(5) Together with the requests from paragraph (3) of this Article, the companies for management of mandatory pension funds shall submit the following documents:

- a) a decision of the responsible bodies of each company on the merger;
- b) a contract for the merger of the companies;

- c) an organizational and financial plan for implementation of the new company;
- d) name of the new company and of the new mandatory pension fund;
- e) information whether the shareholders are affiliated entities;
- f) documents presenting the financial situation of the shareholders of each company, for the period since their existence but no more than five years before the date of submitted application, including documents confirming that each shareholder is not in arrears of taxes and of social contributions;
- g) a revised information prospectus for the new mandatory pension fund;
- h) draft bylaws of the new mandatory pension fund setting out the planed fees;
- i) a draft contract with the custodian for the new mandatory pension fund and details of how any existing arrangements shall be terminated;
- j) names of the proposed members of the Management Board and Supervisory Boards and in the event such people do not serve in the merging companies, the information specified in Article 39-c paragraph (1) item i) of this Article;
- k) data on the persons that shall occupy the managing positions and other persons proposed to hold the positions as responsible for investment decisions, risk management, internal audit, individual accounts, marketing, sales agents control and calculation of scheduled withdrawals;
- l) a program for the investment strategy of the new mandatory pension fund;
- m) signed statements, from the authorized signatories of the merging companies that after being granted the approval to manage a mandatory pension fund, the Company shall enter in the Center for electronic system of quotations, according to the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance
- n) other documents prescribed by the Agency.

(6) The Agency shall grant a license for establishment of a new company for management of mandatory pension funds and approval to manage a mandatory pension fund on the basis of documents from paragraph (5) of the Article and after satisfying requirements of this Law.

(7) After the validity of the approval for management of a mandatory pension fund, the Agency shall register the mandatory pension fund in the Register for mandatory and voluntary pension funds and assigns an identification number.

(8) The registration of the mandatory pension fund in the Register for mandatory and voluntary pension funds has a legal effect toward third person the following day from the day of the registration in the Register for mandatory and voluntary pension funds.

(9) The new company for management of mandatory pension funds has legal inheritance to bought companies for management of mandatory pension funds that established it.

(10) The Agency shall closely prescribe the manner of merge of companies

listed in Article 39-k of this Law and mandatory pension funds listed in Article 39-n of this Law.

#### **Article 39-m**

The Agency shall refuse to grant approval for merger to the companies for management of mandatory pension funds, if:

- a) the request with the documentation does not meet the conditions of Articles 6, 7, 10, 11, 12, 14, 15, 17, 18, 21-a, 21-b, 21-c and 22 of this Law;
- b) documents appended to the application or other information indicate that either of the merging companies within five years before the date of submitting the application was in arrears of taxes or in arrears of social contributions;
- c) the shares of either company originate from a loan, credit or are in any way encumbered;
- d) the business activities of the persons submitting the request do not guarantee that the new company and the mandatory pension funds under its management shall be managed in the best interest of the members and the retired members and
- e) the merger threatens the interests of the members and the retired members of the mandatory pension funds or some other public interest.

#### **Article 39-n**

- (1) The mandatory pension funds shall merge at the same time with the companies that manage the mandatory pension funds, and one mandatory pension funds shall be established.
- (2) Following the merger of the mandatory pension funds according to paragraph (1) of this Article, the new mandatory pension fund shall undertake the rights and responsibilities of the mandatory pension funds that merged.

#### **Article 39-o**

Before the merger of Article 39-k of this Law takes place, the companies shall inform all members and retired members of the mandatory pension funds on such decision to merge. After the merger, the new company for managing mandatory pension funds shall inform all members and retired members on the title of the Company, the title of the new mandatory pension fund and shall distribute a copy of the information brochure, the statute of the new Company and the statute of the new mandatory pension fund.

#### **Article 39-p**

- (1) A company for management of mandatory pension funds may make acquisition to another company for management of mandatory pension funds.



only.

(2) By acquisition of a one to another company listed in paragraph (1) of this Article, the mandatory pension fund managed by the company that makes acquisition shall make acquisition to the mandatory pension fund managed by the another company.

(3) Before mandatory pension funds join, the Company to which the joining is taking place shall inform in writing all members and retired members on such joining.

(4) When two mandatory pension funds join, all members, retired members and individual accounts are transferred from the joining to the mandatory pension fund being joined.

(5) The Agency shall closely prescribe the manner of acquisition of companies and the mandatory pension funds.

## **CHAPTER 4 MANDATORY PENSION FUNDS**

### **Article 40**

1) A mandatory pension fund is an open-end investment fund, established and operating according to the Law on Investment Funds, unless otherwise regulated with this Law. A mandatory pension fund is consisted of contributions and assets of members, assets of retired members and returns on invested contributions and assets, reduced for the fees charged from the mandatory pension fund.

(2) The owners of the mandatory pension fund are its members and retired members and their individual ownership rights are determined according to the amounts of assets on their accounts, as per Article 67 of this Law.

(3) The assets of the mandatory pension fund shall be fully separated from those of its managing Company.

### **Article 41**

A mandatory pension fund shall be managed by a company or company managing mandatory and voluntary pension funds, which shall present and represent it in relation to third parties.

### **Article 42**

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

### **Article 43**

(1) The registered name of every mandatory pension fund shall contain the words "Open-end mandatory pension fund".

(2) The registered name of a mandatory pension fund can not contain the word "Macedonia" or any abbreviation or derivation of that word.

#### **Article 44**

The assets of the mandatory pension fund cannot be subject to claim nor can assets execution be conducted by or on behalf of the Company's or company managing mandatory and voluntary pension funds creditors.

#### **Article 45**

(1) The mandatory pension fund's By-Law shall contain:

- (a) Data on the basic principles and special limits on investment other than those regulated by the Law,
- (b) The manner of calculating the transaction fees directly connected to the buying and selling of the mandatory pension fund assets and their deduction from the accounts of the members and retired members of the mandatory pension fund;
- (c) The deductions from the assets of the mandatory pension fund in order to pay the fees of the company or company managing mandatory and voluntary pension funds,
- (d) Details of the mandatory pension fund's accounting system,
- (e) the manner of informing the members and retired members of the mandatory pension fund and the daily newspaper in which the information brochure of the mandatory pension fund is published;
- f) Data on the manner of calculating and paying out the scheduled withdrawals and
- (g) Other data of importance to the mandatory pension fund.

(2) The By-Law shall be approved by the Agency and every change of it.

## **CHAPTER 5**

### **THE AGENCY FOR SUPERVISION OF FULLY FUNDED PENSION INSURANCE**

#### **Article 46**

- (1) The Agency is an autonomous and independent regulatory body.
- (2) The Agency shall have a status of legal entity with public authorizations prescribed in this Law and is registered in the Central Register of Republic of Macedonia.
- (3) The Council of Experts is the body of the Agency.
- (4) The Agency shall have a By-Law.
- (5) The Headquarters of the Agency shall be in Skopje.
- (6) For its operations the Agency reports to the Parliament of the Republic of Macedonia.
- (7) The purpose of establishing the Agency is to protect the interest of the members and the retired members of the Mandatory and Voluntary Pension Funds and to enhance the development of the fully funded pension insurance.

#### **Article 47**

- (1) The Agency shall perform the following activities:
  - a) implement activities of collecting applications for establishment of new pension companies, issue, revoke and cancel licenses for establishment of pension companies, issues licenses for activity – management of voluntary pension funds, licenses for activity – management of mandatory pension funds and issue withdraws or abolishes approvals for management of mandatory and/or voluntary pension funds;
  - b) supervision of the operations of the pension companies and pension funds managed by them, especially controlling their legal operations;
  - c) supervision of the operations of the legal entities which are custodians of the mandatory and/or voluntary pension funds and foreign asset managers of the mandatory and/or voluntary pension fund in regard with the operations with those assets;
  - d) promotes, organizes and supports the development of the fully funded pension insurance in the Republic of Macedonia in cooperation with the Ministry of Labor and Social Policy;
  - e) develops the public awareness on the goals and principles of the pension companies and the mandatory and voluntary pension funds, on the benefits from membership in a mandatory and/or voluntary pension fund, including the goal, principles and benefits from participating in an occupational scheme, on the rights

of the members and retired members of the mandatory and voluntary pension funds and other issues related to the fully funded pension insurance;

f) initiates misdemeanor and criminal procedures before competent authorities, against the pension companies, custodians of mandatory and/or voluntary pension insurance, foreign assets managers and other entities, in case of incompliance with the provisions of this Law and other laws;

g) monitors and reviews the financial reports of the mandatory and voluntary pension funds and pension companies;

h) maintains a Sales Agent Register, Members Register, Register of retired members of mandatory pension funds and Register of mandatory and voluntary pension funds;

i) in order to provide efficient supervision and regulation of the fully funded pension insurance and financial sector, cooperates with the Ministry of Finance, the National Bank of the Republic of Macedonia, Securities and Exchanges Commission of the Republic of Macedonia and other authorities and institutions in the country and abroad. The scope, content and form of the cooperation will be regulated between the Agency and the competent authorities and institutions;

j) cooperates with the Pension and Disability Fund of Macedonia in the part of authorizations entrusted to that fund with this Law;

k) processes the personal data in accordance with the rules for data protection;

l) requires and gives out personal data for their utilization in accordance with the rules for data protection;

m) issues acts according to this Law and according to the Law on Voluntary Fully Funded Pension Insurance;

n) issues internal manuals for its operations and prepares professional manuals, handbooks etc. regarding the fully funded pension insurance;

o) initiates enacting of regulations and other acts regarding the pension companies and pension funds they manage;

p) becomes a member and participates in national and international organizations, when such participation is in interest of the Macedonian pension system and

q) performs other activities according to this Law and according to the Law on Voluntary Fully Funded Pension Insurance.

(2) The acts and regulations issued by the Agency based on this Law shall be published in the "Official Gazette of the Republic of Macedonia".

## **Article 48**

Whenever necessary and in order to protect the interests of the members and the retired members of the mandatory and/or voluntary pension funds, the Agency has the capacity to sue and be sued and it is entitled to participate, whether directly or

indirectly, in any proceeding undertaken against pension companies or against any other person or persons legally affiliated to the pension companies.

#### **Article 49**

(1) Members, retired members or former members of mandatory and/or voluntary pension funds may submit complaints to the Agency against pension companies, on actions and activities undertaken by the pension companies and which represent a breach of the law and the acts of those pension companies.

(2) Members and retired members of mandatory and/or voluntary pension funds may submit complaints to the Agency against third parties with which those pension funds and pension companies had had contractual or business relations, in cases when such member or retired member finds his/her interest disrespected as a consequence of breaching this Law or the Law on Voluntary Fully Funded Pension Insurance by such third party in terms of contractual or business relations.

(3) The Agency may address the pension company against which the complaint has been filed in order to clarify the case, if it will not harm the interests of the complainant.

(4) The Agency shall keep records of the complaints against the pension companies according to paragraph (3) of this article and shall publish statistical data thereof in its statistical report.

#### **Article 50**

(1) The Council of Experts of the Agency is composed of five members out of which ones the Chairman.

(2) The Chairman of the Council of Experts manages the Agency and represents it in front of third persons.

(3) The Chairman and the four members of the Council of Experts of the Agency are appointed and revoked by the Parliament of the Republic of Macedonia, upon proposal from the Government of the Republic of Macedonia.

(4) The mandate of the members of the Council of Experts is five years, with a possibility for re-election.

(5) In case the procedure for appointing the members of the Council of Experts is not completed by the expiry of the mandate of already appointed members, those appointed members whose mandates shall expire may continue and perform their function but not longer than 6 months.

(6) The members of the Council of Experts may be revoked by the Parliament of the Republic of Macedonia before the expiry of their mandates, only in case they meet at least one of the conditions of Article 51 paragraph (3) of this Law. In case, a member of the Council of Experts is revoked before the expiry of his/her mandate, he/she shall be replaced by another member appointed until the expiry of the mandate.

(7) The Chairman and two members of the Council of Experts, proposed by the Government of the Republic of Macedonia and appointed by the Parliament of the

Republic of Macedonia, shall be professionally engaged in the Agency, with full working time, and shall not be entitled to hold any other function or employment, or receive any other fees except the salaries, as per the general legislation on labor, as well as fees for occasional educational or authorship honoraria.

## **Article 51**

(1) A person who meets the following criteria may be elected as a member of the Council of Experts:

- a) he/she is a citizen of the Republic of Macedonia;
- b) at the moment of appointment, there is no validly court verdict for a fine or criminal sanction prohibiting such person to perform any kind of professional, activity or duty;
- c) he/she has acquired at least 240 credits as per the ECTS system or a has completed a level of education equal to VII/1 degree;
- d) he/she is an expert in the area of pension insurance, economics, law, financial supervision, accounting, capital markets, insurance and actuarial science, and has a working experience of at least 5 years in the area of pension insurance or finances.
- e) has at least one of the following internationally recognized certificates for active knowledge of the English language, not older than 5 years:
  - TOEFEL IBT, at least 74 points;
  - IELTS – at least 6 points,
  - ILEC (Cambridge English: Legal) – at least B2 level,
  - FCE (Cambridge English: First) - passed,
  - BULATS – at least 60 points or
  - APTIS – at least B2 level and
- f) has passed the psychological and integrity tests.

(2) As a member of the Council of Experts may not be selected a person:

- a) who is sanctioned for misdemeanor with a prohibition to perform a profession, activity or duty;
- b) who has been sanctioned with imprisonment for a criminal act against public finances, payment operations and economy, against professional duty or against legal operations;
- c) who is holding a function of managing a state authority or a state body;
- d) who is a member of a managing body, supervisory body or a person who is employed in a pension company, who is a founder of a pension company or

another legal entity supervised by the Agency;

e) who is a shareholder in a pension company, founder of a pension company or another legal entity supervised by the Agency and

f) who is a member of the Parliament or a person who performs another duty for which such person was appointed by the Government or the Parliament of the Republic of Macedonia.

(3) The Parliament of the Republic of Macedonia, upon proposal from the Government of the Republic of Macedonia, may dismiss the Chairman of the Council of Experts, before the expiry of his/her mandate, in case when:

a) he/she requests it;

b) he/she is deprived of legal capacity;

c) he/she does not respect the prohibitions from paragraphs (6) and (7) of this Article and the obligations as per Article 55 of this Law;

d) he/she did not justify his/her absence from 3 consecutive meetings of the Council or he/she did not justify his/her absence from five meetings of the Council in one year;

e) he/she flagrantly neglects his/her duties;

f) has a long-lasting illness which hinders him/her in performing his/her duties and

g) he/she does not meet any longer the requirements as of paragraphs (2) and (4) of this Article.

(4) The Chairman and the members of the Council of Experts are obligated to perform their duties professionally and in such a manner that they shall not endanger the independence and autonomy of the Agency.

(5) It is hereby forbidden any form of influence over the operations of the Council of Experts that might affect the independence and the autonomy of the Agency.

(6) Persons with special authorizations and responsibilities, who are employees of the Agency and who participate in the decision making processes of relevance to the pension companies, pension funds and members, must have at least a university degree and a working experience of at least three years in the areas of mandatory or voluntary pension fund management, economics, finance, accounting, investment, insurance, actuarial science or law. The employees of the Agency must not be members of any of the pension companies' bodies or of any other entities supervised by the Agency and they must not perform any individual tasks for those entities.

(7) The Chairman and the members of the Council of Experts, during their mandates in the Agency, and the employees of the Agency, during their employment with the Agency, shall not accept any kind of fees or payments, any kind of function or employment, nor they shall render any kind of services, and they shall not acquire shares in the pension company, in a pension company founder or other entity supervised by the Agency.

## **Article 52**

(1) While discharging their duties, the Chairman and the members of the Council of Experts who are professionally engaged, with full working time in the Agency, and the employees of the Agency are entitled to salaries and other fees according to this Law, the general legislation on labour relations and the collective agreement.

(2) The members of the Council of Experts who are not professionally engaged in the Agency are entitled to a monthly remuneration, regulated with the Statute and other acts of the Agency.

(3) The maximum salary of the Chairman of the Council of Experts may be equal to two average gross salaries, and for the members of the Council of Experts, professionally engaged in the Agency, the maximum salary may be equal to one and a half average gross salaries, paid in November of the previous year in the finance and insurance sector, according to the data of the State Statistics Office. The maximum amount of the monthly fee of the members of the Council of Experts, who are not professionally engaged in the Agency may be one half of the average gross salary paid in November of the previous year in the finance and insurance sector, according to the data of the State Statistics Office.

(4) The Chairman, the members of the Council of Experts and the employees of the Agency may perform expert and scientific work and they may participate in the work of expert or scientific associations.

(5) The employees of the Agency, except for the Chairman and the members of the Council of Experts, who perform administrative duties, have the status of administrative servants.

(6) For all issues relating to the employment relations of the administrative servants of the Agency, which are not regulated with this Law or the collective agreement, the provisions of the Law on Administrative Servants shall apply.

(7) The employees of the Agency who perform logistical and technical duties have the status of logistics and technical staff.

(8) For the logistics and technical staff the general labour provisions shall apply.

(9) The basic salary and fees for the employees of the Agency are regulated with the Collective agreement, and the unit value of the basic salary is determined by the Council of Experts.

## **Article 52-a**

(1) The Council of Experts has the following duties:

a) passes the Statute of the Agency;

b) passes the Rules of Operation of the Council of Experts in accordance with this Law and the Statute of the Agency;



- c) passes the act on internal organization and job descriptions of the Agency;
- d) passes the financial plan and the financial reports;
- e) passes the annual program of the Agency;
- f) adopts the annual report on the operations of the Agency and the annual report on the developments in the fully funded pension insurance;
- g) decides on the amounts of salaries and monthly fees of the Chairman and the members of the Council of Experts;
- h) decides on the amounts of the salaries of employees of the Agency;
- i) assesses the performance of the employees of the Agency, once a year, based on continuous monitoring their performance;
- j) passes acts on the entitlements of the employees from their employment;
- k) grants, withdraws and cancels licenses for establishment of pension companies, grants licenses for performing a duty – management of voluntary pension funds, grants licenses for performing a duty – management of mandatory pension funds, and grants, withdraws and cancel approvals for managing mandatory and/or voluntary pension funds;
- l) grants approvals upon request from pension companies and in accordance with the law;
- m) passes acts for enforcement of this law and other laws under its jurisdiction;
- n) organizes and provides for lawful performance of the activities of the Agency;
- o) creates policies and strategies in the area of human resource management in the Agency;
- p) passes an annual employment plan;
- q) passes an annual training program;
- r) prescribes a Code of conduct for the employees of the Agency and
- s) performs other tasks prescribed in the law and in the Statute of the Agency.

(2) The Council of Experts deliberates on meetings.

(3) The Council of Experts may decide for matters under its jurisdiction only when there is a majority of members present at the meeting.

(4) The decisions of the Council of Experts are considered adopted when a majority of the present members had voted, where the Chairman and the members of the Council of Experts may not abstain from voting.

(5) A dissatisfied party may appeal a decision of the Council of Experts by submitting a complaint for initiating an administrative dispute before the authorized court. Such appeal shall not delay the execution of the decisions.

(6) Upon exception from paragraph (5) of this Article, against a decision of the Council of Experts on the matters related to labor relations, the authority in charge shall be the State Commission for Decision-Making in Administrative Procedure

and Labor Relation Procedure in Second Instance.

### **Article 53**

(1) In order to perform its duties, the Agency is authorized to:

- a) receive for review all the documents of the pension companies and the electronic records regarding their operations and the operations of the pension funds they manage;
- b) receive for review all the documents and electronic records stipulated in item a) of this paragraph from the custodian and foreign manager of mandatory and/or voluntary pension funds;
- c) receive for review all the documents and electronic records of the insurer on the method of organization and financing of the professional pension scheme;
- d) receive all documents and electronic records of the Center, as well as information from its director, regarding the activities of the Center;
- e) receive information from members of management boards and supervision boards and other staff of the entities stipulated in item a), b) and c) of this article regarding the activities of the pension company, mandatory and/or voluntary pension fund or professional pension scheme;
- f) request written and personally signed statements from the persons of items d) and e) of this paragraph.

(2) The Chairman of the Council of Experts may authorize a person to enter the premises of:

- a) a pension company for the purposes of control and review of the legality of the operations of that pension company and of the pension fund managed and control of the implementation of the statute and the other acts of that company;
- b) a custodian and foreign asset manager for the purposed of review and control of the legality of the operations and of the implementation of the contracts signed with the pension company; and
- c) a insurer for the purposes of control and review of the legality of the organization and financing of the professional pension scheme.
- d) the Center in order to examine and control the legality of its operations.

(3) The pension company, custodian, foreign asset manager and the insurer are obligated to present the person authorized to control, all the books, documents and other records regarding the operations of the pension company, pension fund managed by that company, foreign asset manager, custodian as well as the organization and financing of the professional pension scheme.

(4) The type and the scope of control are determined with a Decision for Control, passed by the Chairman of the Council of Experts.

(5) The person authorized to perform the controls prepares the Minute from the

control and submits it to the Agency. In case the Agency discovers illegalities in the operations and in the book keeping, the Agency shall order in writing the pension company, the custodian, the foreign assets manager, the Center or the insurer to remove such inconsistencies in a given deadline.

(6) The Agency shall prescribe in detail, the method of performance of control of the pension companies.

#### **Article 53-a**

(1) If the authorized person for control discovers that there is a first time breach of provisions of Article 21-a paragraphs (3), (4) and (5), Article 75 paragraph (4), Article 77 paragraph (7) and Article 96 of this Law, the authorized person is obligated to prepare Minute for such breach and instruct for removal of such breach within 15 days from such instruction and, at the same time, the authorized persons shall submit an invitation for education of the person or the entity that committed the breach.

(2) The form and the contents of the invitation for education, as well as the manner for performing such education shall be prescribed by the Agency.

(3) The education is organized and performed by the Agency, within a maximum of 8 days from the day of control.

(4) The education may be performed for multiple breaches of the same or similar contents, for one or for more entities.

(5) In case on the agreed appointment for education, the person or the entity that should be educated, does not show up, it shall be considered that the education took place.

(6) When the person or the entity that should be educated attends the education, such person or entity shall be considered educated on a determined inconsistency.

(7) In case the authorized person for control determines, while performing the control, that the inconsistencies of paragraph (1) of this Article were removed, the persons shall stop the control.

(8) In case the authorized person for control, while performing the control, determines that the inconsistencies as of paragraph (1) of this Article, have not been removed, he/she shall initiate a Misdemeanor Procedure before the authorized body.

(9) The Agency shall keep records of the conducted education in a manner prescribed by the Agency.

#### **Article 53-b**

(1) According to Article 53 paragraph (5) of this Law the Pension Company, the custodian, the foreign assets manager, the Center or the insurer are obligated to remove or correct the inconsistencies in the given deadline and notify the Agency on such removal and submit evidence thereof. In case the Pension Company does

not remove the inconsistencies, the Agency may cancel its approval for managing mandatory and/or voluntary pension fund.

(2) If upon controlling the pension company's operations and the management with a mandatory and/or voluntary pension fund, the Agency discovers acts punishable by law, the Chairman of the Council of Experts or a person authorized by the Chairman, shall submit a report for initiation of a procedure before the adequate authorities.

(3) A misdemeanor procedure may not be initiated nor conducted if there had passed more than three years from the day a misdemeanor had been committed. The statute of limitation for initiating and conducting a misdemeanor procedure for any case is taking place after the expiry of the fifth year from the day the misdemeanor had been committed.

### **Article 53-c**

(1) The Agency undertakes measures and sets enforcement deadlines, when a pension company, a custodian, a managing or supervisory body of a pension company, or responsible person of a pension company does not abide by the regulation and/or internal acts which regulate the operations of the pension company and the management with the pension funds' assets.

(2) The Agency undertakes measures divided into the following groups:

- a) The first group is education, training, recommendation, reprimand and warning;
- b) The second group is passign a decision for removal of illegality, for settlement and for initiating a misdemeanor procedure and
- c) The third group is revocation of the approval of the member of the Management Board and of the Pension Company.

(3) Upon deliberating on which measure to enforce, the Agency shall take into consideration the following:

- a) the potential damage and the probability for the probability for occurrence of such illegal act and/or inconsistency, and their influence on the stability and safety of the pension companies, pension funds and the pension system as whole;
- b) the influence or the potential influence of the measure on the pension company or the pension fund in preventing further deterioration of the condition of the pension company or the pension fund;
- c) whether the illegal act or the inconsistency had been deliberate and reoccurring and
- d) the readiness of the Pension Company's bodies to remove the discovered illegalities and/or inconsistencies.

### **Article 54**

(1) The Agency shall publish a report about the situation in the fully funded pension

insurance in the Republic of Macedonia for the previous year, by June 30 of the current year. The report shall include data about the fully funded pension insurance, assessment of the enforcement of the regulations in the area of fully funded pension insurance and other issues that the Agency finds significant for the fully funded pension insurance.

(2) Not later than June 30 of the current year, the Agency submits to the Parliament a report on its operations in the previous year.

### **Article 55**

(1) The Chairman and the members of the Council of experts, the employees of the Agency and other persons may not disclose or use for personal benefit information acquired from discharging functions or authorizations as per this Law or which are classified as confidential with a law. The information should be kept confidential for five years after the termination of such function or authorization, or after the termination of the employment with the Agency.

(2) The obligation for information confidentiality does not apply in cases in which that information is disclosed based on authorization determined by this Law and by a Court sentence that went into effect.

(3) The obligation for information confidentiality from paragraph (1) of this Article does not apply in cases when the disclosure of information is made by the Agency:

a) on the bases of a written request by the Ministry of Labour and Social Policy or other person authorized by the Minister, when that request is necessary for performing his, her, or its official duties;

b) on the bases of a written request by a domestic or international authority or organization for the purpose of providing help to the performance of the functions of this authority, if similar to the functions of the Agency;

c) in a form of conclusion regarding the mandatory and/or voluntary pension funds or pension companies, provided that such information is prepared by authorized persons as per this Law and such conclusion is prepared in a manner that it does not disclose data on members and retired members of the mandatory and/or voluntary pension fund, on the pension company's operations, on the custodian, the Center or the asset manager and

d) based on written permission from the Pension Company, the member or the retired member, who are concerned with the data.

### **Article 56**

(1) Not later than December 31 of the current year, the Agency shall submit to the Parliament for adoption a financial plan for the following year. Not later than June 30 of the current year, the Agency shall submit to the Parliament the financial reports for the previous year, audited by an external authorized auditor in

accordance with the international auditing standard.

(2) The funds necessary for the salaries, monthly fees and other fees of the Chairman, the members of the Council of Experts and the employees of the Agency are provided from the assets of the Agency as determined with the annual financial plan.

(3) The operation of the Agency, in accordance with this Law, shall be financed by fees that the Agency shall charge to the pension companies, particularly including the following:

- a) monthly fee levied on the Pension Companies, up to 0.8% from each paid contribution into the Pension Funds they manage in the preceding month.
- b) fee for templates of applications and documentation in addition to the license for establishment of a company and approval for management of a pension fund;
- c) fee for license for establishment of a pension company, license for activity – management of voluntary pension funds, license for activity – management of mandatory pension funds and approvals for management of mandatory and/or voluntary pension funds;
- d) fee for providing forms;
- e) fee for training and for organizing an exam;
- f) fee for registration of the sales agents in the Registry, which may not exceed the administrative costs of that registration.
- g) fee for performing services and
- h) other fees determined by the Agency.

(4) The amounts of the fees of paragraph (3) of this Article are determined by the Council of Experts of the Agency, which are approved by the Parliament of the Republic of Macedonia and published in the “Official Gazette of the Republic of Macedonia.

(5) The Agency has its own account in a commercial bank in Republic of Macedonia.

(6) Audit of the Agency’s operations shall be performed by the external authorized audit.

#### **Article 56-a**

If the Agency during the previous year has realized surplus income above realized expenses, the realized surplus of assets shall be distributed in the reserve fund of the Agency in amount précised with the financial plan of the Agency.

#### **Article 56-b**

(1) If during the previous business year the Agency made more expenses than

realized income, shortage of assets shall be compensated by the Agency reserve fund.

(2) The assets realized from the surplus income above expenses distributed in the Agency reserve fund are custody on the account in the commercial bank in Republic of Macedonia.

### **Article 57**

Within the limits of its authorizations, the Agency collaborates with the Ministry of Labour and Social Policy towards development and improvement of the fully funded pension insurance.

## **CHAPTER 6 PENSION FUND MEMBERSHIP AND PAYMENT OF CONTRIBUTIONS**

### **Article 58**

(1) All contributors who become subject to mandatory pension and disability insurance after 1<sup>st</sup> January 2003 for the first time according to Article 118 of the Law on Pension and Disability Insurance shall be required to join and pay contributions to a mandatory pension fund of their own choice as long as they remain contributors within the mandatory fully funded pension insurance.

(2) Contributors who have entered for the first time the mandatory fully funded pension insurance after the date stipulated in paragraph (4) of this Article shall be obliged to join a mandatory pension fund within three months of the date of joining the mandatory pension and disability insurance.

(3) Contributors, who were included in the mandatory pension and disability insurance before January 1, 2003 can become members and pay contributions in a mandatory pension fund by their own choice and they will make their choice not later than the date stipulated in paragraph (4) of this Article. The Agency can by excused reasons extend the deadline for the choice to 12 months at the most.

(4) The payment of contributions for mandatory fully funded pension insurance for contributors referred to paragraphs (1) and (3) of this Article shall start from date of the first continuous issuance of government bonds, but not later than six months from this date. The starting date for the payment of contributions shall be determined by the Government of the Republic of Macedonia and shall be published in the Official Gazette of the Republic of Macedonia.

(5) A member of a mandatory pension fund may freely transfer and join another mandatory pension fund, except in cases stated in Article 62 of this Law.

(6) The Agency shall be responsible to inform the citizens for the categories of contributors who are obliged to join a mandatory pension fund, for the contributors who may join a mandatory pension fund on their own choice, for the factors which should be taken into consideration when deciding whether a contributor should join a mandatory pension fund and for the decisions to be made upon the first employment or upon commencing performing a function.

(7) The contributions of contributors, who have not entered into membership with a mandatory pension fund but were obliged to do so, will be held in special accounts in the mandatory pension funds, until the moment when the contributor joins a mandatory pension fund. The Agency temporarily allocates these contributors to a mandatory pension fund from the moment of their entrance to the mandatory pension and disability insurance.

(8) During the allocation of the contributors into the pension funds according to paragraph (7) of this article, the Agency shall provide that the number of contributors assigned to any of the mandatory pension funds to be determined according to the yield of the mandatory pension fund and the amount of the fee stipulated in article 98 paragraph (1) item a) of this Law which is charged by the company managing that mandatory pension fund on the date determined by the Agency.

(9) The contributors from paragraph (1) of this Article who would not sign a membership contract in a period of three months from the day of entering the mandatory pension and disability insurance, after the expiration of this time period become members of the mandatory pension fund to which they have been allocated as per paragraphs (7) and (8) of this Article.

(10) The Agency stipulates the procedure for allocation of contributors to mandatory pension funds.

## **Article 59**

(1) A contributor becomes a member of a mandatory pension fund by signing a Membership contract with the Company managing that mandatory pension fund. The company is obligated to provide the contributor a document for cancelation of the contract in addition to the copy of the membership contract.

(2) The form of the Membership contract referred to in paragraph (1) of this Article shall be the same for all Members of the mandatory pension fund the Company manages.

(3) The Agency shall specify the standardized form of the Membership contract for all mandatory pension funds.

(4) In case when a contributor has signed a Membership contract with a mandatory pension fund for the first time and has not been a Member of any mandatory pension fund before, he or she has the right of one-sided revocation of the contract by delivering a written notice to the Company within eight Working Days of the date of signing the Membership contract. In such case the contract shall not produce legal effects. The contributor may not become a mandatory pension fund member before the expiration of the eighth working day from signing the contract.

(5) The Company managing the mandatory pension fund immediately after the expiration of eight working days of signing the membership contract from paragraph (4) of this Article establishes an individual account for the member who has signed the contract.



(6) The Agency shall specify the dates for each year on which the contributors may become Members of mandatory pension funds and on which transfers of assets from one mandatory pension fund to another could be made ("Transfer Date"). A Transfer Date must be a Valuation Date. A contributor may only become a member of mandatory pension fund on those dates.

(7) A Company may not refuse a contributor to join the mandatory pension fund it manages, unless the contributor does not meet the conditions specified in the Law on Pension and Disability Insurance.

(8) The contributor may only be a Member of one mandatory pension fund at a time and may only have one account in that Fund.

(9) The Agency may specify the conditions under which once a Company in accordance with Article 7 of this Law may manage more than one mandatory pension fund, a contributor, as an exception to paragraph (8) of this Article, may be a Member of more than one mandatory pension fund managed by the same Company.

(10) The Agency shall closely regulate the manner and procedure for mandatory pension fund membership in accordance with this Article.

#### **Article 60**

(1) The payment of contributions for pension and disability insurance is made pursuant to the Law on Contributions of Mandatory Social Insurance.

(2) Pension and Disability Insurance Fund of Macedonia allocates contributions of mandatory pension fund members to the chosen mandatory pension funds account, immediately, and no later than five business days after receipt of the same, provided that in the same term adequate data has been received by the Pension and Disability Insurance Fund of Macedonia to enable it to fulfill such obligation.

(3) The mandatory fully funded pension insurance assets realized by the untimely and incomplete payment of contribution are transferred to the member's mandatory pension funds individual account.

#### **Article 61**

(1) A member of a mandatory pension fund may transfer and enroll in another mandatory pension fund.

(2) A member who has an individual account in a mandatory pension fund (existing mandatory pension fund) may become a member of a mandatory pension fund managed by another company (future mandatory pension fund) by signing a transfer agreement with the company managing the future mandatory pension fund, as per Article 59 of this Law, by signing a notarized statement on consenting to transfer and upon payment of the fee as per Article 98 paragraph (1) count c) of this Law.

(3) The Company managing the future mandatory pension fund is obligated to verify if the conditions set in paragraph (2) of this Article have been met and to enroll the member in the Register of members.

(4) The membership in the future mandatory pension fund shall commence from the first next date of transfer of assets.

(5) The Agency prescribes the contents of the agreement for transfer to another mandatory pension fund and the statements of consent to transfer.

## **Article 62**

(1) A Member of mandatory pension fund cannot transfer to another mandatory pension fund for a period of two years counting from the date of commencement of contribution payment in the mandatory fully funded pension insurance referred to in Article 58 paragraph (4) of this Law.

(2) The Agency may waive the term set out in paragraph (1) of this Article in the cases stated in Article 98 paragraph (3) of this Law.

## **Article 63**

(1) In case of transfer of the member of mandatory pension fund from one to another mandatory pension fund in accordance with Article 61 of this Law, the assets of that Member shall be transferred from the Current to the Future mandatory pension fund on the First following Transfer Date.

(2) The Assets which are subject to transfer shall comprise the amount standing to the Account of the Member of mandatory pension fund on the Transfer Date.

(3) The Company managing the current mandatory pension fund shall notify the Company managing the Future mandatory pension fund of the Member's contributions paid to the Current mandatory pension fund, the transferred assets for that Member to that Fund and the contributions that that Member has paid into the mandatory pension funds of which he/she was a Member in the past.

(4) The Agency shall closely regulate the Transfer of Assets between the mandatory pension funds managed by different Companies and the type of data to be submitted in accordance with paragraph (3) of this Article.

## **Article 64**

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

## **Article 64-a**

(1) The Agency can nullify the registration of the mandatory pension fund member in the members register if:

- a) the registration has been made on the base of incorrect data;
- b) upon request of a mandatory pension fund member, who revoked his/her status as per Article 118 paragraph (2) of the Law on Pension and Disability Insurance;
- c) on the base of a court decision and
- d) in other cases that are not in accordance with the law.

(2) The Agency may cancel the registration of a retired member of a mandatory pension fund from the register of retired members, when:

- a) the registration is based on false data;
- b) upon court decision or
- c) in other cases which are not in accordance with the provision regulating the pension and disability insurance and the fully funded pension insurance.

### **Article 65**

(1) When a member of a mandatory pension fund acquires a right to a disability pension, according to article 122 of the Law on Pension and Disability Insurance, the Pension and Disability Fund of Macedonia, through the Agency, will immediately inform the company managing the pension fund that the member has acquired the right of disability pension. On the first following transfer date after the day of receipt of the information, the company is obligated to transfer the funds on that member's account to the Pension and Disability Fund of Macedonia, except in the cases stipulated in article 90 of this Law.

(2) At the time of the transfer of assets according to paragraph (1) of this Article, the Company managing that mandatory pension fund shall be obliged to identify the Member whose assets are being transferred, and to submit a copy of the notification for the transfer of assets made to the Pension and Disability Insurance Fund of Macedonia. After the transfer of assets is made, the Company shall close the individual account of the Member.

(3) The provisions from paragraphs (1) and (2) of this Article shall accordingly be applied also on the temporarily allocated contributors from Article 58 paragraph (7) of this Law.

(4) Notwithstanding the paragraph (1) of this Article when a member or a temporary allocated contributor becomes entitled to a temporary disability pension pursuant to Art.130 of the Pension and Disability Insurance Law a payment of the temporary disability pension is made by Pension and Disability Insurance Fund of Macedonia, and the assets of members individual account remain in the mandatory pension fund until the member becomes entitled of a old-age, disability of family pension.

## **Article 66**

(1) In the case of a Pension Fund Member's death whose family members have a right to a survivor's pension in accordance with the Law on Pension and Disability Insurance, the Pension and Disability Insurance Fund of Macedonia through the Agency shall forthwith notify the Company managing that mandatory pension fund of that Member's death. The Company shall transfer the total amount of assets standing to the account of the deceased Member to the Pension and Disability Insurance Fund of Macedonia on the first following Transfer Date after the date of receipt of the notification, except in the cases determined in Article 91 of this Law.

(2) On the date of transfer of assets according to paragraph (1) of this Article, the Company shall be obliged to identify the deceased Member whose assets should be transferred. After the transfer of assets is made, the Company shall close the Member's individual account.

(3) In case when the deceased Pension Fund Member has no family members entitled to a survivor's pension in accordance with the Law on Pension and Disability Insurance, the assets on that Member's account shall form part of his/her estate and will be managed in accordance with the Law on Inheritance. Until then, the Member's account will remain open and those assets shall be converted into accounting units and invested in the same way as the other mandatory pension fund assets, by the Company. After the transfer of assets is made, the Company shall close the deceased Member's individual account.

(4) The provisions from paragraphs (1), (2) and (3) of this Article shall accordingly be applied also on the temporarily allocated contributors from Article 58 paragraph (7) of this Law.

(5) The Agency shall prescribe the method and procedure for transfer of the funds in the cases stipulated in paragraph (1) and (3) of this article and Article 65 of this Law, as well as the type and format of the data which are exchanged between the institutions and entities involved in the procedure.

## **Article 66a**

(1) The contributions determined for the member of the mandatory pension fund who has cancelled the determined status based on article 118 paragraph (2) of the Law on Pension and Disability Insurance shall be transferred to the Pension and Disability Fund of Macedonia.

(2) The Agency shall prescribe the method and procedure for transfer of the funds stipulated in paragraph (1) of this article.

## **Article 67**

(1) The assets standing to the account of the mandatory pension fund Member are part of his or her personal property. The rights for using and handling those assets may not arise until the date of his/her retirement, death or disability in

accordance with this Law.

(2) The assets on the individual account of a mandatory pension fund Member may not be subject to execution, nor may they be used in a settlement or bankruptcy procedure.

(3) The assets standing to the individual account of a mandatory pension fund Member may not be pledged, assigned or transferred for the benefit of third parties, except when this is explicitly allowed by this Law. Legal activities related to this Article shall be null and void.

(4) The provisions of paragraphs (1), (2) and (3) of this Article shall apply adequately to the assets of the individual subaccount of the special account in the mandatory pension fund, as per Article 68 paragraph (2) of this Law, as well as the assets on the individual account of a retired member.

### **Article 68**

(1) Assets from contributions for which the Pension and Disability Insurance Fund of Macedonia cannot determine to whom they belong are kept in an Unidentified Account in the Fund until the ownership of the assets is determined. Assets from contributions paid to the Pension and Disability Insurance Fund of Macedonia for which there are inconsistencies with accompanying data, are kept in the Unallocated Account with individual sub-accounts in the Fund, until those inconsistencies are resolved.

(2) The Special Account in the mandatory pension fund is consisted of individual sub-accounts for each Member and the assets in this account are from contributions collected in accordance with paragraphs (7) of the Article 58 of this Law. These assets are converted in accounting units and are invested by the Company in the same manner as the other assets of the Pension Fund.

(3) The Agency shall closely regulate:

- a) The procedure of depositing and withdrawing the assets on such accounts;
- b) The fees that are charged by Company or the company for managing mandatory and voluntary pension funds in relation to the assets on those accounts;
- c) The way of allocating the returns on those assets to the accounts of the Members Pension Fund;
- d) The notifications and data that should be submitted and
- e) Other issues related to the contributions paid, but unallocated to the appropriate Pension Fund.

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

### **Article 69**

The Pension and Disability Insurance Fund of Macedonia shall, in a unified procedure of collection of contributions for pension and disability insurance in

accordance with the Law on Pension and Disability Insurance, execute the following functions for the needs of mandatory the fully funded pension insurance:

- a) Receives the contributions for the members of the mandatory pension fund from the contribution payers for payment of the contribution for pension and disability insurance;
- b) On every Working Day settles the contributions with the data received from the Public Revenue Office and with the data in the registry of the Pension and Disability Insurance Fund of Macedonia;
- c) Transfers the contributions of members of the mandatory pension fund to the accounts of the selected funds at the Custodian, immediately, and no later than five Working Days after receipt of the contributions, only if within that period adequate data has been received in accordance with the Law, that enables the Pension and Disability Insurance Fund of Macedonia to fulfill that obligation. If those conditions are not fulfilled, the Pension and Disability Insurance Fund of Macedonia shall act in accordance with Article 68 paragraphs paragraph (1) of this Law;
- d) Submits data through the Agency to the Companies or companies managing mandatory and voluntary pension funds regarding the transfer of the contributions according to item c) of this paragraph.;
- e) Maintains full and updated records for the individual accounts of the members showing the status of contributions paid for members to each mandatory pension fund;
- f) Receives data from the Agency for the members of the mandatory pension fund and for the mandatory pension funds they have selected, in accordance with this Law;
- g) Keeps track of and maintains a database determined by this Article and reconcile those data on a monthly basis and
- h) Prepares and submits to the Agency regular summary reports at the request of the Agency, for the purpose of performing its functions.

#### **Article 70**

The Pension and Disability Insurance Fund of Macedonia shall prescribe the manner and the procedure for its functions determined in Article 69 of this Law, after previous consonance of Ministry of the Labour and Social Policy.

#### **Article 71**

The Pension and Disability Insurance Fund of Macedonia shall be obligated to make and maintain available computer software for allocation and transfer of the mandatory pension fund member's contributions on the accounts of the chosen mandatory pension funds.

#### **Article 72**

The Pension and Disability Insurance Fund of Macedonia shall cooperate with the Agency, the Companies or the company managing mandatory and voluntary pension funds, and other authorities in order to provide for the efficient

functioning of the pension and disability insurance.

### **Article 73**

(1) The Ministry of Labour and Social Policy shall supervise the operation and the legality of the operation of the Pension and Disability Insurance Fund of Macedonia, in relation to the functions delegated by this Law.

(2) The Ministry of Labour and Social Policy may stop the execution of an act of the Pension and Disability Insurance Fund of Macedonia if it considers that it is not in accordance with this Law or is unconstitutional.

## **CHAPTER 8**

### **MARKETING OF PENSION FUNDS**

#### **Article 74**

(1) No person may offer any kind of gifts to another person in order to make the person enroll or sign an agreement for scheduled withdrawals in any mandatory pension fund or to stay a member or retired member in any mandatory pension fund.

(2) No one may offer any gifts to another person for the purpose of persuading a person to attend or stay at locations where mandatory pension fund marketing is performed.

(3) No one may offer any gifts to an employer or to its affiliated entities and/or persons for the purpose of inducing or rewarding that employer to induce or order its employees to join any particular Pension Fund.

(4) No one may offer any gifts to a Union or other organization, collective entity or entities and/or persons affiliated to such organization or entity for the purpose of leading or rewarding that body to induce or order its members to join any particular Pension Fund.

(5) A gift in terms of this Article shall mean, but shall not be limited to, cash rewards, payment of monetary fees for premature termination of the membership or termination of scheduled withdrawals agreement offered from another mandatory pension fund, offerings in forms of gifts of real estate or movable, art, organizing exhibitions or shows, or other acts which usually must be paid, except for those payments which derive directly from the entitlements of the members and the retired members of the mandatory pension fund.

#### **Article 75**

(1) The persons from paragraph (3) of this Article must not give false or incorrect information on the mandatory pension fund, or on the Company managing such fund and, they must not give information which are misleading for the members and the retired members of the mandatory pension fund, the persons who are entitled

to become members of a mandatory pension fund, neither with verbal statements nor with written materials, through announcements, or any kind of advertising material.

(2) The persons of paragraph (3) of this Article shall not issue any kind of statements or forecasts for the future investment results of a mandatory pension fund, to the members and retired members of that fund and to the persons who might become members or who might sign a scheduled withdrawal agreement with that mandatory pension fund in the future, except statements which are in a form and by the procedure prescribed by the Agency.

(3) The persons of paragraphs (1) and (2) of this Article are:

a) Mandatory pension fund, company managing mandatory pension funds and company managing mandatory and voluntary pension funds;

b) Affiliated persons with the persons of count a) of this paragraph and

c) Agents or employees of the Companies or companies managing mandatory and voluntary pension funds and in the affiliated persons.

(4) A Company managing a mandatory pension fund is obligated to submit to the Agency, in photocopy or on adequate external medium, the published marketing material, within three days from the day it was published. The Agency prescribes instructions on the contents of the advertisements and other marketing material of the mandatory pension funds and of the companies managing those funds.

(5) In case the Agency finds an advertisement or any other written material misleading, it may ban its further publication or distribution and it may order publication of corrected materials within a determined deadline.

## **Article 76**

(1) The Companies or companies managing mandatory and voluntary pension funds may perform marketing activities for the mandatory pension fund in its premises or in the premises of its marketing associates. The premises must meet the following conditions:

a) have at least one sales agent;

b) have a responsible persons for marketing activities of the Company, who may be employed with the associate and

c) provide sufficient space for the marketing activities of the company managing the mandatory pension fund.

(2) A marketing associate as per paragraph (1) of this Article may be a bank or an insurance company. The Companies or companies managing mandatory and voluntary pension funds is obligated to sign an agreement with the associate for performing marketing activities for the mandatory pension fund in the premises of the associate.

(3) The Company or company managing mandatory and voluntary pension funds is



responsible for meeting the conditions as of paragraph (1) of this Article.

(4) On the last day of each quarter, the Company or company managing mandatory and voluntary pension funds submits to the Agency a list of premises of its marketing associates, which includes the name of the associate, address and responsible person.

## **Article 77**

(1) The Company or company managing mandatory and voluntary pension funds may sign a membership agreement, transfer agreement or scheduled withdrawal agreement with a physical persons only through its agent.

(2) The presence of the agent upon signing of a membership agreement is obligatory, as well as upon signing of a transfer agreement or scheduled withdrawals agreement, where the agent is obligated to sign such agreement as well.

(3) After a person is registered in the Sales Agents Register he/she may perform marketing activities for a mandatory pension fund. The agent is obligated to have personal contact with the member, the retired member or with persons who are entitled to become members or to sign a scheduled withdrawal agreement, and the agent must not sign such agreements via third parties.

(4) The sales agent may perform marketing activities for mandatory pension fund managed by only one Company. The sales agent shall be obliged to be re-registered, in order, at a later date, to perform marketing activities for Pension Funds managed by another Company.

(5)The re-registration referred to in paragraph (4) of this Article may not occur before a one-year period has expired from the date when that person ceased to be a sales agent of any company or company managing mandatory and voluntary pension funds., unless the person ceased to be a sales agent of that Company because of deprivation of that Company's license.

(6) In the Register of sales agents may be entered a person who fulfils the following conditions:

a) Be a citizen of the Republic of Macedonia or if he is foreigner to has regulated status of foreigner in Republic of Macedonia, according to the law;

b) He or she has no imposed misdemeanor sanction prohibition to carry out a profession, activity or duty in the area of economy, finance, insurance, banking and law;

c) Has completed at least secondary education;

d) Has passed an examination set by the Agency for sales agents and

e) Not employed in: The Pension and Disability Insurance Fund of Macedonia, The Health Insurance Fund of Macedonia, the Employment Agency of Republic of Macedonia, the Public Revenue Office and the temporary employment agencies.

(7) The Agency shall be obliged to register a person in the sales agents register within one month of the receipt of a regular application, if he/she fulfils the requirements set out in paragraph (6) of this Article. The company and the company for management of mandatory and voluntary pension funds is obligated to submit an application on behalf of the agent for its registration in the Register of agents if the person fulfills the conditions, and an application for deleting the agent from the Register of agents if he does not fulfils the conditions pursuant to paragraph (6) of this Article.

(8) The Agency undertakes the procedure for cancellation from the Sales Agents Register of an agent who is incompliant with the provisions of this Law and the Law on Voluntary Fully Funded Pension Insurance. The Chairman of the Council of Experts passes a decision for cancelation of an agent, and the agent may appeal such procedure by initiating an administrative dispute before the authorized court.

(9) The Agency shall specify the manner and procedure for the sales agent exam and the manner and procedure for registering the person in the register of sales agents.

(10) To the persons who shall pass the exam, the Agency shall issue a certificate for becoming a sales agent. The form and content of the certificate shall be specified by the Agency.

(11) The person removed from the register of sales agents according to paragraph (8) of this article, shall not be allowed to be reregistered in the register within three years from the date of removal.

#### **Article 77-a**

(1) A sales agent's exam is taken as a verification of the knowledge, necessary for performing the pension funds marketing activities.

(2) A sales agent exam may be taken by a person who meets the following conditions:

- he/she is a citizen of the Republic of Macedonia;
- he/she is a resident of the Republic of Macedonia;
- he/ she has completed at least a secondary education and
- he/she is not forbidden by any court to perform any profession, activity or duty.

#### **Article 77-b**

(1) The exam is consisted of two parts:

- the first part (theoretical), which verifies the theoretical knowledge of the candidate and
- the second part (practical example), which verifies the practical skills of the candidates.

(2) The first part of the exam, as per the paragraph (1) of this Article is taken in writing, electronically, by answering a given number of questions on a computerized test.

(3) The second part of the exam is consisted of:

- practical example and
- questions, which the candidate needs to answer based on the analysis of the practical example.

#### **Article 77-c**

(1) The exam is based on a study material in a form of a program, which contains the necessary body of knowledge, regulation and literature.

(2) The program for the exam is passed by the Agency.

#### **Article 77-d**

(1) The questions data base for the first and the second part of the exam as per Article 77-j of this Law is prepared by professors from the field and/or experts from any of the following fields: pension insurance, administrative procedure, capital market and actuarial science, as selected by the Agency.

(2) The questions from the first and from the second part of the exam are verified by a Verification Committee consisted of three representatives of the Agency.

(3) At least once a year, the Committee of paragraph (2) of this Article reviews and updates the questions data base, as of Article 77-j of this Law.

(4) Upon such review, the Committee of paragraph (2) of this Article shall take into considerations the amendments of regulation upon which a question or a practical example is based, the number of candidates which answered the question, as well as other criteria which might affect the improvement of the quality of the data base as per Article 77-j of this Law.

(5) Based on the review and the update of the data base of questions and practical examples, the Committee from paragraph (2) of this Article shall decide which questions of practical examples may be changed or completely removed from the data base of Article 77-j of this Law.

(6) The professors and the persons of paragraph (1) of this Article and the members of the Committee of paragraph (2) of this Article are entitled to a fee, determined by the Agency.

(7) The amount of the fee, as per paragraph (6) of this Article is set based on the number of prepared questions and practical examples, as well as on the complexity of the material.

(8) The annual amount of the fee of paragraph (6) of this Article shall not surpass two average salaries in the Republic of Macedonia, paid in the previous year, according to the data published by the State Statistics Office.

(9) All expert and administrative matters related to the organization of the exam shall be undertaken by the Agency, and the technical rendition of the exam shall be entrusted to a legal entity registered in the Central Register and selected by the Agency.

#### **Article 77-e**

- (1) The sales agent's exam shall be organized at least twice a year.
- (2) The request for the exam is submitted to the Agency by the Pension Company together with the evidence for meeting the conditions for taking the sales agents' exam, prescribed in this Law.
- (3) The Agency determines whether a candidate meets the conditions for taking the exam.
- (4) For the approved candidates for the exam, the Agency sets a date and a place for the exam, for which the Agency notifies the Pension Company not later than eight days before the exam.
- (5) The candidate is allowed to take the exam in the first available term after his/her request had been approved.
- (6) In case a candidate does not meet the conditions for taking the exam, the Agency passes a decision for rejection of such candidate, to which the candidate may submit an appeal before a relevant authority, within 30 days from the receipt of such decision.

#### **Article 77-f**

- (1) The sales agent exam shall be taken in specialized examination room, equipped accordingly with adequate technical and IT equipment, Internet connection and recording equipment.
- (2) The public shall be informed on the date and time of taking the exam, at least three days prior to the scheduled examination date.
- (3) The examination shall be recorded and shall be transmitted live on the Agency's web site, in case the recording is disrupted due to technical reasons, the recording from the entire examination shall be posted on the Agency's web site.
- (4) The criteria for the conditions of the examination room and for the technical and IT equipment in the examination room shall be prescribed by the Agency.
- (5) During the examination, three representatives of the Agency shall be present in the examination room, and one of them shall be an IT specialist.

#### **Article 77-g**

- (1) Before the examination, a representative of the Agency shall verify the identity of each candidate, by inspecting their ID.

- (2) Upon taking the first part of the exam, the candidate shall not be allowed to use any laws, laws with commentaries, cell phones, lap tops or other technical or IT devices, previously prepared case studies etc.
- (3) Upon taking the second part of the exam, the candidate is allowed to use only law (without commentaries or explanations), which can be found in electronic versions on the computer on which the candidate is taking the exam.
- (4) In case the candidate encounters computer troubles during the exam, the candidate is not allowed to communicate with other candidates or persons except for the IT specialist, mentioned in Article 77-f paragraph (5) of this Law.
- (5) In case such technical issues are resolved within 5 minutes, the candidate may resume the examination, in case they are not resolved, the exam is postponed just for that candidate for maximum three days from the day the exam was interrupted.
- (6) In case more than five computers encounter technical difficulties, and those difficulties can't be resolved in 5 minutes, the exam is interrupted, and it shall be resumed maximum within three days from such interruption.
- (7) Upon examination, if a candidate acts contrary to the provisions of paragraphs (2), (3) and (4) of this Article, he shall not be allowed to continue with the exam in that examination term.
- (8) For cases mentioned in paragraph (7) of this Article, it shall be considered that the candidate failed the exam and it shall be so recorded in the Minutes from the Examination.
- (9) The authorized representatives from Article 77-f paragraph (5) of this Law, shall not remain close to one candidate taking the exam, longer than 5 seconds, except to resolve technical difficulties, in which case they shall not remain longer than 5 minutes.

#### **Article 77-h**

- (1) In case during the examination period, the candidate cannot continue with the exam due to justified reasons (illness, maternity leave or similar), the exam shall be discontinued, for a period not longer than 6 months.
- (2) The Chairman of the Council of Experts passes a Decision for continuation of the exam, upon request from the Pension Company. The request is submitted within 8 days from the moment the reasons for the disruption of the exam had been eradicated, but not longer than six months.
- (3) In case the Pension Company does not submit a request for continuation of the examination period, within the deadline set in paragraph (2) of this Article, the exam shall be considered as failed.
- (4) An administrative dispute may be initiated before the authorized court against the Decision as per paragraph (2) of this Article, within 30 days from the receipt of the Decision.
- (5) In the approved continuation of the examination period, the candidate shall not

be examined for the part of the exam that he/she had already taken.

#### **Article 77-i**

- (1) The exam starts with the first part (theory) and then continues with the second part (practical).
- (2) The second part is taken within at least five days from the successful passign of the first part.
- (3) The Agency prescribes the scoring for the first and the second part of the exam.
- (4) The first part of the exam is taken for each relevant theoretical area and contains maximum 50 questions with 5 multiple choice answers, out of which 1 is correct, two are similar to the correct answer, one is incorrect but not completely (it losses some points for the candidate) and one is completely incorrect (it losses a lot of points for the candidate).
- (5) In order for the candidate to take the second part of the exam, he/she must have passed the first part.
- (6) In case the candidate failed to pass the first part of the exam, as per paragraph (5) of this Article, it shall be considered that the candidate had failed the exam.
- (7) The second part of the exam consists of a practical example.
- (8) The questions in the second part of the exam refer to the adequate area of examination and give five possible options as answers, out of which one is correct, three are similar to the correct one and two are different than the correct one.
- (9) In case the candidate fails on the second part of the exam, it shall be considered that the candidate had failed the exam.

#### **Article 77-j**

- (1) The examination for the first part of the exam is taken for a determined number of questions in a form of an electronic test on a computer.
- (2) The questions from the test, depending on their complexity, are scored with points indicated on the test.
- (3) The examination for the second part of the exam is taken by studying a practical example and by answering a given number of questions from such example, in a form of a software solution (herein after: electronic practical example).
- (4) Depending on the difficulty gradient, the questions from the practical example shall be scored as indicated on the practical example.
- (5) The questions and the answers for the first and the second part of the exam are kept in the unique electronic system for the exam.
- (6) The electronic system as of paragraph (5) of this Article contains a data base of at least 100 questions for each theoretical area and at least 30 practical examples for the second part of the exam, and such data base is made accessible for the public.

(7) The electronic system contains references to the legislation and literature referred to in the answers to the questions of the first and the second part of the exam.

(8) The result from the examination shall be available to the candidate on the computer on which he/she has taken the exam, immediately upon completion of the exam.

### **Article 77-k**

(1) On the examination day for the first, i.e. for the second part of the exam, the representative of the Agency gives the candidate the access code, or a password, which authorizes the candidate to access the electronic system, as per Article 77-j of this Law.

(2) After being approved the access, the candidate is given an electronic test for the first part of the exam, i.e. an electronic practical example for the second part of the exam, which are generated by the computer, and which content is determined by a specific software of the electronic system, as per Article 77-j paragraph (5) of this Law, and from the data base as per Article 77-j paragraph (6) of this Law.

(3) The first and the second part of the exam include instructions for the exam, which is also given by the representative of the Agency before the start of the exam.

(4) The electronic examination system does not allow for identical contents of the first part and neither of the second part of the exam for more than one candidate.

(5) The examination for the first part or the second part of the exam is interrupted if there are technical difficulties which prevent the functioning of the electronic system, as per Article 77-j of this Law.

(6) If the difficulties of paragraph (1) of this Article are removed within 60 minutes from the interruption of the examination, the exam shall continue immediately after such removal.

(7) In case the difficulties of paragraph (1) of this Article are not removed within the deadline given in paragraph (6) of this Article, the exam is rescheduled for another examination term.

(8) The total duration of the time allowed for answering the questions of the first part of the exam is 120 minutes.

(9) The candidate who earned at least 70% of the total score of the exam by answering correctly to the questions from the exam shall be considered to have passed the exam.

(10) The total duration of the time allowed for answering the questions of the practical examples of the second part of the exam is 120 minutes.

### **Article 77- l**

- (1) The candidates who passed the exam will be issued a certificate within 15 days from the completion of the exam.
- (2) The form and the contents of the certificate, as per paragraph (1) of this Article shall be prescribed by the Agency.
- (3) Upon request from the candidate, the Agency allows the candidate to review his/her errors made on the exam, by allowing direct review of the test.
- (4) The tests and the practical examples are used and are given to the candidate only during examination.
- (5) The materials from the exams, especially the paper copies of the tests and the practical examples and the specimens from the answer sheet for the first and the second part of the exam and the recordings from the examinations are kept in the Agency.
- (6) The Committee as of Article 77-d paragraph (2) of this Law reviews the examinations.
- (7) The Committee as of paragraph (6) of this Article meets at least once a year and reviews the execution of the examinations for at least two examinations held in the current year.
- (8) The Committee of paragraph (6) of this Article is entitled to review the execution of examinations in the last 2 years passed until the day of the Committee's meeting, but not sooner than the date this Law has entered into force.
- (9) In case the Committee from paragraph (6) of this Article finds irregularities in the examination, committed by individuals, in terms of Article 77-g paragraph (5) of this Law, the Committee may suggest revocation of the certificate of paragraph (1) of this Article.
- (10) The Council of Experts passes a Decision for revocation of certificate, based on the proposal from the Committee of paragraph (6) of this Article, within three days from the receipt of such proposal.
- (11) An administrative dispute may be initiated against the Decision of paragraph (10) of this Article, before an authorized court, within 30 days from the receipt of such Decision.

### **Article 77 - m**

- (1) The costs for the exam shall be borne by the Pension Company.
- (2) The costs of paragraph (1) of this Article are determined by the Council of Experts of the Agency and those are based on the real expenses necessary for the organization of the exam, the first and the second part of the exam, for the preparation of the questions data base of, for the execution of the electronic test, for the preparation of the materials and invitations and for the preparation of the certificates.



- (3) The costs for the examination are paid on the Agency's account.
- (4) Unless the fee for the costs is not paid on the Agency's account 15 days before the exam, at the latest, the candidate shall not be allowed to take the exam.
- (5) In case the candidate does not take the exam within one year from the payment of the fee, the paid assets will be returned in accordance with the law.

### **Article 78**

- (1) In case an employee, a representative, an agent or an affiliated person with the company or company managing mandatory and voluntary pension funds influences a member or a retired member to cancel the agreement with another company or company managing mandatory and voluntary pension funds and to sign an agreement with the Company represented by him/her, then he/she must give priority to the interests of such member despite his/her personal interest or the interests of the Company.
- (2) In case a company that manage a mandatory pension fund through an employee, representative or sales agent or an affiliate entities and/or persons with that company, persuades a male over the age of 50 or a female over the age of 45 to join a mandatory pension fund, it must be able to proof that at the time of conclusion the membership contract, it could not have been reasonably foreseen that membership of that person in that mandatory pension fund is contrary to the best interests of that person."
- (3) Personal contact in terms of paragraph (1) of this Article means a meeting, telephone conversation or personally addressed correspondence between the employee, representative or sales agent of the Company and the person concerned or any affiliate entities and/or persons of the person concerned.

### **Article 79**

- (1) The usage of any procedures of mandatory pension fund marketing that are contrary to public morals or may harm the mandatory fully funded pension insurance shall be prohibited.
- (2) It is hereby prohibited that a person with special authorizations and responsibilities advertises a mandatory pension fund to an employee.

### **Article 80**

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

**CHAPTER 9**  
**OPERATIONS WITH ACCOUNTS AND VALUATION OF MANDATORY**  
**PENSION FUND ASSETS**

**Article 81**

(1) The contributions, the transferred assets and all returns from their investment shall be allocated on individual accounts titled on the names of the members and retired members of the mandatory pension fund.

(2) Record keeping of individual accounts in a mandatory pension fund shall be conducted by the Company managing that mandatory pension fund.

**Article 82**

(1) For keeping records of individual accounts and assets of pension funds, accounting units shall be used.

(2) Each accounting unit shall, for valuation purposes, represent a proportional share in total net assets of that Pension Fund.

(3) The value of the total number of accounting units of a mandatory pension fund shall always be equal to the total value of that Pension Fund's net assets calculated according to Article 83 of this Law.

(4) Also, the assets from paragraph (1) of this Article may be converted into fractions of accounting unit, and the value of the assets on the individual account of the member and the retired member of the mandatory pension fund may be expressed in such fractions.

**Article 83**

(1) The value of the assets of a mandatory pension fund shall be determined on the basis of the market value of each individual asset.

(2) The value of the net assets of a mandatory pension fund shall be determined by deducting the liabilities of the mandatory pension fund, except for the liabilities to members and retired members, from the value of its assets.

(3) The Agency shall, closely regulate the manner for valuation of the assets of Pension Funds and calculation of the value of their net assets.

**Article 84**

(1) The contributions shall be converted into accounting units on previously determined dates (hereinafter referred to as Valuation Dates), on the basis of the value of the accounting units on that date. The Valuation Date shall always be on the last working day of each month. The Agency shall prescribe other Valuation Dates in shorter periods if required by the fully funded pension insurance and the financial market.

(2) The value of one accounting unit on the first Valuation Date following the first payment of contributions to a mandatory pension fund shall be closely prescribed by the Agency.

(3) Until contributions are converted into accounting units they shall be kept on a separate account of the mandatory pension fund. The interest on those assets shall be the mandatory pension fund's income.

### **Article 85**

(1) The value of the net assets of a mandatory pension fund shall be calculated at each Valuation Date, and notified to the Agency forthwith.

(2) On each Valuation Date, the value of an accounting unit of that mandatory pension fund shall also be calculated, and notified to the Agency forthwith.

(3) The calculations referred to in paragraphs (1) and (2) of this Article shall be made by the company or company managing mandatory and voluntary pension funds and they shall be validated by the Custodian. These calculations shall be controlled by the Agency.

(4) The company or company managing mandatory and voluntary pension funds is obligated to change the valuated amount for any security upon request from the Agency, should the Agency find during the inspection that the Company during the valuation of such security used and inadequately calculated the price of the security or that the fair value does not match the actual condition on the market or when the Agency had discovered that the interests of the members and the retired members are threatened.

### **Article 86**

(1) A Company which is managing a mandatory pension fund has an obligation, at the end of June and December of each year, to determine the return in a nominal and real amounts, for the previous 84 months, in accordance with paragraph (2) of this Article. If a mandatory pension fund had not received contributions for a period of 54 months, but has accepted them for a period of 12 months, at the end of June and December the return shall be calculated for the period from the first June or December after the establishment of the Fund until the end of June or December in the period of calculation. The Company submits the data on the calculation of the return to the Agency.

(2) The return of the mandatory pension fund in nominal value is equal to the change in value of the accounting unit on the last day of valuation of paragraph (1) of this Article in respect to the value of the accounting unit on the last day of valuation of the starting month of paragraph (1) of this Article. The return of the mandatory pension fund in real value is calculated based on the return of the mandatory pension fund in its nominal value and the costs of life for the same period for which the return is calculated, as published by the State Statistics Office of the Republic of Macedonia. The returns are expressed in percentages.

## **Article 87**

The Agency shall closely regulate:

- (a) The Methodology for Calculation of the Rate of Return of the mandatory pension funds and the methods for rounding of those values.
- (b) The date when the company or company managing mandatory and voluntary pension funds is obligated to notify the Agency of the value of the mandatory pension fund net assets, the precise methodology for determining the dates at the end of June and December at which the calculations shall be made, the methodology for valuation, the value of an accounting unit, the mandatory pension fund's rate of return, as well as the manner of such notification.

## **Article 88**

- (1) The accounting of the Companies and the mandatory pension funds shall be maintained in accordance with the relevant Laws and with the international accounting standards.
- (2) The Agency closely regulates the chart of accounts, the form and the contents of the basic financial statements, the additional statements for the mandatory pension funds, as well as the contents of the separate accounts in the chart of accounts of the mandatory pension funds.
- (3) The agency shall prescribe in more detail the form and the content of the financial reports of the Companies.

## **CHAPTER 10**

### **PAYMENTS OF PENSION BENEFITS**

## **Article 89**

When a Member of a mandatory pension fund is entitled to an old age pension according to the Law on Pension and Disability Insurance, the whole amount of accumulated assets standing to his/her account shall be used, at his/her discretion, for:

- a) Purchasing an annuity payable for life from an insurance company authorized for such purpose or
- b) Participation in a program for scheduled withdrawals provided by the Company managing the mandatory pension fund with which the member shall sign an agreement for scheduled withdraws or
- c) Combination of the options quoted in items a) and b) of this paragraph.

### **Article 90**

(1) If the calculated pension of a Member of a mandatory pension fund is higher than the necessary amount for a disability pension according to the Pension and Disability Insurance Law, the Member, at his/her discretion may choose instead of that disability pension, to acquire the type of payment as per Article 89 of this Law.

(2) If the calculated pension of a Member of a mandatory pension fund is higher than the necessary amount for a survivor's pension according to the Pension and Disability Insurance Law, the Member, at his/her discretion may choose instead of that survivor's pension, to acquire the type of payment as per Article 89 of this Law.

### **Article 91**

The procedure for comparison of amounts as per Article 90 of this Law shall be done in accordance with the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance.

### **Article 92**

(1) When a Member of a mandatory pension fund is not entitled to an old age pension according to the Law on Pension and Disability Insurance, because he/she has not completed at least 15 years of pension service, he/she can buy a monthly pension annuity if that amount is equal or higher than 40% of the minimum pension.

(2) When the calculated amount of the pension annuity from paragraph (1) of this Article is less than 40% of the minimum pension, the mandatory pension fund shall pay to the member a lump sum equal to the accumulated amount on his/her account.

(3) Purchase of pension annuity and payment of accumulated amounts, according to paragraphs (1) and (2) of this Article, may be done after the age of 65.

### **Article 93**

The provision of pension annuities and scheduled withdrawals is done in accordance with the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance.

## **CHAPTER 11**

### **REPORTING AND INFORMING OBLIGATIONS**

#### **Article 94**

(1) Each company or company managing mandatory and voluntary pension funds is obligated to have an information prospectus for the mandatory pension fund under its management. The information prospectus shall consist of complete, correct and fair data on the mandatory pension fund and the Company managing that fund, which are necessary for the potential member to be able to make an

informed decision on his/her membership in a mandatory pension fund or, for the potential retired member to be able to sign an scheduled withdrawals agreement, such as:

- a) a name and address of the company and the fund its manages;
- b) names of the members of the Management Board and the Supervisory Board of the company;
- c) the names and addresses of the shareholders and their share in the company's equity;
- d) the name and address of the custodian and details of any changes of custodian made in the previous year and the reasons for those changes;
- e) data for the auditor of the mandatory pension fund and the company;
- f) the basic investment principles for the period stipulated in paragraph (2) of this Article and any self imposed limits on investment other than those prescribed in this Law;
- g) responsibility for the investment decisions;
- h) fees, commission and other costs charged from the members and the retired members of the mandatory pension fund;
- i) membership, signing of agreement for scheduled withdrawals and transfer agreement;
- j) reporting to the members and retired members;;
- k) right to pension;
- l) portfolio of the mandatory pension fund;
- m) number of members and retired members of the mandatory pension fund;
- n) the net value of the mandatory pension fund assets; and
- o) other data regarding the operation of the company that may be prescribed by the Agency in order to provide transparency.

(2) The Company or company for management of mandatory and voluntary pension funds is obligated to publish the information prospectus listed in paragraph (1) of this Article no later than 31st of March each year with data on the 31st of December of the previous year, on the web site of the company and in at least one the daily newspapers with greatest circulation distributed in the whole territory of the Republic of Macedonia.

(3) Notwithstanding the paragraph (1) of this Article within 15 days from the registration of the mandatory pension fund in the Register of mandatory and voluntary pension funds, the Company or company for management of mandatory and voluntary pension funds is obligated to publish the information prospectus including the data listed in paragraph (1) items a) b), c), d), e), f) g), h), i), j), k) and o) of this Article.

(4) The Company or company managing mandatory and voluntary pension funds

is obligated to submit, upon request from a member or retired member of the mandatory pension fund, the information prospectus and the statute of the mandatory pension fund under its management and to give them for inspection to every person who will express interest in membership or in signing an agreement for scheduled withdrawals with the mandatory pension fund under management of such Company.

(5) The Company or company managing mandatory and voluntary pension funds is obligated to inform a person upon his request, whether the person is a member of mandatory pension fund and what are his membership rights.

## **Article 95**

(1) The Company or company managing mandatory and voluntary pension funds is obligated regularly, or at least once a year to inform in writing the members of the mandatory pension fund on the balance of their individual accounts, on the dates of payments of contributions and the transfers of assets for the given period of time, as well as on the conversion of the contributions and the transferred assets into accounting units. Upon prior written consent of the member, this information may be submitted electronically instead in writing.

(2) Upon request from a member of the mandatory pension fund, at any time, the Company or company for management of mandatory or voluntary pension funds is obligated within eight working days following the receipt of that request, to provide that Member with a statement of the monetary value of the assets standing to his/her account.

(3) At least once a year the Company or company managing mandatory or voluntary pension funds is obligated to provide information to each Member of mandatory pension fund on the value and proportion of the assets of its Fund invested in particular classes of assets, including details of the issuers of particular securities on the last Valuation Date before preceding and including 31st of December each year. The obligation to provide data on the issuers of particular securities shall only apply to investments representing at least 1% of the value of mandatory pension fund assets. The Company or company managing mandatory or voluntary pension funds is also obligated to provide information on the total fee paid by it and its foreign managers of the mandatory pension fund assets to transaction in the period since the previous report and on the average costs of such fees per accounting unit of that Pension Fund. Upon prior written consent of the member, this information may be submitted electronically instead in writing.

(4) The information referred to in paragraphs (1) and (3) of this Article shall be provided free of charge to the Members of mandatory pension fund. A Company or company for management of mandatory or voluntary pension funds may impose a fee for providing the statement referred to in paragraph (2) of this Article, but such fee may not exceed the printing and mailing costs of providing the statement.

(5) The information referred to in paragraphs (1) and (3) of this Article shall be submitted at such shorter intervals as specified by the Agency. The Agency shall issue regulations specifying the type and period in respect of which such information shall be submitted, the manner and format in which any information shall be provided, and its method of transmission.

(6) The provisions of paragraphs (1), (2), (3), (4) and (5) of this Article shall apply respectively to the retired members.

## **Article 96**

(1) The Company or company managing mandatory and voluntary pension funds Company or company managing mandatory and voluntary pension funds is obligated to submit to the Agency the following information:

a) quarterly unaudited and annual unaudited and audited financial statements for the Company together with the gross balance;

b) quarterly unaudited basic financial reports and auxiliary reports and annual unaudited and audited financial reports and auxiliary reports for the mandatory pension fund, together with the gross balance;

c) detailed information on the acquisition and transfer of assets of the mandatory pension fund by stating for each assets, the date and the price of the transaction and the legal entity performing the securities transaction service;

d) data on the costs for the Agency, the custodian, transactions, marketing, agents and other costs according to this Law;

e) data on the shareholders of the Company, including names and addresses;

f) names of the members in the managing bodies and the employees of the Company and the amounts of fees for their engagements;

g) information on submitted notifications to members and retired members as per Article 95 paragraphs (1) and (3) of this Law;

h) detailed information on the number of members in the mandatory pension fund, number of members who enrolled with the mandatory pension fund, number of members who transferred to another mandatory pension fund, number of deceased members and number of pension beneficiaries;

i) detailed information on the total number of retired members from the mandatory pension fund, number of persons who have signed agreements for scheduled withdrawals and combinations per types of payment, number of retired members who disrupted their agreements for scheduled withdrawals and switched Companies or the type of pension benefit payout and the number of deceased members;

j) the records as per Article 21 paragraph (1) of this Law;

k) Letter of confirmation with the opinion of the authorized actuary;

l) annual report on the operations of the authorized actuary;



m) report on meeting the obligations as per Articles 18-a, 18-b and 21-c of this Law;

n) report on the performed valuation of the mandatory pension fund assets;

o) reports on the internal audits and internal controls and

p) other data prescribed by the Agency.

(2) The unaudited financial reports as per paragraph (1) items a) and b) of this Article shall be submitted within one month after the completion of the period to which they refer to, while the audited financial reports of paragraph (1) items a) and b) of this Article shall be submitted within three months after the completion of the period to which they refer to. The reports from paragraph (1) items a) and b) of this Article, shall be published on the web site of the company or company managing mandatory and voluntary pension funds, within five days from their submission to the Agency.

(3) The data from paragraph (1) items c) and n) of this Article shall be submitted for each day of valuation, at the latest the following working day.

(4) The data from paragraph (1) items d), h) and i) of this Article shall be submitted once a month, at the latest on the fifth day of the month for the previous month.

(5) The data from paragraph (1) items e), f) and m) of this Article shall be submitted once a year, at the latest 15 days after the end of the business year.

(6) The data from paragraph (1) item g) of this Article shall be submitted within one month after the end of the period to which such data refers to.

(7) The reports from paragraph (1) item o) of this Article shall be submitted for each quarter, at the latest on the fifth day of the month, for the previous month.

(8) The letter of confirmation with the opinion, as of paragraph (1) item k) of this Article shall be submitted within one month after the end of the period to which such letter refers to, and the report from paragraph (1) item l) of this Article shall be submitted within three months after the end of the period to which the report refers to.

(9) The records as of paragraph (1) item j) of this Article shall be submitted within 15 days after the end of each calendar year.

(10) The Agency shall prescribe the type and the period to which the data should refer to, the manner and the form of disclosing such data and the procedure for their submission.

## **Article 97**

Data related to the execution of competences of the Pension and Disability Insurance Fund of Macedonia determined by this Law, shall be mutually exchanged between the Fund and the company or company managing mandatory and voluntary pension funds on the basis of an agreement.

## **CHAPTER 12**

### **FEES AND COMMISSIONS**

#### **Article 98**

(1) A Company and the company for management of mandatory and voluntary pension funds may only charge the following fees:

(a) A fee on contribution expressed in percentage of each contribution paid in mandatory pension fund prior to conversion of assets into accounting units. The company shall determine the level of the fee, but not more than 2% from each contribution paid;

b) Monthly fee from the value of the net assets of the mandatory pension fund, for covering the costs for managing the mandatory pension fund of the company or company managing mandatory and voluntary pension funds. The amount of the fee is set by the Company, but it cannot be higher than 0.03% of the value of the net assets. The fee is calculated on each valuation date of the mandatory pension fund assets and it is charged on the fifth working day in the month after the valuation and

c) fee for transfer of assets to another mandatory pension fund, under the condition that the transferring member has been a member in the current fund shorter than 24 months before transferring to the future fund. The maximum amount of the fee and the manner of payment shall be prescribed by the Agency upon prior opinion from the Ministry of Labor and Social Policy.

(2) The fee stipulated in paragraph (1) item c) of this article shall be paid by the member of the mandatory pension fund that accedes to the future pension fund. The company managing the pension fund to which the member acceded or a representative of that company shall not pay this fee under any circumstances.

(3) The fee referred to in paragraph (1) item c) of this Article can not be imposed in the following circumstances:

a) If the Company that should transfer the assets from one to another mandatory pension fund has increased or notified of an increase in the fees referred to paragraph (1) of this Article, in the period of six months preceding the date of asset transfer.

b) If the Agency adjudicates that the person joined the Mandatory Pension Fund following marketing and advertising activities contrary to the provisions of this Law;

c) In the event when the Company managing that mandatory pension fund enters into bankruptcy procedures or its license to manage that mandatory pension fund has been cancelled or withdrawn.

d) if the member does not have assets on his/her individual account or

e) in case of merging or acquisition of the company that shall transfer the assets from one to another mandatory pension fund, within 180 days after the merger or acquisition.

### **Article 99**

(1) A Company or company for management of mandatory and voluntary pension funds shall charge the same percentage fees as specified in Article 98 paragraph (1) of this Law to all its mandatory pension fund Members.

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

### **Article 100**

(1) The Company or company for management of mandatory and voluntary pension funds is obligated to inform all members of the mandatory pension fund if there is a proposal referring to increase of the fee percentages stated in Article 98 paragraph (1) item a) or b) of this Law, or an increase in the fee percentages or the absolute amount stated in Article 98 paragraph (1) item c) of this Law, at least six months before implementation.

(2) The notification referred to in paragraph (1) of this Article must be provided in writing and delivered to each member of the Mandatory pension fund and to the Agency. This notification must be published on the web site of the company or a company for managing a mandatory and voluntary pension funds in at least one of the daily newspapers with greatest circulation in the Republic of Macedonia.

(3) If an insured person signs a transfer agreement as per Article 61 of this Law, he must be given a copy of the information as per paragraph (1) of this Article, which has been sent or which should have been sent to the members of the mandatory pension fund, regarding the increase of the fees. In such case, the provisions from Article 98 paragraph (3) item a) of this Law, regarding that member of the Mandatory pension fund, shall not apply.

### **Article 101**

(1) The transaction fees related to transactions of acquisition or transfer of the assets of the mandatory pension fund shall be paid from the assets of the mandatory pension fund.

(2) The company or company managing mandatory and voluntary pension funds is obligated to control the commissions paid from the mandatory pension fund's assets under its management, to the selected legal entities for performing securities transactions services and which are directly connected to the trading with the mandatory pension fund's assets, in order to make sure that the commissions charged by such entities are entirely competitive with the commissions charged by other legal entities for similar transactions. In order to protect the interest of the members and the retired members of the mandatory

pension funds, the Agency may prohibit affiliated persons to the Company to perform services directly connected with trading of securities as assets of the mandatory pension funds.

(3) In order to ensure the competitiveness stipulated in paragraph (2) of this article, the selection of domestic legal entities that can perform services involving securities to be done on the basis of: lowest fee, scope of trading, staffing, technical and organizational capabilities. In order for a domestic legal entity to be selected it shall have at least two authorized brokers employed, each with at least two years working experience as authorized brokers.

(4) The Agency shall prescribe the necessary scope of trading, staffing, technical and organization capabilities.

(5) The selection of legal entities that perform services involving securities shall be done for a period of 365 days, in accordance with the procedure prescribed in this article.

(6) The Agency shall provide its agreement to the signed contracts between the company and the company for management of mandatory and voluntary pension funds on one side and the legal entities that perform services involving securities. Together with the contract, the company or the company for management of mandatory and voluntary pension funds shall also submit the fee tariff list to the Agency.

#### **Article 102 shall be deleted**

**(Article 55 of the “Official Gazette” No.13 / 2013)**

#### **Article 103**

All other costs related to a mandatory pension fund operations that are not covered by provisions, fees, or charges set out in this Law, shall be covered by the Company managing that mandatory pension fund.

### **CHAPTER 13**

### **INVESTMENT OF PENSION FUNDS**

#### **Article 104**

(1) The Company or company managing mandatory and voluntary pension funds is obligated to invest the assets of the mandatory pension fund in accordance with the provisions of this Law and its investment strategy in order to obtain the highest return solely in the best interests of the members or retired members of the mandatory pension fund and through diversification and financial analysis to reduce the risks from losses, which might occur:

1) due to default of the issuer or another contractual party;

- 2) due to the effects from the domestic or foreign financial markets;
- 3) in the real value of the mandatory pension fund assets due to inflation and
- 4) which are consequences of the sales of mandatory pension fund assets in order to obtain liquidity of the mandatory pension fund.

(2) A member of a Management or Supervisory Board in the Company or company managing mandatory and voluntary pension funds when managing and controlling the investments of assets of the mandatory pension fund should employ care, efficiency and skills, which would be applied by a prudent man upon investment of own assets. Each member should meet his/her obligations in accordance with his/her fiduciary duties and should provide for their application by each employee or otherwise engaged persons.

### **Article 105**

(1) According to provisions of Articles 106 and 107 of this Law, the assets of the mandatory pension fund may be invested only in the following types of instruments:

- a) Bank deposits with banks that are licensed by the National Bank of the Republic of Macedonia, provided that such accounts are interest bearing;
- b) Bonds and other securities issued or guaranteed by the National Bank of the Republic of Macedonia;
- c) Certificates of deposit and other securities issued or guaranteed by banks that are licensed by the National Bank of the Republic of Macedonia;
- d) Mortgage backed securities issued by banks that are licensed by the National Bank of the Republic of Macedonia;
- e) Bonds and other securities issued or guaranteed by the Republic of Macedonia on the domestic market;
- f) Shares from domestic joint stock companies, which are not close-end investment funds, issued on the grounds of approval from the Securities and Exchanges Commission of the Republic of Macedonia that are traded on the official market of the security stock exchange or on the market of joint stock companies, with special reporting obligations within the regular stock exchange market or other organized security markets in the Republic of Macedonia, controlled by the Securities and Exchange Commission;
- g) Bonds issued on the grounds of approval from the Securities and Exchange Commission of the Republic of Macedonia that are traded on the official market of the security stock exchange or other organized security markets in the Republic of Macedonia, controlled by the Securities and Exchange Commission of the Republic of Macedonia, issued by the local self-governments and from domestic joint stock companies, which are not banks;
- h) Commercial notes issued by first-class Macedonian joint stock companies, which are not banks;
- i) Participation units and shares of open-end, close-end and private investment funds, registered with the Securities and Exchange Commission of the Republic of

Macedonia, where the assets of the private investment funds are invested in shares and participation units of micro, small and middle companies in the Republic of Macedonia, as defined with the Law on Companies;

j) Bonds and other securities issued or authorized by foreign Governments or central banks of any of the member states of the European Union or a country member of the OECD;

k) Debt securities with a minimum investment grade level rating by reputable international rating agencies of non-state foreign companies or banks of any of the member states of the European Union or a country member of the OECD;

l) Shares with a minimum investment grade level rating by reputable international rating agencies traded on the main stock exchanges of any of the member states of the European Union or a country member of the OECD;

m) Participation units, shares and other securities issued by authorized investment funds established by any of the member states of the European Union or the OECD that are invested primarily in quoted equities in their own countries and which investment policy allows use of derivatives up to 20% of the investment fund's assets, with the sole purpose to protect the assets and liabilities of the investment fund or for more efficient investment policy of such investment funds which follow the performance of certain index and

n) Other forms of investments pursuant to regulations of the Agency, provided that such investments are not contrary with Article 108 of this Law.

(2) Trading with mandatory pension fund securities shall be carried out in organized secondary capital markets, over-the-counter markets and primary markets for the instruments that meet the requirements of this Article.

(3) Assets of mandatory pension funds may be invested in instruments which fulfill the requirements set up by the Agency specifying:

a) Requirements to be satisfied by organized secondary capital markets in which such mandatory pension fund assets are traded;

b) Quality requirements to be met by shares, bonds and other securities into which mandatory pension fund assets are invested and

c) Countries or groups of countries into which mandatory pension fund assets may be invested.

### **Article 106**

(1) The assets of the mandatory pension fund assets may be invested in securities of the same issuer up to 10% of the nominal value of each security issued by that issuer. As exception, the assets of the mandatory pension fund may be invested in bonds and other debt securities issued by local self-government and domestic joint stock companies, up to the 20% of the nominal value of each security, and these assets may be invested in participation units or shares of investment funds up to 10% of the total number of participation units or shares of each investment fund. The assets of a mandatory pension fund may not be invested in more than 40% of

the total issued bonds of a local self-government. The mandatory pension fund assets may be invested in bonds and other securities issued or guaranteed by the Republic of Macedonia on the domestic market or any of the member states of the EU or OECD, without limitations.

(2) Not more than 5% of the value of mandatory pension fund's assets may be invested in instruments issued by the same entity, which is not established by the state and is registered in the Central Register of the Republic of Macedonia or a member-state of the EU or OECD, except in deposits and certificates of deposits. Not more than 7.5% of the mandatory pension fund's assets may be invested in instruments of such interconnected entities.

(3) By exception from paragraph (2) of this Article, not more than 15% of the value of the mandatory pension fund's assets may be invested in participation units and shares of investment funds issued by the same Investment Company from a member-state of the EU or OECD, where in one investment fund they may invest up to 5% of the value of the mandatory pension fund's assets. Not more than 2.5% of the mandatory pension fund's assets may be invested in participation units and shares of open-end and close-end investment funds, issued by the same Investment Company from the Republic of Macedonia, where in one investment fund they may invest up to 1% of the value of the mandatory pension fund's assets. Not more than 1.25% of the mandatory pension fund's assets may be invested in participation units of private investment funds, issued by the same Investment Company from the Republic of Macedonia, where in one investment fund they may invest up to 0.5% of the value of the mandatory pension fund's assets.

(4) Not more than 3% of the assets of the mandatory pension fund may be invested in deposits and certificates of deposits of one bank licensed by the National Bank of the Republic of Macedonia, except in deposits and certificates of deposit of a custodian bank of the mandatory pension fund, which investments may not exceed 2% of the mandatory pension fund's assets. Not more than 5% of the mandatory pension fund assets may be invested in deposits and certificates of deposits of interconnected banks.

(5) The Agency may prescribe investment limits for certain types of instruments different than those stipulated in Article 107 of this Law, which shall be valid within a deadline prescribed by the Agency, but not longer than 5 years. Investment limits may not be partially nor wholly cancelled without prior notification to each Company managing mandatory pension funds, at least one year prior to such cancellation.

## **Article 107**

(1) Investments in particular instruments according to Article 105 paragraph (1) (a)-(n) of this Law shall be subject to the following restrictions:

(a) No more than 50% of the value of the assets of the mandatory pension fund may be invested in assets issued by a foreign issuer outside the Republic of Macedonia. Within this restriction, no more than 30% of the mandatory pension fund asset value may be invested in instruments stipulated in Article 105 paragraph (1) items k), l) and m) of this Law;

- (b) No more than 80% of the mandatory pension fund asset value can be invested in the instruments stated in Article 105 paragraph (1)(b) and (e) of this Law;
- (c) No more than 60% of the mandatory pension fund asset value can be invested in the instruments stated in Article 105 paragraph (1)(a), (c) and (d) of this Law from which no more than 30% of the mandatory pension fund asset value may be invested in instruments stated in Article 105 paragraph (1) item a) of this Law.
- (d) Not more than 40% of the value of the mandatory pension fund's assets may be invested in instruments stipulated in Article 105 paragraph (1) items g) and h) of this Law. Within such limitation not more than 10% of the value of the mandatory pension fund's assets may be invested in bonds issued by local self-government.
- (e) No more than 30% of the mandatory pension fund asset value can be invested in the instruments stated in Article 105 paragraph (1)(f) of this Law.
- (f) not more than 5% of the value of the mandatory pension fund's assets may be invested in instrument stipulated in Article 105 paragraph (1) item i) of this Law. Within such limitation not more than 1.5% of the value of the mandatory pension fund's assets may be invested in participation units issued by private investment funds.

### **Article 108**

(1)The mandatory pension fund assets may not be invested in the following instruments:

- a) Shares, bonds and other securities that are either unlisted or not publicly traded;
- b) Instruments that are legally prohibited;
- c) Commodities that are not frequently quoted on organized markets and have uncertain valuation, for example antiques, works of art, and motor vehicles;
- d) Real estate or any interest in real estate with the exception of mortgage backed securities and indirect investment through open-end and close-end investment funds;
- e) Shares, bonds and other securities issued by:
  - 1) Any shareholder of the managing company or company managing mandatory and voluntary pension funds;
  - 2) The Custodian of the Pension Fund;
  - 3) Any person who is an affiliate entity and/or person in relation to the entities listed in sub-items (1) and (2) of this item;
- f) bank deposits in banks which are shareholders of the company or the company for management of mandatory or voluntary pension funds.
- g) Futures, options, forward contracts and other derivatives, except indirect investments through investment funds in accordance with the limits as per Article 105 paragraph (1) item m) of this Law and
- h) Other instruments specified by the Agency in which the investment would be contrary to the interests of the Pension Funds members.



## **Article 109**

(1) In the case of breach of the provisions of this Law as a result of a market price changes, changes in the foreign currency exchange rate, changes in organizational or economic relations between entities in which the mandatory pension fund assets are invested, and other circumstances beyond the immediate control of the managing company or company managing mandatory and voluntary pension funds, the managing company or company managing mandatory and voluntary pension funds must forthwith report this to the Agency, and must cease further investment in that instrument and shall undertake measures to adjust its Pension Fund's investment activities in accordance with this Law. The company shall submit the Agency monthly reports regarding the measures undertaken for consolidation of investments activities.

(2) As an exception to paragraph (1) of this Article, the company or company managing mandatory and voluntary pension funds shall not be under an obligation to correct immediately the excess of investment limits set out in this Law, if the individual excess does not exceed the limit by 20% and the sum of total excesses does not exceed 5% of the net asset value of the Pension Fund.

(3) The company or company managing mandatory and voluntary pension funds is under an obligation to adjust the investment activities of the mandatory pension fund it manages to the requirements specified in this Law within a period of six months after the date on which the breach occurred, or after the Valuation Date when it becomes clear that there is a breach of the provisions of this Law, whichever of the above occurs first.

(4) Upon request from the Company or company managing mandatory and voluntary pension funds, submitted within at least 60 days prior to the date of expiry of the deadline as per paragraph (3) of this Article, the Agency is entitled to extend the deadline as per paragraph (3) of this Article for not more than 18 months, if such extension is necessary for the protection of the interests of the members and the retired members of the mandatory pension fund.

## **Article 110**

A Company or company for management of mandatory and voluntary pension funds is prohibited from:

a) Selling its Pension Fund's assets to itself, to the Custodian holding its assets, the foreign asset manager of the mandatory pension fund and affiliate entities and/or persons in relation to any of the entities listed above, except through a transaction performed through a securities exchange authorized by the Securities Commission of the Republic of Macedonia or an appropriate competent authority in the event of investing the assets abroad

b) Buying assets from any of the entities listed in sub-paragraph (a) of this paragraph with the Pension Fund's assets, except performed through a securities exchange authorized by the Securities Commission of the Republic of Macedonia or an appropriate competent authority in the event of investing the assets abroad

c) Using its Pension Fund's assets to grant loans or to provide guarantees except the guaranties for debit listed in Article 113 paragraph (1) of this Law.

### **Article 111**

(1) The Company or company for management of mandatory and voluntary pension funds, its shareholders, its Custodian, the assets managers, members of the Management Board and the Supervisory Board, and any person, including Agency employees, whose job or position give them the possibility to obtain information regarding the investment of the Pension Fund's assets or any plans for investment, and such information has not been released officially to the market, and is capable of affecting the price of the listed instruments, are obligated to keep such information confidential according to the classification with an appropriate level of secrecy in accordance with the law.

(2) Persons and entities referred to in paragraph (1) of this Article can not make direct or indirect use of confidential information referred to in the paragraph (1) of this Article in order to obtain advantages for themselves or others, apart from the Pension Fund, by buying or selling securities.

(3) A Company is obliged to compensate a mandatory pension fund that it manages for any direct harm that the Company, any of its directors, persons with special authorities and responsibilities and other employees cause as a consequence of a breach of the provisions of this Law and especially Articles 104 - 114.

(4) The agency shall prescribe the method of preventing abuse of the information stipulated in paragraph (1) of this article as a result of the official position.

### **Article 111-a**

(1) The persons stipulated in article 111 paragraph (1) of this Law shall be obligated to notify the Agency about all transactions of securities they have entered into on their own behalf and their own account, every 180 days or within a shorter period of time upon a request from the Agency.

(2) The Agency shall prescribe the content and the method of notification stipulated in paragraph (1) of this article.

### **Article 112**

(1) The Company or company managing mandatory and voluntary pension funds is obligated to manage the Pension Fund's assets and must not delegate any responsibility for this.

(2) As an exception to paragraph (1) of this Article, the Company or company managing mandatory and voluntary pension funds may delegate the managing of the Pension Fund assets abroad to an asset manager or asset managers with Headquarters abroad, which on the basis of law of the mother country are

authorised to manage securities.

(3) In the event referred to in paragraph (2) of this Article, the By-Law of a Company or company managing mandatory and voluntary pension funds shall define the criteria and the manner for delegating the right to manage the foreign assets of the Pension Fund.

(4) The Company or company managing mandatory and voluntary pension funds is obligated to notify the Agency in case the foreign asset manager changes, but shall not require its approval.

(5) The Agency shall closely regulate the delegation of the right to manage the Pension Fund's assets to an asset manager with Headquarter outside the Republic of Macedonia.

#### **Article 112-a**

(1) Every Company which manages with a mandatory and/or voluntary pension fund shall have a document for investment strategy and shall revise it at least every three years.

(2) The investment strategy document should contain the grounds for analyses, which encompass the setting of the planned return for the mandatory pension fund for a period which is equal to the period in which one member, at an age which is considered to be average for such pension fund, shall be a member of such fund, having in mind the costs of life, and the provisions of Article 104 of this Law. The investment strategy document should state the mitigation of risks connected to the achieving of the planned return and the strategic investment of funds, the methods of measuring the investment risk, the risk management processes that shall be applied to achieve the planned return and how its achievement shall be monitored.

(3) At least once a year, the Company or company managing mandatory and voluntary pension funds, for each pension fund under its management shall prepare a document on the manner of application of the investment strategy for the next 12 months, including the strategic investment for each class of assets, the internal investment limits and the risk exposure.

(4) The Agency shall closely prescribe the content of the investment strategy.

#### **Article 113**

(1) A Company or company managing mandatory and voluntary pension funds may borrow money on behalf of and for the account of the mandatory pension fund it manages for the exclusive purpose of enhancing the liquidity of the Pension Fund.

(2) The total amount of money borrowed cannot exceed a certain percentage of the Fund's asset value, as specified by the Agency, but not more than 5%.

#### **Article 114**

For enhanced protection of the interests of the members and retired members of the mandatory pension fund, the Agency may introduce additional investment limits, upon prior consent from the Government of the Republic of Macedonia.

### **CHAPTER 14 THE CUSTODIAN**

#### **Article 115**

(1) A Company or company for management of mandatory and voluntary pension funds is obligated to appoint a single Custodian to whom it shall delegate the responsibility for keeping the assets of the Pension Fund.

(2) In the event that the mandatory pension fund has assets outside the Republic of Macedonia the Custodian shall appoint Sub-Custodian in order to keep those assets, which shall be a bank or specialized depository institution holding a current working license issued by the authorized institutions in the country outside the Republic of Macedonia and is authorized for such activity pursuant to the law of the country where the mandatory pension fund assets should be kept. The selected sub-custodian of assets shall fulfill the requirements stipulated in article 116 paragraph (2) items b) and c) of this Law and shall have a rating conducive to investment in accordance with renowned international credit rating agencies. The agency shall prescribe in detail the criteria for ranking the sub- custodian of the assets.

(3) All instruments representing mandatory pension fund Investments must be kept by the Custodian.

(4) The Custodian may perform asset keeping services for more mandatory pension funds, but at the same time, is under an obligation to keep the assets, operations and record keeping of each fund's assets, strictly segregated from each other, from the other account holders and from its own assets, operations and record keeping.

#### **Article 116**

(1) The Custodian of domestic assets can be a bank holding a current banking licence issued by the National Bank of the Republic of Macedonia.

(2) In order to provide custodian functions for the mandatory pension funds, the Custodian must fulfil the following terms and conditions:

a) To have minimum own assets of 20,000,000 Euros in MKD equivalent at the average exchange rate of the National Bank of the Republic of Macedonia, according to the own assets definition in the Banking Law;

b) Neither to be shareholder in the Company which manages the mandatory

pension fund whose assets it keeps, nor a shareholder in an entity which is an affiliate entity and/or person to the Company, and must not maintain any other capital relationship between these entities;

c) Must not have any employees or members of its Management Board or Supervisory Boards who are employees of or members of the Management Board, Supervisory Boards or a General Manager and Manager of the Company that manages the mandatory pension fund whose assets it keeps and not to be in such relationships with other persons who are affiliate entities and/or persons of the Company.

(3) The bank is obligated to forthwith notify the company that manage with a mandatory pension fund and the Agency, if it does not fulfill the conditions prescribed in paragraph (2) of this Law in the period acting as a custodian of mandatory pension fund and to start activities for adjudicate with provisions of paragraph (2) of this Article in period not longer than three months from the day when it ceases to fulfill some condition.

(4) The bank acting as a custodian shall have special organizational unit for performing that activities.

### **Article 117**

(1)The Custodian of a mandatory pension fund shall have the following functions:

a)Keeping securely any securities which constitute mandatory pension fund assets;

b) The securities which constitute the assets of the mandatory pension fund are kept as a dematerialized securities on a separate account in the Central securities depositary;

c) Keeping settlement documents relating to the transfer of monetary funds to the bank account of the mandatory pension fund and the transfer of monetary funds from the bank account of the fund;

d) Acting as clearing agent, buying and selling securities under the Company's instructions and collecting payments of dividends, interest and all other incomes related to mandatory pension fund investments;

e) Ensures that contracts related to the acquisition, investment, and disposal of mandatory pension fund assets are in accordance with this Law and the By-Law of the mandatory pension fund and any instructions of the Company or company managing mandatory and voluntary pension funds and that such instructions are according to the Law;

f) Calculates the net assets and the accounting unit of the mandatory pension fund, checks and verifies the calculations of the Company or company managing mandatory and voluntary pension funds and it is responsible for the accuracy of the calculations;

g) Reports to the annual assemblies of the companies' shareholders and on the ownership and executes the orders related to ownership entitlements;

h) Verifies the compliance of the mandatory pension fund's portfolio with the investment limits, as per this Law and other secondary regulation;

i) Co-operates with and supervises the Sub-Custodians and

j) Calculates and pays taxes.

(2) Any fee to the Custodian shall be paid directly by the Company or company managing mandatory and voluntary pension funds from its own assets.

### **Article 118**

(1) The Custodian is obligated to notify the Agency immediately, first verbally and then in writing, about any doubts or breaches related to the custodial agreement, in which the custodian is one of the contractual parties, breaches of the law or on any activity contrary to the interests of the members and the retired members of the mandatory pension fund.

(3) On each valuation date, the custodian notifies the Agency on the value of the net assets and of the accounting unit of the mandatory pension fund.

(4) In case of inconsistencies between the calculations of the net assets and the accounting unit of the mandatory pension fund committed by the Company or company managing mandatory and voluntary pension funds and by the Custodian, the Company or company managing mandatory and voluntary pension funds is obligated to comply with the calculations of the Custodian. The Custodian shall notify the Agency immediately on the resolution of such inconsistency.

(5) In case, during the check performed in accordance with Article 117 paragraph (1) item h) of this Law, the Custodian finds inconsistencies in the mandatory pension fund's portfolio, it shall notify the Agency, immediately.

(6) The custodian submits an annual report on its operations to the Agency, not later than 31 of January, for the previous year.

(7) The Agency regulates the period, the form and the type of data to be included in the reports as per paragraphs (3), (4), (5) and (6) of this Law.

### **Article 119**

(1) There must be a permanent contract between the Company or company managing mandatory and voluntary pension funds and the Custodian. This contract must set out the following:

- a) The specific functions, duties and obligations of the Custodian including its responsibilities for registration and settlement;
- b) The extent of liability for Sub-Custodians and
- c) The fee of the Custodian

(2) An appointment of a Custodian and the contract referred to in paragraph (1) of this Article shall be made with the prior written consent of the Agency.

### **Article 120**

(1) No contract can limit the Custodian's statutory responsibilities and any attempt to do so shall be null and void.

(2) The Custodian shall be liable for damages incurred as a result of the non-performance or incorrect performance of its responsibilities and such damages can not be covered from the assets of the Pension Fund.

(3) To the extent that a Custodian delegates any of its responsibilities in accordance with Article 115 paragraph (2) of this Law it cannot delegate the liability referred to in paragraph (2) of this Article.

(4) To the extent that a bank is a Custodian and it or its affiliate entities and/or persons are shareholders of the other company or company managing mandatory and voluntary pension funds it must take appropriate measures to ensure maintenance of confidentiality.

### **Article 121**

(1) The period of notice of dissolution of a custody contract can not be less than six months except in the circumstances specified in Article 122 of this Law. The contracting party giving the notice shall do this in writing and immediately inform the Agency of this notice as well as the reasons for dissolution of the contract.

(2) The appointment of any new Custodian shall be done only upon prior written consent by the Agency and, in order to obtain such approval, the relevant company or company managing mandatory and voluntary pension funds shall furnish the Agency with such information about the proposed Custodian as it may reasonably required.

### **Article 122**

(1) In the event of taking away of a Custodian's banking license by the National Bank of the Republic of Macedonia for non-performance or improper performance by a Custodian of the custodial contract, or in a case of bankruptcy or

liquidation procedure of the Custodian:

a) The relevant company or company managing mandatory and voluntary pension funds has obligation to forthwith serve notice to the Custodian to terminate the contract and immediately notify the Agency of the fact;

b) The company or company managing mandatory and voluntary pension funds has obligation to forthwith attempt to appoint a new Custodian and to obtain consent in writing from the Agency for that purpose and

c) If the company or company managing mandatory and voluntary pension funds fails to take the steps at sub-paragraphs (a) and (b) of this paragraph the Agency may order change of the Custodian with the decision or appoint a new Custodian.

(2) The Agency may also order the company or company managing mandatory and voluntary pension funds to change the Custodian if the financial or organizational structure of the Custodian has deteriorated substantially thus, posing a potential threat to the security of the assets kept in its custody.

(3) The National Bank of the Republic of Macedonia or other authorized body, shall notify the Agency, immediately, for any deterioration in the financial or organizational structure of the bank, performing the custodial function, and for which deterioration the National bank has become aware and finds such condition threatening to the interests of the members and the retired members of the mandatory pension fund. The scope, the contents and the form of such notification shall be regulated mutually by the Agency and the National Bank of the Republic of Macedonia, or other authorized bodies.

### **Article 123**

(1) Each change of a Custodian shall be made in a manner which ensures continuous performance of custodial duties in respect of the mandatory pension fund assets.

(2) Where a contract of custody is dissolved, the Custodian has obligation to release the mandatory pension fund assets in its custody and all registration and documents relating to the performance of duties referred to in Article 117 of this Law to a new Custodian within a period agreed by the contracting parties, not exceeding 30 Working Days after the signing of a contract between the new Custodian and the company or company managing mandatory and voluntary pension funds.

### **Article 124**

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



## **CHAPTER 15**

### **GUARANTEES**

#### **Article 125**

(1) The State Budget shall make a payment to a mandatory pension fund in the following circumstances:

a) The assets of the mandatory pension fund are depleted as a result of a criminal act like fraud, theft or embezzlement. For the avoidance of doubt this does not apply to the loss of value in the assets of the mandatory pension fund in the event of investment contrary to the provisions of this Law or to a loss caused by fraud or theft in an entity in whose securities the mandatory pension fund assets are invested;

b) The assets of the Company managing mandatory pension fund are insufficient to meet the depletion referred to in item a) of this Article.

c) The Agency recommends in a report to the Minister of Finance that a payment from the State Budget should be made and confirms that it is unlikely that the depletion will be made good within months after the date of its recommendation and that the other requirements in this Article have been satisfied.

d) The report referred to in item c) of this paragraph shall be made publicly available no later than five Working Days after it is sent to the Minister of Finance.

(2) The payment of State Budget assets is not conditioned with bringing a bill of indictment against a person for the criminal act according to this Article.

(3) In the event that all of the circumstances in paragraph (1) of this Article are satisfied, the State Budget shall, forthwith following receipt of the report referred to at paragraph (1) item (c) of this Article, make an asset transfer to the mandatory pension fund.

(4) The amount paid to the mandatory pension fund shall be 80 % of the amount of the depletion as of the date or dates of depletion, adjusted in line with the average performance of all mandatory pension funds, calculated for the period between the date of depletion and the date of payment.

(5) In case the Agency has suggested with the Reports, as per paragraph (1) item c) of this Article, to execute the payment of assets in the mandatory pension fund, such mandatory pension fund must not accept new members and sign new agreements for scheduled withdrawals until the funds from the Budget are paid. This limitation shall apply for the provisions from Articles 58 to 62 of this Law.

(6) Immediately after issuing the Report as per paragraph (1) item c) of this Article, the Agency is obligated to inform in writing all members and retired members of the mandatory pension fund on the possibility for payment of funds from the Budget into the mandatory pension fund, and that it would be contrary to their interests to leave the mandatory pension fund prior to such payment.

## **Article 126**

(1) In the event that a payment is made from the State Budget, the Agency shall abrogate the approval for the Company or company managing mandatory and voluntary pension funds to manage the mandatory pension fund receiving the payment if it considers that the Company or company managing mandatory and voluntary pension funds is culpable in relation to the loss.

(2) In the event that a payment is made from the State Budget, the Agency has obligation to take all reasonable efforts to trace and recover any depleted assets and seek compensation and redress, whether from those directly responsible for the loss or from those who have illegally benefited from such depleted assets.

(3) In the amount in which the Agency is able to find and return the reduced assets or requests for return of reduced assets and indemnification as per paragraph (2) of this Article, those assets shall be used for recovery of the paid funds from the State Budget in the amount equal to the amount that was paid from the State Budget and increased for the interest with a discount rate of the National Bank of the Republic of Macedonia. After recovering the assets to the State Budget, the excess of assets shall be paid in the mandatory pension fund, from which assets were initially reduced, upon prior verification if such Fund is still in existence and has members and retired members. In case the mandatory pension fund does no longer exist or is without members, the excess of assets shall be paid in the State Budget.

(4) The Agency shall closely regulate the manner and terms of the repayment to the State Budget of assets paid to the mandatory pension fund.

(5) In the event that the conditions of the payment from the State Budget are fulfilled, and the Company or company managing mandatory and voluntary pension funds does not have its approval to manage a mandatory pension fund abrogated, it has obligation to assign to the Agency its rights to take legal actions in relation to the depleted mandatory pension fund's assets. If it fails to do so, the Agency shall promptly deprive that Company or company managing mandatory and voluntary pension funds of the license.

**CHAPTER 16**  
**PENALTY AND MISDEMEANOR PROVISIONS**

**a) CRIMES**

**Article 127**

(1) A responsible person in a company for management of mandatory pension funds or company for management of mandatory and voluntary pension funds who with false presenting or covering up of facts, by misleading or in another illegal way influence a decision in the company for illegal use or investment of the mandatory pension fund assets, and because of that cause damage to the mandatory pension fund assets, shall be punished with imprisonment from one to five years.

(2) If, due to the act referred to in paragraph (1) of this Article, damage to the mandatory pension fund assets of big proportion has been made, the perpetrator will be punished with imprisonment from one to ten years.

**Article 128**

(1) A responsible person in a Custodian, who by failing to carry out or irregular carrying out of its legal duties for safety keeping of securities which are the assets of the Pension Fund, causes damage to those assets, will be punished with a fine or with imprisonment for a maximum of three years.

(2) With the penalty referred to in paragraph (1) of this Article will be also punished an responsible person in the Custodian who shall permit realization of a contract for investment transactions of the mandatory pension fund assets knowing that it is illegal and because of that a damage has been caused to those assets;

(3) If, because of the act referred to in paragraphs (1) and (2) of this Article, damage to the mandatory pension fund assets of big proportion has been caused, the perpetrator will be punished with imprisonment from one to five years.

**Article 129**

A responsible person in a company managing mandatory pension funds, company managing mandatory and voluntary pension funds or other legal entity that performs duties related to the mandatory fully funded pension insurance, who by overstepping or neglecting its authorizations shall harm, deprive of or limit an entitlement to a member or a retired member of a mandatory pension fund which was lawfully granted to such member, shall be punished with a fine or imprisonment of up to three years.

## **b) Provisions on Misdemeanors**

### **Article 130**

#### **Misdemeanor authority**

(1) For misdemeanors stipulated in Articles 133, 134, 135, 135-a, 136, 136a, 136b, 136-f and 136-g of this Law, a Misdemeanors Commission shall be in charge for conducting a misdemeanor procedure and deciding on the sanction.

(2) The Council of Experts shall decide on the members of the Misdemeanor Commission from the employees of the Agency, and it may also decide to appoint a Secretary of the Misdemeanor Committee.

(3) The Misdemeanor Commission shall comprise three members, one of which shall perform the function of president of the Misdemeanor Commission. The following requirements have to be fulfilled:

- The president of the Misdemeanor Commission shall be a graduated lawyer who has passed the judicial exam and has at least five years of working experience in his/her area and

- The other two members shall have university degrees and at least three years of working experience in the area of law, economy, finances, accounting, investment, insurance and actuarial science as relevant to pension funds.

(4) The members of the Misdemeanor Commission are entitled to reimbursements for discharging their duties as members of such Commission. And the amount of such reimbursement shall be determined by the Council of Experts. Such amount should be reasonable and adequate to the importance of the duties, the scope of work and the gradient of the misdemeanors.

### **Article 131**

#### **Work of the Misdemeanor Commission**

(1) The members of the Misdemeanor Commission shall be autonomous and independent with respect to the work of the Misdemeanor Commission and shall decide based on their expert knowledge and personal conviction.

(2) The Misdemeanor Commission shall have the right to disclose evidence and collect data necessary to determine the misdemeanor, as well as to perform other activities and take measures specified by this law, the Law on Misdemeanors and/or other laws.

(3) The Misdemeanor Commission shall decide on the misdemeanors specified in this law and shall impose misdemeanor sanctions specified by this law.

(4) A complaint can be filed against the decisions of the Misdemeanor Commission to impose misdemeanor sanctions, and an administrative dispute can be instigated before the administrative court.

(5) The Misdemeanor Commission shall maintain the unique record of misdemeanors, imposed sanctions and enacted decisions. The Agency shall prescribe the method in which the records shall be kept and the method for access to the information contained in these records.

(6) The Misdemeanor Commission shall enact rules of procedures for its work.

## **Article 132**

### **Settlement**

(1) For the misdemeanors stipulated in Articles 133, 134, 135, 135-a, 136, 136a, 136b, 136c, 136d, 136e, 136-f and 136-g of this Law, the authorized persons for control are obligated to propose to the perpetrator a settlement procedure before they submit a request for misdemeanor procedure.

(2) If the perpetrator of the misdemeanor agrees to a settlement procedure, the authorized control person shall prepare minutes which shall indicate the elements significant for the misdemeanor, the time, the place and the method in which the misdemeanor was committed, a description of the actions related to the misdemeanor and the persons present at the location where the misdemeanor had been committed as well as the way in which to eliminate the adverse consequences of the misdemeanor.

(3) The authorized control person may, during the settlement procedure, give a payment order to the perpetrator of the misdemeanor.

(4) If the perpetrator receives the payment order, then he/she shall be obligated to sign it. The fact that the perpetrator received the payment order shall be noted in the minutes.

(5) If the perpetrator of the misdemeanor is a legal entity, the minutes and the payment order shall be signed by the officer or the responsible person present at the location during the control or another officer or responsible person that stated that he/she is entitled to sign the minutes and to receive the payment order.

(6) The statement stipulated in paragraph (5) shall be noted in the minutes.

(7) if there are no bases for performing the settlement procedure with invitation of the perpetrator, the authorised person for control shall send the perpetrator, by mail, payment order together with minutes of stated misdemeanour. The settlement procedure shall be deemed implemented and the authorised person for control may submit request for initiation of a misdemeanour procedure if the perpetrator:

a) has received by mail the payment order but has failed to pay it within the deadline, and

b) has returned the payment order with mark that he does not want to receive it.”

(8) The authorized control person shall be obligated to keep track of the instigated procedures and their outcomes.

### Article 133

(1) A fine in the amount of the MKD equivalent of 40,000 EUR shall be imposed for a misdemeanor against the company for management of mandatory pension funds or company for management of mandatory and voluntary pension funds if:

- 1) it founds more than one mandatory pension fund during a period of ten years after the date of commencement of the contribution payments in the mandatory fully funded pension insurance in accordance with article 58 paragraph (4) of this law, contrary to article 7 paragraph (2) of this law;
- 2) it refuses to provide access to business books, documents and other records to the authorized person conducting an inspection on behalf of the Agency according to Article 53 paragraph (3) of this Law;
- 2-a) it fails to remove the irregularities according to Article 53 paragraph (5) of this Law;
- 3) the assets on the account of the member or the retired member of a mandatory pension fund are given as a guarantee, assignation or are transferred to third party beneficiaries contrary to Article 67 paragraph (3) of this Law;
- 4) does not allocate contributions, transferred assets and the return on investments on individual accounts of the members or retired members of the mandatory pension funds and does not keep records as per Article 81 of this Law;
- 5) it fails to transform the funds from contributions and the transferred funds into accounting units in accordance with article 82 of this law;
- 6) values mandatory pension fund's assets contrary to the rules as per Article 83 of this Law and the acts of the Agency;
- 7) it fails to calculate the net assets of the funds and the value of the accounting unit for each estimation date and if it fails to modify the estimated value of a specific security, in accordance with article 85 paragraphs (1), (2) and (4) of this law;
- 8) it keeps the accounting books of the Company and mandatory pension fund contrary to the laws of the Republic of Macedonia and the international accounting standards and the form and contents of the financial reports stipulated by the Agency as per Article 88 of this Law;
- 9) it charges fees in manners and amounts outside of the provisions stipulated in articles 98 and 99 of this law;
- 10) it remunerates costs contrary to article 103 of this law;
- 11) it invests the assets of the mandatory pension fund contrary to Articles 104, 105, 106, 107 and 108 of this Law and the acts stipulated by the Agency;
- 12) it sells, buys or uses assets contrary to the limitations stipulated in article 110 of this law;
- 13) it entrusts the management of the assets of the mandatory pension fund or transfers the responsibility for that onto another person, contrary to article 112 of this law;
- 14) it takes on debt contrary to the goals and limitations stipulated in article 113 of this law;
- 15) the selected custodian of the assets does not fulfill the requirements stipulated

in article 116 of this law;

16) it fails to select a custodian of the assets to whom it will entrust the responsibility for guarding the assets of the mandatory pension fund or if it does not have a contract with the custodian of the assets in accordance with article 115, paragraphs (1) and (2) and article 119 of this law;

17) it fails to fulfill the obligations stipulated in article 122 paragraph (1), items a) and b) and paragraph (2) of this law;

18) it fails to ensure continuous performance of the services related to providing custody of the assets of the mandatory pension fund in accordance to article 123 paragraph (1) of this law;

19) it acts contrary to article 125 paragraph (5) of this law and

20) it fails to transfer its rights to undertake legal action to the Agency in accordance with article 126 paragraph (5) of this law.

(2) A fine in the amount ten times bigger than that stipulated in paragraph (1) of this article shall be imposed against the company for management of mandatory pension funds or the company for management of mandatory and voluntary pension funds if it committed the misdemeanor stipulated in paragraph (1) of this article and thereby acquired substantive material benefits or caused substantive material damages.

(3) The company for management of mandatory pension funds shall be fined for a misdemeanor with a fine of 40.000 EURO in MKD equivalent if:

1) carries out activities not stipulated in Article 7 paragraph (1) of this Law;

2) does not increase and maintain the assets in accordance with Article 10 paragraphs (2), (4) and (5) of this Law;

3) does not maintain, calculate and increase own assets calculated per the methodology stipulated by the Agency in accordance with Article 10 paragraphs (6) and (7) of this Law;

4) does not maintain liquid assets in accordance with Article 10 paragraph (9) of this Law;

5) does not pay the nominal assets in proper way prescribed with Article 11 of this Law;

6) the nominal assets come from sources which are not allowed by Article 12 of this Law;

7) fails to harmonize within a period of six months according to Article 14 paragraph (5) of this Law;

8) does not apply for a prior consent for transaction of shares pursuant to Article 16 paragraph (1) of this Article;

9) buys shares of another company for management of mandatory pension funds or reorganize, contrary to Article 16 paragraphs (5) and (6) of this Law;

9-a) does not meet its fiduciary duty as per Article 18-a paragraph (1) of this Law;

9-b) does not enter the Center as per Article 39-g paragraph (5) of this Law..

10) makes changes without obtaining approval by the Agency in accordance with Article 39-h of this Law;

11) merges contrary to Articles 39-k, 39-l and 39-o) of this Law.

(4) A fine in the amount ten times bigger than that stipulated in paragraph (3) of this article shall be imposed against the company for management of mandatory pension funds if it committed the misdemeanor stipulated in paragraph (3) of this article and thereby acquired substantive material benefits or caused substantive material damages.

(5) A fine in the amount of the MKD equivalent of 4,000 EUR shall be imposed for the misdemeanor stipulated in paragraph (1) of this article against the responsible person in the company for management of mandatory pension funds or the company for management of mandatory and voluntary pension funds. Such fine shall be imposed, for the misdemeanor stipulated in paragraph (3) of this article, only against the responsible person in the company for management of mandatory pension funds.

(6) A fine in the amount two times bigger than the amount stipulated in paragraph (5) of this article shall be imposed against the responsible person in the company stipulated in paragraph (5) of this article if he/she committed the misdemeanor to make profit.

#### Article 134

(1) A fine in the amount of the MKD equivalent of 20,000 EUR shall be imposed for a misdemeanor against the company for management of mandatory pension funds or the company for management mandatory and voluntary pension funds if:

1) it uses its assets for purposes disallowed under article 20 of this law;

2) does not meet some of the requirements stipulated with Article 21 paragraphs (1), (2), (3), (4) and (5) of this Law;

3) it fails to submit a contract termination document and if it fails to establish an individual account in accordance with article 59, paragraphs (1) and (5) of this law;

4) acts contrary to Article 61 paragraph (3) of this Law;

5) does not meet its obligations as per Article 63 paragraph (1) of this Law of this Law;

6) it fails to transfer the funds from the account of a pension fund member that acquired the right to a disability pension to the Pension and Disability Insurance Fund of the Republic of Macedonia, in accordance with article 65 of this law;

7) it fails to fulfill its obligation in the case of death of a pension fund member, stipulated in article 66 of this law;

8) fails to transfer the paid contributions from the account of the mandatory pension fund member into the Pension and Disability Insurance Fund of Macedonia, in accordance with Article 66-a of this Law



- 8a) does not meet the requirements as per Article 76 paragraph (1) of this Law;
  - 9) it implements procedures for mandatory pension fund marketing disallowed with article 79 of this law;
  - 10) it fails to establish the yield of the pension fund it manages in accordance with article 86 of this law;
  - 11) does not meet the obligation to inform regularly the members and the retired members of the mandatory pension fund, as per Article 95 of this Law;
  - 12) does not submit to the Agency the information as per Article 96 paragraph (1) of this Law and the acts of the Agency;
  - 13) it fails to inform the Agency and all of the members of the mandatory pension fund about every change of the level of the fees, in a manner and within time periods envisaged in article 100 of this law;
  - 14) it fails to ensure full competitiveness of the fees in accordance with article 101 of this law;
  - 15) it fails to act in accordance with the requests stipulated in articles 109 of this law;
  - 16) it fails to inform the Agency when it wants to terminate the asset custody agreement in accordance with article 121 of this law;
  - 17) it fails to act in accordance with the standpoints and opinions expressed in the acts of the Agency.
- (2) A fine in the amount five times bigger than that stipulated in paragraph (1) of this article shall be imposed against the company for management of mandatory pension funds or the company for management of mandatory and voluntary pension funds if it committed the misdemeanor stipulated in paragraph (1) of this article and thereby acquired substantive material benefits or caused substantive material damages.
- (3) A company managing mandatory pension funds shall be sentenced with a fine in the amount of 20,000 Euro, payable in denar counter-value, in case the Company:
- 1) does not adopt a Good Corporate Governance Code and works contrary to the provisions of Article 4 paragraph (3) of this Law;
  - 2) does not establish efficient control mechanisms and procedures and does not appoint persons as requested with Article 18-b of this Law;
  - 3) does not establish an organization unit as per Article 21-a paragraph (1) of this Law;
  - 4) does not meet the obligations as per Article 21-b paragraphs (1), (2), (3) and (4) of this Law;
  - 5) does not establish activities for risk management, does not appoint a responsible person for risk management and does not submit the report as per Article 21-c

paragraphs (1), (2) and (5) of this Law;

6) does not meet the obligations as per Article 21-d of this Law and the acts of the Agency;

7) does not appoint an authorized external auditor with good references and does not publish an excerpt of the audited financial report with the auditor's opinion as per Article 22 of this Law;

8) acts contrary to Article 22-b of this Law and

9) does not have an investment strategy document with contents in accordance with Article 112-a paragraphs (1) and (2) of this Law and the acts of the Agency.

(4) A fine in the amount up to five times bigger than that stipulated in paragraph (3) of this article shall be imposed against the company for management of mandatory pension funds if it committed the misdemeanor stipulated in paragraph (3) of this article and thereby acquired substantive material benefits or caused substantive material damages.

(5) A fine in the amount of the MKD equivalent of 2,000 EUR shall be imposed for the misdemeanor stipulated in paragraph (1) of this article against the responsible person in the company for management of mandatory pension funds or the company for management of mandatory and voluntary pension funds. Such fine shall be imposed, for the misdemeanor stipulated in paragraph (3) of this article, only against the responsible person in the company for management of mandatory pension funds.

(6) A fine in the amount two times bigger than the amount stipulated in paragraph (5) of this article shall be imposed against the responsible person of the company stipulated in paragraph (5) of this article if he/she committed the misdemeanor to make profit.

#### Article 135

(1) A fine in the amount of the MKD equivalent of 9,000 EUR shall be imposed for a misdemeanor against the company for management of mandatory pension funds or the company for management of mandatory and voluntary pension funds if:

1) start with activities of management with mandatory pension fund, marketing and public opinion research contrary to conditions prescribed in Article 39-g paragraph (5) of this Law;

2) it refuses to enroll an insured person that fulfils the requirements prescribed with the Law on Pension and Disability Insurance within the meaning of article 59 paragraph 7 of this law;

3) does not meet the obligations as per Article 63 paragraph (3) of this Law;

4) it fails to secure the rights of the member of the mandatory pension fund that stopped paying contribution in the fund before retirement in accordance with article 64 of this law;

5) gives wrong and incorrect information referring to the mandatory pension fund or for the company managing that fund or gives statements and forecasts for the future investment results of the mandatory pension fund or does not act according to the decision of the Agency in accordance with Article 75 paragraph (1), (2) and (5) of this Law;

5-a) does not sign an agreement for marketing of the mandatory pension fund with a business associate, as per Article 76 paragraph (2) of this Law;

6) signs membership agreements, transfer agreement or scheduled withdrawals agreements with a physical person without the presence of a sales agent, contrary to Article 77 paragraph (1) of this Law.

7) it fails to comply with the requirements related to the publication of an informative brochure, stipulated in article 94 paragraphs (1), (2) and (3) of this law;

8) does not submit an informative prospectus or the Statute to the members and the retired members of the mandatory pension fund, does not allow those materials to be inspected by a person and does not inform a person, as per Article 94 paragraphs (4) and (5) of this Law.

9) submits data to the members and the retired members in a form contrary to Article 95 paragraph (5) of this Law.

(2) A fine in the amount five times bigger than that stipulated in paragraph (1) of this article shall be imposed against the company for management of mandatory pension funds or the company for management of mandatory and voluntary pension funds if it committed the misdemeanor stipulated in paragraph (1) of this article and thereby acquired substantive material benefits or caused substantive material damages.

(3) A fine in the amount of the MKD equivalent of 1,500 EUR shall be imposed for the misdemeanor stipulated in paragraph (1) of this article against the responsible person in the company for management of mandatory pension funds or the company for management of mandatory and voluntary pension funds.

(4) A fine in the amount up to two times bigger than the amount stipulated in paragraph (3) of this article shall be imposed against the responsible person the company for management of mandatory pension funds or the company for management of mandatory or voluntary pension funds if he/she committed the misdemeanor stipulated in paragraph (1) of this article to make profit.

#### **Article 135-a**

(1) The company for management of mandatory pension funds and company for management of mandatory and voluntary pension funds shall be charged for a misdemeanor with a fine of 5.000 EURO in MKD equivalent if:

1) does not act in accordance with Article 75 paragraph (4) of this Law .

2) fails to act in accordance with Article 77 paragraph (7) of his Law;

3) fails to immediately notify the Agency for net assets value of the mandatory pension fund and the value of the accounting unit of the mandatory pension fund

in accordance with Article 85 paragraphs (1) and (2) of this Law and

4) fails to submit information and data to the Agency or provide inaccurate information in accordance with Article 96 of this Law.

(2) The company for management of mandatory pension funds shall be charged for a misdemeanor with a fine of 5.000 EURO in MKD equivalent if:

1) not makes yearly working plan, the report for its working and do not submit them to the Agency in accordance with Article 21-a paragraphs (3), (4) and (5) of this Law.

### **Article 136**

(1) A fine in the amount of the MKD equivalent of 40,000 EUR shall be imposed for a misdemeanor against the custodian if it:

1) failed to provide access to the books, documents and other records, to the authorized control person that controls on behalf of the Agency in accordance with article 53 paragraph (3) of this law;

1-a) fails to remove irregularities in accordance with Article 53 paragraph (6) of this Law;

2) fails to perform the custody of the assets, operations regarding such assets and the mandatory pension fund records for each pension fund, separate from the other client and separate from its own funds, operations and records in accordance with article 115 paragraph (4) of this law;

3) fails to fulfill the requirements stipulated in article 116 of this law;

4) fails to fulfill the obligations stipulated in article 117 of this law;

5) acts contrary to Article 118 of this Law.

6) covers the damages using the assets of the mandatory pension fund, contrary to article 120 paragraph (2) of this law.

7) fails to provide full confidentiality of the data in accordance with article 120 paragraph (4) of this law;

8) fails to inform the Agency when it wants to terminate the asset custody agreement in accordance with article 121 of this law and

9) fails to fulfill the obligations stipulated in article 123 paragraph (2) of this law in the event of termination of the asset custody agreement.

(2) A fine in the amount up to ten times bigger than that stipulated in paragraph (1) of this article shall be imposed against the custodian of the assets if it committed the misdemeanor stipulated in paragraph (1) of this article and thereby acquired substantive material benefits or caused substantive material damages.

(3) A fine in the amount of the MKD equivalent of 4,000 EUR shall be imposed for the misdemeanor stipulated in paragraph (1) of this article against the responsible person in the custodian of the assets.

(4) A fine in the amount up to two times bigger than the amount stipulated in paragraph (3) of this article shall be imposed against the custodian of the assets if he/she committed the misdemeanor stipulated in paragraph (1) of this article to make profit.

#### **Article 136a**

A fine in the amount of the MKD equivalent of 2,000 EUR shall be imposed for a misdemeanor against the natural person if:

1) as the agent of the company for management of mandatory pension funds fails to comply with the obligations and limitations stipulated in article 77 paragraphs (2) and (3) of this law and

#### **Article 136b**

The person shall be charged for a misdemeanor with a fine of 1.000 EURO in MKD equivalent if:

1) fails to acts according to the obligations and limits prescribed in Article 77 paragraphs (4) and (5) of this Law.

#### **Article 136c**

(1) A fine in the amount of the MKD equivalent of 20,000 EUR shall be imposed for a misdemeanor against the Pension and Disability Insurance of the Republic of Macedonia if:

1) it fails to transfer the contributions to the pension funds selected by the members in percentage shares and time periods specified by articles 60 and 69, paragraph (1), item c) of this law;

2) it fails to fulfill the obligations stipulated in article 68, paragraph (1) of this law; and

3) it fails to submit to the companies information regarding the payment of contributions in accordance with article 69 paragraph (1) item d) of this law.

(2) A fine in the amount of the MKD equivalent of 2,000 EUR shall be imposed for the misdemeanor stipulated in paragraph (1) of this article against the responsible person in the Pension and Disability Insurance Fund of the Republic of Macedonia.

(3) The competent authority to impose the misdemeanor sanctions stipulated in paragraphs (1) and (2) of this article shall be the competent court.

#### **Article 136d**

(1) A responsible person in the Agency shall be fined with 2,000 euro, payable in denar counter-value, in case such person:

1) accepts a function or employment or acquisition of shares contrary to Article 51 paragraph (7) of this Law;

2) does not pass a Decisions within the deadline stipulated in Article 77 –j

paragraph (10) of this Law and

3) acts contrary to Article 77-g paragraph (9) of this Law.

(2) The competent authority to impose the misdemeanor sanction stipulated in paragraph (1) of this article shall be the competent court.

#### **Article 136e**

(1) A fine in the amount of the MKD equivalent of 20,000 EUR shall be imposed for a misdemeanor against a legal entity that registered to get a permit to establish a company and submitted incorrect information in the submitted documentation, contrary to article 39c of this law.

(2) A fine in the amount of the MKD equivalent of 2,000 EUR shall be imposed for the misdemeanor stipulated in paragraph (1) of this article against the responsible person in the legal entity.

(3) The competent authority to impose the misdemeanor sanctions stipulated in paragraphs (1) and (2) of this article shall be the competent court.

#### **Article 136-f**

A physical person shall be fined with 4,000 euro, payable in denar counter-value, for a committed misdemeanor, in case such person is:

1) a members of the Management Board, the Supervisory Board or holds a managerial position in a Company and does not meet his/her fiduciary duty as per Article 18-a paragraph (1) of this Law.

2) an actuary and does not meet his/her obligations as per Article 21-b paragraphs (5), (6), (7) and (10) of this Law and

3) a person responsible for risk management does not provide an unbiased analysis of the risks and does not advise correctly the Management Board as per Article 21-c paragraph (3) of this Law.

#### **Article 136-g**

The Center shall be fined with 40,000 Euro, payable in denar counter value, for a misdemeanor committed by the Center if:

1) it disables access to books, documents and other records to an authorized person who controls on behalf of the Agency, as per Article 53 paragraph (1) item d) of this Law and

2) it does not remove illegalities as per Article 53 paragraph (5) of this Law.

#### **Article 136-h**

A legal entity organizing the exam contrary to Article 77-d paragraph (9) of this Law shall be fined with 5,000 Euro, payable in denar counter-value.

### **CHAPTER 17**

## **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 137**

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

### **Article 138**

- (1) The contributors who enter for the first time in the mandatory pension and disability insurance after January 1, 2003 but before the date of granting licenses for establishing Companies, are obligated to become Members of a mandatory pension fund until the date stipulated in Article 58 paragraph (4) of this Law.
- (2) The contributors who enter for the first time in the mandatory pension and disability insurance after the date of granting licenses for establishing Companies and before the date stipulated in Article 58 paragraph (4) of this Law, are obligated to become Members of a mandatory pension fund not later than 3 months from the date stipulated in Article 58 paragraph (4) of this Law.

### **Article 139**

All contributors who were covered by mandatory pension and disability insurance before January 1, 2003 and who after January 1, 2003 were not covered by that insurance, may join a Pension Fund, by their own choice, within 3 months after their re-entrance into the mandatory pension and disability insurance.

Article **139-a** shall be deleted.

(Article 24 "Official Gazette of the Republic of Macedonia" no. 48/2009)

**Articles 139-b, 139-c, 139-d 139-e and 139-f** shall be deleted.

(Article 24 "Official Gazette of the Republic of Macedonia" no. 50/2010)

### **Article 139-h**

The provisions of the Articles 90 and 91 of this Law shall be applied after the expiry of the five years period, calculating from the date of the payment of contributions for mandatory fully funded pension insurance according to the Article 58 (4) of this

Law.

#### **Article 140**

(Article 70 “Official Gazette of the Republic of Macedonia” no. 88/2008)

(1) The Agency can, upon a request from a pension fund member, to annul its registration in the Member Registry if the estimates of the future pension, based on his/her age and tenure before the membership in the mandatory fully funded pension insurance, show that the membership would be contrary to his/her interests.

(2) The pension fund member can submit the request stipulated in paragraph (1) of this article to the Agency within at most 180 days from the legal effectuation of this law. “

#### **Article 141**

(Article 71 “Official Gazette of the Republic of Macedonia” no. 88/2008)

The maximal level of the fee from contributions determined by the Agency in accordance with article 36, paragraph (3) of this law, for 2008, shall be determined for the remaining period of this year.

#### **Article 142**

(Article 72 “Official Gazette of the Republic of Macedonia” no. 88/2008)

(1) Until the Law on Payment of Pensions by way of Annuities or Programmed Withdrawals is enacted, when a member of a mandatory pension fund acquires the right to old age pension according to the Law on Pension and Disability Insurance then this member can withdraw the full amount from his/her individual account.

(2) Until the Law on Payment of Pensions by way of Annuities or Programmed Withdrawals is enacted, if a member of a mandatory pension fund does not acquire the right to old age pension because he/she will not have at list 15 years of pension insurance, then he/she can withdraw the full amount from his/her individual account.

#### **Article 143**

(Article 73 “Official Gazette of the Republic of Macedonia” no. 88/2008)

(1) Throughout the text of the law, the words “pension fund” with various articles and numbers shall be replaced with the words: “mandatory pension fund”.

(2) The provision stipulated in paragraph (1) of this article shall apply to articles 46,47, 48, 49, 50, 51, 52, 53, 55 and 56.

#### **Article 144**

(Article 74 “Official Gazette of the Republic of Macedonia” no. 88/2008)

The bylaws that arise from this law shall be enacted within 180 days after the



day of legal effectuation of this law.

#### **Article 145**

(Article 75 "Official Gazette of the Republic of Macedonia" no. 88/2008)  
Decision of the Constitutional Court of the Republic of Macedonia br.165 / 08 ,  
published in the " Official Gazette no.40 / 09 ) The provisions stipulated in article  
15 of this law shall start to apply from the 1<sup>st</sup> of January 2008.

#### **Article 146**

(Article 76 "Official Gazette of the Republic of Macedonia" no. 88/2008)  
When the provisions stipulated in article 15 of this law start to apply, the  
provisions stipulated in CHAPTER III, articles 23, 24, 25, 26, 27, 28, 29, 30,  
31, 32, 33, 34, 35,36, 37, 38, and 39 of the Law on Mandatory Fully  
Finances Pension Insurance("Official Gazette of the Republic of  
Macedonia" no. 29/2002, 85/2003, 40/2004, 113/2005 and 29/2007) shall  
cease to apply.

#### **Article 147**

(Article 77 "Official Gazette of the Republic of Macedonia" no. 88/2008)  
Within a period of 60 days from the day of legal effectuation of this law, the  
Agency shall issue approvals for management of pension funds with indefinite  
duration to the existing companies for management of pension funds that  
have been issued approvals for management of pension funds for a period of  
ten years.

#### **Article 148**

(Article 25 "Official Gazette of the Republic of Macedonia" no. 48/2009)

- (1) A custodian of the mandatory pension fund which is managed by the  
company or the companyfor management with mandatory and voluntary pension  
funds established before this Law becomes effective is the National Bank of the  
Republic of Macedonia.
- (2) Within 6 months from the effectiveness this Law the companies stipulated in  
paragraph 1 of this Article shall select a custodian of the mandatory pension fund in  
accordance with articles 115 and 116 of the Law on Mandatory Fully Funded  
Pension Insurance (Official Gazette of the Republic of Macedonia" no 29/2002,  
85/2003, 40/2004, 113/2005, 29/2007 and 88/2008).
- (3) Until the selection of the custodian stipulated in paragraph 2 of this Article  
the company for management of mandatory pension funds and the company for  
management of mandatory and voluntary pension funds shall inform the Agency  
about the instruments in which it intends to invest the assets of the mandatory  
pension fund it manages.
- (4) The Agency shall continue to keep records of permitted financial instruments  
for investment of the assets of the mandatory pension funds until the transfer of the  
role of custodian from the National Bank of the Republic of Macedonia to a bank.

#### **Article 149**

(Article 26 “Official Gazette of the Republic of Macedonia” no. 48/2009)  
Article 19 of this Law shall not apply to the bank deposits invested in banks until the day of effectiveness of this Law.

#### **Article 150**

(Article 27 “Official Gazette of the Republic of Macedonia” no. 48/2009)  
Article 27 paragraph 2 of the Law on changes and additions to the Law on Mandatory Fully Funded Pension Insurance (“Official Gazette of the Republic of Macedonia”, No. 88/2008) shall be deleted.

#### **Article 151**

(Article 65 “Official Gazette of the Republic of Macedonia” no. 50/2010)  
The existing companies for management of mandatory and voluntary pension funds have an obligation to harmonize with the provisions of article 9 paragraphs (7) and (8) of this Law within one year from the day when this Law become effective.

#### **Article 152**

(Article 66 “Official Gazette of the Republic of Macedonia” no. 50/2010)  
The Agency shall register the existing mandatory pension funds in the Register of mandatory and voluntary pension funds and shall determine the identification number, within 15 days from the day when this Law become effective.

#### **Article 153**

(Article 67 from “Official Gazette of the Republic of Macedonia” No. 50/2010 is changed with Article 13 from “Official Gazette of the Republic of Macedonia” No. 171/2010)

- (1) The Agency opens an account in a commercial bank on January 3, 2011.
- (2) On the day of opening the account as per paragraph (1) of this Article, 15% of the assets of the Agency on the account kept with the Budget of the Republic of Macedonia shall be transferred on the account opened in a commercial bank, while 85% of the assets shall be transferred on the account of the Budget of the Republic of Macedonia.

#### **Article 154**

(Article 68 “Official Gazette of the Republic of Macedonia” no. 50/2010)

- (1) If the company or a company for management of mandatory and voluntary pension funds fails to proof that during the conclusion of the membership contract with the person listed in Article 38 paragraph (1) of this Law couldn't make a prudent presumption that the membership of that person shall be against its interests, the person that concluded a membership contract before the effectiveness of this Law has a possibility, within year of its effectiveness, to submit a request to the Agency for nullifying his/her registration in the Register of members.

(2) If the company or a company for management of mandatory and voluntary pension funds fails to prove that during the conclusion of the membership contract with the person listed in Article 38 paragraph (1) of this Law couldn't make a prudent presumption that the membership of that person shall be against its interests, the person that concluded a membership contract after the effectiveness of this Law has a possibility, within year of its effectiveness, to submit a request to the Agency for nullifying his/her registration in the Register of members.

#### **Article 155**

(Article 69 "Official Gazette of the Republic of Macedonia" no. 50/2010)  
The level of the contribution fee listed in Article 43 paragraph (1) of this Law, that the company or the companies for management of mandatory and voluntary pension funds shall charge, for 2010 shall not exceed 5.5% from each contribution paid and for 2011 shall not exceed 4.5% from each contribution paid.

#### **Article 156**

(Article 70 "Official Gazette of the Republic of Macedonia" no. 50/2010)  
The level of the contribution fee listed in Article 45 of this Law, that the Pension and Disability Insurance Fund shall charge for 2010 shall be maximum 0.2% per year.

#### **Article 157**

(Article 71 "Official Gazette of the Republic of Macedonia" no. 50/2010)  
The provision prescribed in Article 46 of this Law for investment in bank deposits that have licence issued by National Bank of Republic of Macedonia, if are interest bearing and mature in no longer than one year, shall not apply to the deposits invested in banks until the day of effectiveness of this Law.

#### **Article 158**

(Article 72 "Official Gazette of the Republic of Macedonia" no. 50/2010)  
(1) The provisions prescribed in Article 47 paragraph (3) and Article 48 of this Law shall start to apply in one year from the day of effectiveness of this Law.  
(2) Notwithstanding paragraph (1) of this Article the provisions prescribed in Article 47 paragraph (3) of this Law, in duration of one year from the day of effectiveness of this Law, not more than 5% of mandatory pension fund assets may be invested in deposits and certificates of deposits of one bank that has licence from National bank of Republic of Macedonia, out of which not more than 7,5% of the mandatory pension fund assets may be invested in deposits and certificates of deposits of interconnected banks.

#### **Article 159**

(Article 74 "Official Gazette of the Republic of Macedonia" no. 50/2010)  
The secondary regulation deriving from this Law shall be adopted within six months from the day of when this Law becomes legally effective.

#### **Article 160**

(Article 14 from “Official Gazette of the Republic of Macedonia” No. 171/2010)  
The secondary regulations as this Law shall be passed within 15 days from the day this Law enters into force.

#### **Article163**

(Article 22 from “Official Gazette of the Republic of Macedonia” No. 98/2012)  
(1) The Council of Experts shall be established within maximum of 90 days from the day this Law enters into force.  
(2)The Director, the Deputy Director and the members of the Management Board of the Agency, appointed before this Law entered into force, shall continue to perform their duties until the members of the Council of Experts are elected in accordance with this Law.

#### **Article164**

(Article 23 from “Official Gazette of the Republic of Macedonia” No.98/2012)  
Each amendment or addendum to the Financial Plan of the Agency for 2012 is submitted for adoption to the Parliament of the Republic of Macedonia.

#### **Article165**

(Article24 from “Official Gazette of the Republic of Macedonia” No.98/2012)  
(1) The Statute of the Agency prescribed with this Law shall be passed within 90 days from the day this Law enters into force.  
(2) The Operating Rules of the Council of Experts shall be passed within 30 days from the day the Statute is adopted.  
(3) The internal organizing acts and descriptions of jobs of the Agency shall be adopted within six months from the day this Law enters into force.  
(4) Until the regulations as per paragraphs 1, 2 and 3 of this Article are passed, the existing regulation shall be applicable.

#### **Article166**

(Article25 from “Official Gazette of the Republic of Macedonia” No..9820/12)  
The Company or company managing mandatory and voluntary pension fundsshall harmonize the investment activities of the mandatory pension fund under its management with Articles 17 and 18 of this Law, not later than January 15, 2013.

#### **Article167**

(Article 26 from “Official Gazette of the Republic of Macedonia” No.98/2012)  
This Law enters into force on the eighth day after the day of its publishing in the “Official Gazette of the Republic of Macedonia”.

#### **Article168**

(Article 71 from “Official Gazette of the Republic of Macedonia” No.13/2013)  
(1)Article 72 of the Law on Amendments to the Law on Mandatory Fully Funded Pension Insurance (“Official Gazette of the Republic of Macedonia” No. 88/2008) is hereby amended and it states;

(2) Until the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance is fully implemented, a member of a pension fund who has become entitled to an old-age pension, as per the Law on Pension and Disability Insurance, may withdraw the entire amount from his/her individual account.

(3) Until the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance is fully implemented, a member of a pension fund who has not become entitled to an old-age pension, due to lack of minimum of 15 years of career, as per the Law on Pension and Disability Insurance, may withdraw the entire amount from his/her individual account.

#### **Article 169**

(Article 72 from "Official Gazette of the Republic of Macedonia" o..13/2013)

In the Law on Amendments to the Law on Mandatory Fully Funded Pension Insurance ("Official Gazette of the Republic of Macedonia" No. 98/2012), in Article 1 paragraph 3 the words „5-a becomes count 5,, are changed with the number „4-a“.

#### **Article 170**

(Article 73 from "Official Gazette of the Republic of Macedonia" No.13/2013)

(1) The amount of the fee from contributions as per Article 52 paragraph 1 of this Law which amends Article 98 paragraph (1) count a) of the Law on Mandatory Fully Funded Pension Insurance and which is charged by the Companies or companies managing mandatory and voluntary pension funds is hereby decreased and may not be higher than 3.5 % for 2014; 3.25% for 2015; 3% for 2016; 2.75% for 2017; 2.5% for 2018 and 2.25% for 2019, from each paid contribution.

(2) The amount of the fee from net assets, as per Article 52 paragraph 2 of this Law, which amends the Article 98 paragraph (1) count b) of the Law on Mandatory Fully Funded Pension Insurance and which is charged by the Companies or companies managing mandatory and voluntary pension funds is hereby decreased and may not be higher than 0.045 % for 2014; 0.04% for 2015; 0.04 % for 2016; 0.035% for 2017 and 0.035% for 2018.

(3) As of July 1, 2013, the amount of the fee from contributions as per Article 52 paragraph 1 of this Law, which amends Article 98 paragraph (1) count a) of the Law on Mandatory Fully Funded Pension Insurance and which is charged by the Companies or companies managing mandatory and voluntary pension funds from each paid contribution is hereby decreased and may not be higher than 3.75%, and the amount of the fee from the net assets as per Article 52 paragraph 2 of this Law, which amends Article 98 paragraph (1) count b) of the Law on Mandatory Fully Funded Pension Insurance cannot be higher than 0.045 %.

#### **Article 171**

(Article from "Official Gazette of the Republic of Macedonia" No.13/2013)

The secondary regulation stipulated with this Law shall be passed within one year from the day this Law enters into force.

#### **Article172**

(Article 75 from “Official Gazette of the Republic of Macedonia” No.13/2013)

The Committee on Legal Affairs with the Parliament of the Republic of Macedonia is hereby authorized to prepare a clean version of the Law on Mandatory Fully Funded Pension Insurance.

#### **Article173**

(Article 76 from “Official Gazette of the Republic of Macedonia” No.13/2013)

(1) The provisions of Article 31 of this Law which amend the Article 61 of the Law on Mandatory Fully Funded Pension Insurance (“Official Gazette of the Republic of Macedonia” No. 29/02, 85/03, 40/04, 113 /05, 29/07, 88/08 , 48/09, 50/10, 171/10, 36/11 and 98/12), shall enter into force as of January 1, 2014.

(2)The provisions of Article 55 of this Law which cancel Article 102 of the Law on Mandatory Fully Fudged Pension Insurance (“Official Gazette of the Republic of Macedonia” No. 29/02, 85/03, 40/04, 113 /05, 29/07, 88/08, 48/09, 50/10, 171/10, 36/11 and 98/12), shall enter into force as of January 1, 2013.

(3)The provisions of Article 58 paragraph (1) of this Law which amend the Article 117 paragraph (1) count f) of the Law on Mandatory Fully Funded Pension Insurance (“Official Gazette of the Republic of Macedonia” No.29/02, 85/03, 40/04, 113 /05, 29/07, 88/08 , 48/09, 50/10, 171/10, 36/11 and 98/12), shall enter into force as of January 1, 2014.

(4) The provisions of Article 59 of this Law which amend the Article 118 of the Law on Mandatory Fully Funded Pension Insurance (from “Official Gazette of the Republic of Macedonia” No. 29/02, 85/03, 40/04, 113 /05, 29/07, 88/08 , 48/09, 50/10, 171/10, 36/11 and 98/12), shall enter into force as of January 1, 2014.

#### **Article174**

(Article 77 from “Official Gazette of the Republic of Macedonia” No.13/2013)

This Law enters into force on the eighth day after the day of its publishing in the “Official Gazette of the Republic of Macedonia”.

#### **Article175**

(Article 5 from “Official Gazette of the Republic of Macedonia” No.164/2013)

The secondary regulation stipulated with this Law shall be passed within six months from the day this Law enters into force.

#### **Article176**

(Article 6 from “Official Gazette of the Republic of Macedonia” No.164/2013)

The Committee on Legal Affairs with the Parliament of the Republic of Macedonia is hereby authorized to prepare a clean version of the Law on Mandatory Fully Funded Pension Insurance.

#### **Article177**

(Article 7 from “Official Gazette of the Republic of Macedonia” No.164/2013)

The procedures that had already started regarding the examination of sales agents up to the day this Law has entered into force, shall be completed as per the regulations governing such procedures on the day they were started.

#### **Article178**

(Article 8 from “Official Gazette of the Republic of Macedonia” No. 164/2013)

This Law enters into force on the eighth day after the day of its publishing in the “Official Gazette of the Republic of Macedonia”, and Articles 1 and 4 of this Law shall be implemented within one year from the day this Law entered into force.

#### **Article179**

(Article 4 from “Official Gazette of the Republic of Macedonia” No.44/2014)

The Statute of the Agency and the acts for enforcement of this Law shall be harmonized with the provisions of this Law, within nine months from the day this Law entered into force.

#### **Article180**

(Article 5 from “Official Gazette of the Republic of Macedonia” No. 44/2014)

The members of the Council of Experts of the Agency appointed prior to the day of commencement of enforcement of this Law shall continue to discharge their duties until the expiry of their mandates.

#### **Article181**

(Article 6 from “Official Gazette of the Republic of Macedonia” No.44/2014)

(1)The provisions of Article 1 of this Law shall be enforced in one year after the day this Law enters into force, except the provisions that refer to the condition for knowledge of a foreign language, which shall be enforced within two years after the day this Law enters into force.

(2)The provisions of Article 2 of this Law, with which a new paragraph is added, paragraph (5) to Article 52, shall be enforced with the day of enforcement of the Law on Administrative Servants (“Official Gazette of the Republic of Macedonia” No.27/14) and the Law on Public Sectors Employees (“Official Gazette of the Republic of Macedonia” No. 27/14).