**(UNOFFICIAL CONSOLIDATED TEXT)**

**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, 88/2008, 48/2009, 50/2010, 171/2010, 36/2011, 98/2012, 13/2013, 164/2013, 44/2014, 192/2015, 30/2016, 21/2018, 245/2018 and “Official Gazette of the Republic of North Macedonia” No. 180/2019

and 103/2021)

CHAPTER I

GENERAL PROVISIONS

Article 1

(1) This Law shall regulate the mandatory fully funded pension insurance, establishment and operation of mandatory pension funds, and companies for managing mandatory pension funds as part of the pension and disability insurance system.

(2) The purpose of these funds and companies mentioned in paragraph (1) of this Article is to receive contributions from the contributors that are required by law to contribute to such funds, to invest in financial instruments, distribute the accumulated assets, and make payments on programmed withdrawals following the law.

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

Article 2

(1) No entity other than a company established under this Law and a company for managing mandatory and voluntary pension funds established under this Law may perform marketing activities or offer a mandatory pension fund, pension scheme, or similar pension arrangement, nor use the terms “Company for Mandatory Pension Funds Management”, “Mandatory Pension Fund”, “Pension Scheme” or similar terms in their names, whether in Macedonian or any other language.

(2) The prohibition mentioned in paragraph (1) of this Article shall not apply to the Pension and Disability Insurance Fund of Macedonia to the extent of its functions under the Law on Pension and Disability Insurance and this Law.

Article 3

The terms in this Law shall be defined as follows:

1. “Company” is a company that manages mandatory pension funds, and is established and operates following this Law;

2. “Mandatory Pension Fund” is an open-end investment fund established and managed by a company for managing mandatory pension funds and a company for the management of mandatory and voluntary pension funds;

3. “Affiliated Person” in relation to a certain legal entity or natural person is:

a) an individual shareholder or group of shareholders holding at least 10% of shares with voting right or own a lower percentage and have direct or indirect control over the decision-making process in that legal entity;

b) any other legal entity in which the first legal entity directly or indirectly holds at least 10% of shares with voting right or has direct or indirect control over the decision-making process in that legal entity;

c) any other legal entity in which a shareholder directly or indirectly holds more than 20% of shares with voting right and during the same period the same shareholder also directly or indirectly holds more than 20% of shares with voting right in the first legal entity;

d) a natural person or a legal entity that have direct or indirect control, or are controlled by, or are under the common control of the legal entity;

e) a member of the management board, supervisory board, or other governing or supervisory body of the legal entity, and

f) regarding the persons listed in this item, persons who are: related by marriage or adoption; children and parents, siblings, half-siblings, grandparents and grandchildren; are otherwise blood-related to the second degree; persons in relation such as parent guardian and child, step-parents and step-children, daughter-in-law, son-in-law and parents of spouses;

4. “Control” as referred to in item 3 of this Article is when a person/entity:

a) directly or indirectly owns a majority stake in another legal entity; or

b) directly or indirectly owns the majority of the voting rights in another legal entity; or

c) directly or indirectly has the right to appoint and dismiss a majority of members of another legal entity’s governing bodies, including a concluded contract with one or more shareholders of the other legal entity for transferring vote pooling to realize a common interest or

d) has the right to directly or indirectly exercise a significant influence on the management and policy-making and the financial and business decisions of another legal entity;

5. “Mandatory pension fund member” is a natural person who has entered into a contract for membership in a mandatory pension fund or a natural person in whose name an account has been opened in a mandatory pension fund in cases specified in this Law, and the membership lasts until the natural person acquires the right to a retirement;

6. “Retired member” is a natural person who has acquired the right to a pension from the mandatory fully funded pension insurance through programmed withdrawals and has an individual account in a mandatory pension fund from which he withdraws financial means;

7. “Authorized actuary” is a natural person who has obtained a licence to work as an authorised actuary by a competent institution in the Republic of North Macedonia;

8. “Transfer of Assets” is a transfer of assets from a member's account opened in a mandatory pension fund to another mandatory pension fund managed by another company for managing mandatory pension funds or a company for managing mandatory and voluntary pension funds;

9. “Agent” is a person who performs marketing activities for pension funds;

10. “Transaction fees” are the fees for the stock exchange, securities depository, and the fee for legal entities that perform services with securities directly related to trading with the funds of the mandatory pension funds;

11. “Company for management of mandatory and voluntary pension funds” is a joint-stock company that manages a mandatory and voluntary pension fund following this Law and the Law on Voluntary Fully Funded Pension Insurance;

12. “Pension Company" is a company for the management of mandatory pension funds, a company for the management of voluntary pension funds, and a company for the management of mandatory and voluntary pension funds;

13. “Good reputation” has a person who possesses the competence, diligence, and other characteristics that assure that the way the person operates will not endanger the stability and security of pension companies and pension funds, will not jeopardise the interests of the pension fund members and retired pension fund members, and there is no evidence of previous involvement in business activities that mean non-compliance with regulations, business practices, and procedures;

14. “Independent member of the supervisory board” is a natural person who:

a) in the past five years:

- had no material interest or business relationship with the Company as a business partner or as a manager, member of the management board, or member of the supervisory board in the business partner of the Company or

- was not employed, is not a member of the management board or a member of the supervisory board of the Company;

b) is not an affiliated person of the Company, employed in an affiliated entity of the Company, or represents an affiliated person of the Company;

c) is not an affiliated natural person to a member of the management board or supervisory board of the Company, and

d) did not work and does not work in an audit company that has performed an external audit of the company's operations in the past three years.

15. “Marketing material” is the entire material for advertising, promotion, or information that refers to the mandatory pension fund or the company that manages that fund;

16. “Marketing activities” are all activities aimed at advertising a company for the management of mandatory pension funds and a mandatory pension fund, and informing and concluding agreements for membership in a mandatory pension fund and the payment of funds from a mandatory pension fund including:

a) advertising the operation of the Company and the mandatory pension fund it manages;

b) informing about the characteristics of the mandatory fully funded pension insurance;

c) informing about charges and transaction fees;

d) informing about the return of the mandatory pension fund;

e) informing about the investment portfolio of the mandatory pension fund;

f) informing about individual accounts;

g) new memberships and transfer of members from one mandatory pension fund to another;

h) concluding agreements for programmed withdrawals, and

i) other activities for advertising and providing information related to the operation of the Company and the mandatory pension fund.

17. “Responsible person in case of a misdemeanor” is:

a) member of the management board and/or member of the supervisory board of a Company or a person authorized by this member;

b) director or head of an organisational unit who is responsible for the custody of the assets of the custodian or a person authorised by this director/head of an organisational unit;

c) director, assistant director, or another person in a managerial position in the Pension and Disability Insurance Fund of the Republic of North Macedonia;

d) manager of the Listing Centre or a person authorised by this manager, and

e) member of a governing body and/or supervisory body of a legal entity that submits documents in a licensing procedure or a person authorised by this member“

CHAPTER II

COMPANIES FOR MANAGING OF MANDATORY PENSION FUNDS

Article 4

(1) A Company for managing of mandatory pension funds shall be established and shall operate following the Law on Trade Companies unless otherwise stipulated in this Law.

(2) The Agency shall closely prescribe the manner of good corporate governance of the company.

(3) The company shall be obliged to adopt a code for good corporate governance following the regulation from paragraph (2) of this Article.

Article 5

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

Article 6

The name of every Company must contain the words “Company for Managing of Mandatory Pension Funds”.

Article 7

(1) The Company’s sole activity shall be the management of mandatory pension funds, representing them in front of third parties, and other activities related to the management of the pension funds.

(2) The Company and the company for the management of mandatory and voluntary pension funds may manage more than one mandatory pension fund in a manner and procedure prescribed by the Agency, following a previous opinion from the Ministry of Labor and Social Policy. The Agency shall determine the number of mandatory pension funds that can be managed by one Company and the limitations in such cases, which contributors can join a mandatory pension fund, the way of transferring assets between the mandatory pension funds managed by the same company, and other issues which Agency deems important, based on the conditions and the degree of development of the fully funded pension insurance and the financial market.

Article 8

The Company for Management of Mandatory Pension Funds shall charge a fee under the conditions and in a manner stipulated in this law.

Article 9

(1) The initial capital of a Company may not be increased through a public offering of shares.

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

(3) The Company cannot offer preferred shares.

(4) The shareholders of the Company, in accordance with their participation in the Company’s share capital, shall have equal positions in the Company. The Company's statute shall not award any additional rights or privileges to certain shareholders, limit their rights, or impose additional responsibilities on them.

Article 10

(1) The minimum share capital of the Company shall be not less than EUR 1,500,000 in MKD counter value at the exchange rate of the National Bank of the Republic of Macedonia on the date of payment.

(2) Once the assets of the mandatory pension fund managed by the Company exceed EUR 100,000,000, and on each subsequent occasion when the assets of the mandatory pension fund increase by a further 100,000,000 EUR, the Company shall increase the share capital within 45 working days for the following amounts:

|  |  |
| --- | --- |
| *Mandatory Pension Fund Assets* | *Share capital of the Company* |
| From EUR 100.000.001 to EUR 200.000.000 | EUR 2.500.000 |
| From EUR 200.000.001 to EUR 300.000.000 | EUR 3.500.000 |
| From EUR 300.000.001 to EUR 400.000.000 | EUR 4.500.000 |
| From EUR 400.000.001 to EUR 500.000.000 | EUR 5.500.000 |
| From EUR 500.000.001 to EUR 600.000.000 | EUR 6.500.000 |
| From EUR 600.000.001 to EUR 700.000.000 | EUR 7.500.000 |
| From EUR 700.000.001 to EUR 800.000.000 | EUR 8.500.000 |
| From EUR 800.000.001 to EUR 900.000.000 | EUR 9.500.000 |
| Over EUR 900.000.001 | EUR 10.000.000 |

(3) The Euro shall be calculated in MKD counter value at the middle exchange rate of the National Bank of the Republic of Macedonia on the date of the payment.

(4) The Company shall be obliged to maintain the amount of the share capital at any time, but not less than one half of the amount of the initial capital referred to in paragraph (1) of this Article.

(5) If there is an increase in the share capital of the Company as per paragraph (2) of this Article, the company shall be obliged to maintain the increased amount of the share capital at any time.

(6) The Company shall be obliged to maintain its own assets at any time in an amount not less than one half of the amount of the initial capital of the Company referred to in paragraph (1) of this Article.

(7) If there is an increase in the share capital of the Company as per paragraph (2) of this Article, the Company shall be obliged to maintain its own assets at any time in an amount not less than one half of the amount of the share capital referred to in paragraph (2) of this Article.

(8) The own funds from paragraphs (6) and (7) of this article of the Company shall consist of the initial capital, reserves, and other items, calculated according to the methodology prescribed by the Agency.

(9) The company shall be required to maintain the value of liquid assets at any time as a percentage of the initial capital of the company as referred to in paragraph (1) of this Article, i.e., the share capital as referred to in paragraph (2) of this Article.

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

Article 11

(1) The initial capital of the Company shall be contributed only in cash.

(2) The initial capital of the Company shall be paid in total before the registration of the 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 be obliged to notify the Agency of any change in the initial capital of the company within three days from the registration.

(4) The initial capital shall be deposited in an account opened in a bank or in a branch of a foreign bank authorized to operate on the territory of the Republic of Macedonia.

Article 12

(1) The initial capital of the Company may neither come from loans or credits nor may it be encumbered in any manner.

(2) The initial capital of the Company must derive from legal sources and be subject to tax according to the tax regulations of the Republic of Macedonia or to the regulations of the country where any foreign shareholder is established as a legal entity.

Article 13

(1) The Company shall immediately notify the Agency of any decrease in the initial capital, share capital, own funds, or liquid assets under the amounts determined in Article 10 of this Law.

(2) The Agency may revoke the approval for managing the mandatory pension fund of the Company if upon reduction of the initial capital, share capital, own funds, or liquid assets below the required amount, the Company fails to fulfil its obligation to increase them to the required amount within a period that may not be longer than 12 months.

Article 14

(1) Companies for managing mandatory pension funds can be established by domestic and foreign legal entities.

(2) The founders that may hold 51% of the initial capital of the Company shall be banks, insurance companies, companies for managing mandatory pension funds, and other financial institutions, as well as other legal entities which, directly or indirectly, hold more than 50% of the shares of such institutions. If there is no founder or founders who will own 51% of the initial capital of the company, then all founders shall meet this requirement.

(3) The same legal entity may be a shareholder only in one Company for managing mandatory pension funds.

(4) Affiliated legal entities may jointly be shareholders only in one Company for managing mandatory pension funds.

(5) If there shall be disruption of relations outlined in paragraphs (3) and (4) due to organizational or statutory changes or changes in the ownership or legal status of the legal entities referred to in the mentioned paragraphs, the legal entities shall make the necessary adjustments within six months.

Article 15

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

a) minimum capital of EUR 20,000,000 in MKD counter value at the middle exchange rate of the National Bank of the Republic of Macedonia on the date of application for a license;

b) a minimum of three years of existence;

c) continuous solvency in continuity in their work whether in the Republic of Macedonia or abroad;

d) permanent management team consisting of competent, expert, and experienced persons.

(2) If a foreign financial institution wants to become a founder, apart from the requirements referred to in paragraph (1) of this Article, it must have an investment-grade level rating by reputable international credit rating agencies for at least one year prior to that time.

(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 the Company shall require 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 person/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 30 days from the day of submission of the request referred to in paragraph (2) of this Article if the applicant fulfils the legal requirements for becoming a founder of a Company.

(4) The obligation referred to in paragraph (1) of this Article shall not apply to transactions of shares where after the transaction, the buyer or the affiliate person/entity to the buyer together would not hold more than 3% of the initial capital of the Company.

(5) In the event there are only two Companies for managing mandatory pension funds, one Company may not buy the other Company’s shares, and they may not merge, join, separate, or reorganize in any other way.

(6) In the event there are more than two Companies for managing mandatory pension funds, one Company may not buy another Company’s shares, except in cases where they merge or join.

Article 17

(1) The Company’s management board shall consist of a minimum of two members.

(2) The Company’s supervisory board shall consist of a minimum of four members.

(3) If the number of members of the management board is reduced below the number provided in paragraph (1) of this Article, the supervisory board shall appoint an acting member in the management board from among its members. During the period of being an acting member of the management board, the appointed acting member by the supervisory board may not participate in the decisions that are within the competence of the supervisory board. The acting member is subject to entry in the Central Registry.

(4) Any person who, apart from the requirements under the Law on Trade Companies, fulfils the following requirements may be appointed a member of the management board:

a) has a university degree;

b) has at least five-year professional experience in law, banking, accounting, insurance, asset management and investments, managing mandatory pension funds, or financial services, of which three-year experience in a managerial position;

c) has no pronounced misdemeanor sanction of prohibition to perform a profession, activity, or duty in the fields listed in point (b) of this paragraph;

d) has not been convicted of a crime in the field of finance and banking, and causing the bankruptcy of a legal entity, and

e) has a reputation that will ensure the safe and stable operation of the Company and the pension fund.

(5) The Agency ex officio shall provide information from the competent institutions in the Republic of Macedonia referred to in items c) and d) in paragraph (4) of this Article, and the foreigner shall provide such information from the competent institutions in the foreign country.

(6) in addition to the conditions from paragraph (4) of this Article, a member of the Company’s management board should additionally fulfil the following conditions:

a) to know the regulations in the field of fully funded pension insurance, and

b) to submit a work program for the Company and the pension fund from the scope of work.

(7) At least one of the members of the management board should have passed the exam for investment advisors or another relevant exam from a competent institution abroad.

(8) When selecting the members of the supervisory board, it shall be indicated which members are elected as independent members of the supervisory board.

(9) After receiving approval from the Agency, the members of the management board of the Company should be employed in the Company.

(10) The Agency shall regulate in more detail the manner and the procedure for the election of a member of the management board and the supervisory board of a pension company.

(11) The Agency shall annul or revoke the approval for a member of the management board or supervisory board when it shall determine that:

a) the decision to grant approval was made based on untrue and incorrect data;

b) in the period after the issuance of the approval receives documentary evidence that the member no longer meets the requirements of this Article and

c) the member violates the rules of good corporate governance, does not work following the submitted work program, does not implement the business policy of the Company and the pension fund, or otherwise endangers the interests of the pension fund members.

Article 18

(1) A member of the management board, supervisory board, and a person responsible for investment decisions, risk management, internal audit, individual accounts, marketing, control of agents, and calculation of programmed withdrawals, may not be a member of the management board or supervisory board or have a managerial position such as:

a) managerial position in another company for managing mandatory pension funds;

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

c) custodian in which the assets of the mandatory pension fund are kept;

d) any person who has the status of an affiliated person to the entities listed in points a), b) and c) of this paragraph.

(2) The prohibition referred to in paragraph (1) of this Article shall also apply to persons who are employed or related based on a service agreement to the entities listed in paragraph (1) of this Article.

(3) The person from paragraphs (1) and (2) of this Article shall be obliged to fulfil the conditions of this Article from the day when the person will be appointed as a member of the management board or supervisory board of the Company. The person shall not be obliged to fulfil these conditions at the time of applying for a license to establish a Company or requesting consent to serve as a member of the management board or supervisory board.

Article 18-a

1. A member of the management board, supervisory board, a person responsible for investment decisions, risk management, internal audit, individual accounts, marketing, control of agents, and calculation of programmed withdrawals, and a body of the company has a fiduciary duty to work only in favor of the interests of the members and retired members of the mandatory pension fund. This person should operate applying high standards of ethics and integrity and without conflict of interest, and ensure they are applied by every employee and person hired by the company.
2. A member of the management board, supervisory board, a person responsible for investment decisions, risk management, internal audit, individual accounts, marketing, control of agents, and calculation of programmed withdrawals should have adequate managerial and operational competence to perform the assigned duties and should always be informed of matters related to their scope of work.

Article 18-b

(1) The Company shall be obliged to establish effective control mechanisms that are documented in its internal acts in order to mitigate all risks that affect the interests of the members and retired members of the mandatory pension fund.

(2) The Company shall be obliged to establish a procedure and appoint persons to monitor and ensure the working process will be in compliance with the law, bylaws, and internal acts of the company.

Article 19

(1) The Company shall be liable to the mandatory pension fund members and retired members for the damages that result from unfulfillment, improper or negligent performance of duties and obligations given by this Law regarding the management and representation of a certain mandatory pension fund unless the poor and inadequate results are due to circumstances that were beyond the Company’s control and which could not be altered by the company even when exercising the highest degree of diligence.

(2) The damages referred to in paragraph (1) of this Article caused by unfulfillment, improper or negligent performance of tasks and obligations may not be covered from the mandatory pension fund assets.

(3) Delegating certain obligations to a third party shall not exempt the Company from liability.

Article 20

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

a) acquire or takeover any shares, securities, or participation units in other legal entities, including other Companies, except treasury bills and bonds issued by the Republic of Macedonia;

b) grant any loans and provide any guarantees or other sureties except as specified in this Law;

c) contract any loans or credits or issue bonds with a total value that exceeds a certain percentage of the value of its share capital, determined by the Agency or

d) buy or sell 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 Pension Fund’s assets would be realized under conditions harmful to the mandatory pension fund.

(2) Notwithstanding paragraph (1), item (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 to divest its shares in such entity within three months.

(3) If the Company intends to purchase shares in other entities according to paragraph (2) of this Article, the total capital for those purchases cumulated with the price that has been paid for all previous purchases of shares that a Company holds, cannot 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 for managing mandatory and voluntary pension funds must maintain complete, correct and up-to-date records for the individual account of each member and retired member of the mandatory pension fund, for their paid contributions, assets paid and transferred, the number of accounting units in the account and the value of the member’s account, and other matters determined by law.

(2) The Company or the Company for managing mandatory and voluntary pension funds shall keep archives, in accordance with the Law, all documents and other records related to the mandatory pension fund it manages, and in particular:

a) data on the members and retired members, and the former members and retired members, including full name and address, unique master citizen number, and the amount standing in the individual account when leaving the mandatory pension fund;

b) data on all assets bought and sold for the mandatory pension fund it manages, dates of the transactions, the identity of the other contractual party, and the amount paid.

(3) The Company or the Company for management of mandatory and voluntary pension funds shall be obliged to keep the records with all the data contained in the individual accounts and sub-accounts, based on the information on the situation from the last working day of each calendar year, and on an external media.

(4) All documents and other records must be kept for a period of 50 years.

(5) After the expiration of ten years of the creation of a document or record, it can only be stored as an electronic record.

(6) In case the Company or the Company for managing mandatory and voluntary pension funds ceases to manage a mandatory pension fund, it shall be obliged to act in compliance with the provisions of paragraphs (2) and (4) of this Article.

(7) The Agency shall prescribe the content and the manner of keeping, archiving, and storing the records from paragraphs (1) and (2) of this article.

(8) The person in charge of individual accounts shall be responsible for proper and timely keeping, archiving, and storing the records for the individual account of each member and a retired member of the mandatory pension fund following the provisions of this Article.

Article 21-a

(1) The Company shall be obliged to have a special organizational unit for internal audit managed by an internal auditor who is accountable for their work before the supervisory board of the Company.

(2) The organizational unit referred to in paragraph (1) of this Article shall conduct constant and complete inspections of the legality and timeliness of the operation of the company, especially the mandatory pension fund asset management through, but not limited to:

a) evaluation of the internal control systems adequacy and efficiency;

b) evaluation of the information system;

c) assessment of the accuracy and reliability of the financial statements of the Company and the mandatory pension fund;

d) inspecting the accuracy, reliability, and timeliness of reporting under the laws and bylaws in the relevant area;

e) monitoring the compliance with regulations, policies, and procedures for the area of operation of the Company, including risk management policies and the Company’s ethical code;

f) evaluation of anti-money laundering systems;

g) evaluation of the services that the Company receives from external associates;

h) assessment of the general efficiency of the Company;

i) evaluation of the payment process through programmed withdrawals, and

j) assessment of the risk management process

(3) The organizational unit from paragraph (1) of this article shall prepare an annual work plan for the following year, which must contain the subject of the audit with a description of the content of the planned audit in certain areas, and a schedule of inspections during the year with a planned duration of the inspections. The supervisory board of the Company shall approve the annual work plan and submit it to the Agency within 15 days from the day of its approval.

(4) The organizational unit referred to in paragraph (1) of this Article shall prepare a report on its operations for the previous year and submit it for adoption to the supervisory board of the Company, and at the same time submit it to the Agency no later than 31 March.

(5) The Company’s supervisory board shall submit the adopted report referred to in paragraph (4) of this Article to the Shareholders’ Assembly of the Company, and at the same time submit it to the Agency.

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

Article 21-b

(1) The Company shall be obliged to appoint a person responsible for the calculation of programmed withdrawals authorized actuary who is accountable for his work before the management board of the company.

(2) If the authorized actuary ceases to perform actuarial activities in the Company, the Company shall be obliged to inform the Agency within five days from the termination.

(3) The company shall be obliged to appoint a new authorized actuary within 30 days from the day of termination of the activities of the authorized actuary.

(4) The company must not appoint an authorized actuary who is affiliated with the company under this law.

(5) The authorized actuary shall be obliged to give instructions for calculations of the programmed withdrawals and to inspect whether the calculations made, and the used mortality tables and interest rates are calculated following the law and the bylaws prescribed by the Agency.

(6) The authorized actuary shall be obliged to inspect the liquidity of the mandatory pension fund.

(7) Every three months, the authorized actuary shall prepare a confirmation with an opinion on the undertaken actions from paragraphs (5) and (6) of this Article in a manner, content, and form prescribed by the Agency.

(8) The authorized actuary shall submit the confirmation with an opinion referred to in paragraph (7) of this Article to the management board of the Company.

(9) The authorized actuary shall prepare a report on their operation in the previous year and submit it for adoption to the supervisory board of the Company.

(10) If during the work process the authorized actuary determines that the programmed withdrawals are not calculated following the law and the bylaws prescribed by the Agency, the authorized actuary shall then be obliged to immediately inform the management board of the Company. If the management board does not take into account the authorized actuary’s notification, the authorized actuary shall be obliged to immediately inform the Agency.

Article 21-c

(1) The Company shall be obliged to establish risk management activities of the mandatory pension fund.

(2) The Company shall be obliged to appoint a person responsible for risk management who should have adequate qualifications to perform activities related to risk management and have no conflict of interest.

(3) The person from paragraph (2) of this Article should have access to the data in the Company. The person shall be obliged to provide an objective risk analysis and to properly advise the management board in the decision-making process taking all relevant risks into account.

(4) The person from paragraph (2) of this Article shall submit a report to the management board of the Company.

(5) The Company shall be obliged to submit the report referred to in paragraph (4) of this Article to the Agency at least once a year, i.e., immediately if it is determined that a serious threat has occurred to the interests of the members and the retired members.

Article 22

(1) The Company shall appoint an external authorized auditor with good references who cannot be an affiliated entity with the Company or Company’s shareholders, the foreign manager of funds, 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 obliged to publish an excerpt from the audited financial report with the opinion of 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 audit of the pension companies following the international standards.

Article 22-a

(1) Representatives of the Companies must participate in training courses in the field of fully funded pension insurance organized by the Agency.

(2) The agency shall prescribe the type and the manner of conducting the training courses.

Article 22-b

The Company shall be obliged to provide, maintain, record, archive, submit, publish accurate and up-to-date notices, data, information.

CHAPTER III

ESTABLISHMENT OF COMPANIES FOR MANAGING PENSION FUNDS,

ISSUANCE OF A LICENSE FOR ESTABLISHMENT

AND APPROVAL FOR PENSION FUND MANAGEMENT

Articles from 23 to 39 cease to apply based on Article 76 from

“Official Gazette of the Republic of Macedonia” No. 88/08

CHAPTER III а

ESTABLISHMENT OF COMPANIES FOR MANAGING MANDATORY PENSION FUNDS

Article 39-a

(1) A Company for managing mandatory pension funds shall be established based on a permit from the Agency and shall manage a mandatory pension fund based on approval for managing a mandatory pension fund.

(2) The Company can be registered in the Central Registry of the Republic of Macedonia only if it has the licence issued by the Agency under the conditions prescribed by this law.

(3) The Agency shall prescribe in detail the method and procedure for obtaining a licence for establishing and approval for managing a mandatory pension fund.

Article 39-b

(1) To get a licence for establishing a Company, the interested parties shall apply to the Agency with the documentation listed in Article 39-c of this Law, and a business plan containing the details about all fees and commissions that are going to be charged under 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 licence application for establishing a Company.

(2) The applications stipulated in paragraph (1) of this article shall be submitted signed by authorised signatories of the person or persons/entities which would establish the company in a form prescribed by the Agency. If several persons are interested in acting as a single applicant, the applications and the documentation shall be submitted jointly on behalf of all persons.

Article 39-c

(1) In addition to the applications stipulated in Article 39-b paragraph (1), the following documentation shall be submitted:

a) draft statute of the Company;

b) draft statute of the mandatory pension fund that the Company will manage;

c) draft contract with a custodian;

d) a statement signed by authorised signatories of all persons appearing as founders that if they are granted a licence, they will establish a company and a mandatory pension fund following this Law;

e) a list of founders and data about the affiliation of the legal entities and elaboration of the character of the connections;

f) for all entities that appear as 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 members of the boards of directors, and certified copies of the last three financial statements reviewed by an external authorised auditor, as well as any additional evidence necessary to confirm 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 basic capital of the Company have great experience in asset management;

h) proof of the origin of the funds that will be paid as the Company’s basic capital;

i) list of candidates for members of the management board and supervisory board of the Company, including statements that they agree to perform these duties in case they are granted a licence for establishing, and that they will meet all the conditions prescribed in this Law, including withdrawal from any position that may cause a conflict of interests and is banned with this Law, as well as a description of their expert qualifications and previous professional experience with recommendations;

j) data on the persons nominated to be in charge of investment decisions, risk management, internal audit, individual accounts, marketing, control of agents, and programmed withdrawals calculation;

k) revoked with the Decision of the Constitutional Court of the Republic of Macedonia No. 165/08 declared in the “Official Gazette of the Republic of Macedonia” No. 40/90;

l) plan of implementation of the Company and mandatory pension fund establishment, as well as an organisational plan of the company structure;

m) an informational prospectus about the mandatory pension fund and a mandatory pension fund investment strategy programme;

n) other documents prescribed by the Agency, and

o) a signed statement from the authorised signatories of all persons appearing as founders that after being granted approval to manage a mandatory pension fund, the Company shall enter the Electronic Listing System Centre (hereinafter: the Centre), following the Law on Payment of Pensions and Pension Benefits from Fully Funded Pension Insurance.

(2) After receiving 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 applications and the documentation, and for that purpose, it may:

a) Ask for information from the Office for Prevention of Money Laundering and Financing of Terrorism or a relevant institution abroad, and communicate with other relevant regulatory and supervisory bodies and institutions in the Republic of Macedonia and abroad, and

b) Collect documents and data from other sources.

Article 39-d

The Agency shall issue a licence for the establishment, and conditional approval for managing a mandatory pension fund to interested parties based on the documents and data referred to in Article 39-c of this Law, unless this is contrary to the interests of the contributors, who might join or become retired members in a future mandatory pension fund, which will be established following this Law and after evaluating whether the following conditions are met:

a) The documents and the received data confirm that if a licence is issued, the basic capital prescribed in this Law will be invested in the proposed Company;

b) The documents and the available data confirm that the applicants have the funds for that purpose;

c) The documents and the available data confirm that the applicants fulfil the conditions for founders stipulated in articles 14 and 15 of this Law;

d) The documents and the available data confirm that the persons nominated for members of the management board and supervisory board and the persons responsible for investment management fulfil the conditions prescribed in this Law;

e) The submitted documents as per Article 39-c of this Law contain provisions that will not endanger the interests of the mandatory pension fund members and retired members, or those documents are not missing provisions that provide sufficient protection of those interests;

f) The applicants have proved they have provided or will provide a timely conclusion of contracts for financial accounting and audit of the Company according to this Law;

g) The proposed title of the future Company or the future mandatory pension fund shall not mislead the members and the retired members of the fund, the future members or retired members, and any other person that might be in contact with the Company and the mandatory pension fund;

h) The company and the pension fund will operate in a manner that will be in accordance with the mandatory pension funds management standards and good business practices; and

i) the documents and data confirm that the future Company will not perform activities other than the ones it is authorised to perform based on this Law, and which are directly connected to pension fund management.

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) For the interested persons whose applications have been accepted, the Agency shall issue a licence for establishment and conditional approval for managing a mandatory pension fund.

(3) The interested persons that have been issued a licence for establishment and conditional approval for managing a mandatory pension fund are obligated to establish a Company according to the submitted documentation, based on the Law on Trade Companies and this Law. The Company has to be established within 90 days from the receipt of the licence, and the Agency may extend the deadline for not more than 90 days due to justified reasons.

(4) If the interested parties that have been issued a licence for establishment fail to establish a Company within the deadline prescribed in paragraph (3) of this Article, the Agency shall revoke the establishment licence after the expiration of the deadline.

Article 39-f

(1) For the interested parties who have not been issued a licence, the Agency shall issue a decision, elaborating the refusal. These decisions are accessible to the public.

(2) Against the decision referred to in paragraph (1) of this Article, the interested person may file a complaint to initiate an administrative dispute with 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 a certified copy of the Company’s statute, 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-d of this Law and other documents concerning the operations related with the mandatory pension fund prescribed by the Agency.

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

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

(4) The registration of the mandatory pension fund in the register of mandatory and voluntary pension funds shall have a legal effect on third persons the following day after the day of the registration in the register of mandatory and voluntary pension funds.

(5) Within 90 days after the validity of the approval for managing a mandatory pension fund as per paragraph (2) of this Article, the Company shall be obligated to enter the Centre following 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 licence for the establishment, approval for managing a mandatory pension fund, and before the registration in the Central Registry of the Republic of Macedonia.

Article 39-h

(1) All the changes of the shareholders, members of the management board and supervisory boards, authorised persons, or changes and additions to the documents and data stipulated in article 39-c of this Law shall be a subject to approval by the Agency, except if the changes are beyond the control of the Company, and it has undertaken all the necessary measures to prevent such changes. For the changes that took place beyond the control of the Company, it shall be obligated to inform the Agency.

(2) The Agency shall evaluate the changes as per paragraph (1) of this Article following the provisions for the fulfilment of the requirements referred to in Article 39-d of this Law.

(3) The Agency shall prescribe the manner and the procedure of granting the approval as per paragraph (1) of this Article.

Article 39-i

(1) The Agency may withdraw or revoke approval for managing a mandatory pension fund for the same reasons for which it refuses a request due to not submitting the documents referred to in Article 39-c of this Law, not meeting the requirements as per 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 for the management of mandatory and voluntary pension funds, a flagrant breach of the provisions of this Law and in other cases stipulated with this Law.

(2) Before withdrawing or revoking the approval for managing a mandatory pension fund, the Agency shall summon the Company and shall grant the opportunity to the Company to remove all illegalities and irregularities 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 the public interest.

(3) The Agency shall immediately inform the Company about the decision to withdraw or revoke the approval for managing a mandatory 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 withdrawal or revocation of the approval of the management of a mandatory pension fund stipulated in paragraph (1) of this article.

(6) After the revocation of the approval for managing the mandatory pension fund, the provisions for company liquidation listed in the Law on Trade Companies or the provisions of the Law on Bankruptcy shall apply accordingly to the Company that managed that fund.

Article 39-j

(1) The Company whose approval for managing a mandatory pension fund has been withdrawn based on Article 39-i of this Law shall continue operating under the Agency’s supervision in a way prescribed by the Agency.

(2) If a Company has its approval to manage a mandatory pension fund revoked, based on Article 39-i of this Law, for protection of the interests of the members and retired members of the mandatory pension funds, the Agency shall take over the management and administration of that mandatory pension fund until the fulfilment of the requirements referred to in paragraph (3) of this Article, in a manner prescribed by the Agency.

(3) When the decision for revocation of the approval becomes final and in case there are at least two 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 (6) of this Law, in a manner prescribed by the Agency.

Article 39-k

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

Article 39-l

(1) By merger of two Companies referred to in Article 39-k of this Law, a new Company shall be established.

(2) The new Company shall be established based on a license issued by the Agency, and after the establishment, the Agency will give its approval to manage a mandatory pension fund.

(3) To get a licence to establish the new Company for mandatory pension funds management, the existing Companies shall submit a request to the Agency including the documentation listed in paragraph (5) of this Article, and a business plan that shall contain details concerning all the fees and commissions that shall be charged according to this Law. The application for approval to manage a mandatory pension fund and the application for registration of a 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.

(4) The requests from paragraph (3) of this Article shall be submitted signed by authorised signatories of the existing Companies for managing mandatory pension funds who appear as founders of the new Company. The forms and contents of the requests shall be prescribed by the Agency.

(5) In addition to the requests referred to in paragraph (3) of this Article, the Companies for management of mandatory pension funds shall submit the following documents:

a) merger decisions by the competent bodies of each company on the merger;

b) merger agreement of the Companies;

c) an organisational and financial plan for the implementation of the new Company;

d) name of the new Company and the new mandatory pension fund;

e) information on whether the shareholders are affiliated entities;

f) documents presenting the financial situation of the shareholders of each company, for all the years since their existence, particularly for the five years before the date of the submitted application, including documents confirming that none of the shareholders is in tax and social insurance contribution arrears;

g) a revised information prospectus of the new mandatory pension fund;

h) draft statute of the new mandatory pension fund stating the planned fees;

i) a draft contract with the custodian for the new mandatory pension fund and details on the termination of the existing contracts;

j) names of the nominated members of the management board and supervisory boards, and in the event those persons do not serve in the merging companies, the information in Article 39-c paragraph (1) item i) of this Law;

k) data on the persons that are proposed to be in charge of investment decisions, risk management, internal audit, individual accounts, marketing, control of agents, and calculation of programmed withdrawals;

l) an investment strategy programme of the new mandatory pension fund;

m) signed statements from the authorised signatories of the merging companies that after being granted the approval to manage a mandatory pension fund, the Company shall enter the Centre, following the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance, and

n) other documents prescribed by the Agency.

(6) The Agency shall grant a licence for the establishment of a new Company for management of mandatory pension funds and approval to manage a mandatory pension fund based on the documents from paragraph (5) of this Article and fulfilling the requirements of this Law.

(7) After the approval for managing a mandatory pension fund becomes valid, the Agency shall register the mandatory pension fund in the register of mandatory and voluntary pension funds and assign an identification number.

(8) The registration of the mandatory pension fund in the register of mandatory and voluntary pension funds shall have a legal effect on third persons the following day after the day of the registration in the register of mandatory and voluntary pension funds.

(9) The new company for managing mandatory pension funds shall be a legal successor of the two companies for managing mandatory pension funds that established the new company.

(10) The Agency shall prescribe in detail the manner of merging the companies as referred to in Article 39-k of this Law, and the mandatory pension funds as referred to in Article 39-n of this Law.

Article 39-m

The Agency may refuse to approve a merger of Companies managing mandatory pension funds if:

a) the request and the documentation do 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) the documents attached to the application or other information indicate that either of the merging Companies is in tax and social insurance contribution arrears within the five-year period before the date of applying;

c) the shares of either company come from a loan, credit, or are in any way encumbered;

d) the business activities of the applicants 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 those mandatory pension funds, and one mandatory pension fund shall be established.

(2) After the merger of the mandatory pension funds referred to in paragraph (1) of this Article, the new mandatory pension fund shall undertake the rights and responsibilities of the merged mandatory pension funds.

Article 39-o

Before the merger of the Companies referred to in Article 39-k of this Law takes place, the Companies shall inform in writing all members and retired members of the mandatory pension funds of the merger decision. After the merger, the new Company for managing mandatory pension funds shall inform all members of the mandatory pension funds on the title of the Company, the title of the new mandatory pension fund and shall provide them with a copy of the information prospectus, the statute of the new Company and the statute of the new mandatory pension fund.

Article 39-p

(1) A company for the management of mandatory pension funds may merge only with a company for the management of mandatory pension funds.

(2) In cases of merging of one Company to another Company referred to in paragraph (1) of this Article, the mandatory pension fund managed by the merging company shall be merged with the mandatory pension fund managed by the company it is being merged to.

(3) Before the merger of the mandatory pension funds, the Company to which the merging is taking place shall inform in writing all members and retired members of the mandatory pension funds.

(4) With the merging of one mandatory pension fund to another, all members, retired members, and individual accounts from the joining mandatory pension fund shall be transferred to the mandatory pension fund to which they are merging.

(5) The Agency shall prescribe in detail the manner of merging of the Companies and the mandatory pension funds.

CHAPTER IV

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 consists of contributions and assets of members, assets of retired members, and the return on invested contributions and assets, reduced by 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 the assets of the Company that manages that fund.

Article 41

A mandatory pension fund is managed by a Company or a Company managing mandatory and voluntary pension funds, which shall present and represent the mandatory pension fund before third parties.

Article 42

The headquarters of the mandatory pension fund is at the headquarters of the Company that manages that mandatory pension fund.

Article 43

(1) The name of every mandatory pension fund must contain the words “Open-end mandatory pension fund”.

(2) The registered name of a mandatory pension fund may not contain the word “Macedonia” or any abbreviation or any word that is derivated from that word.

Article 44

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

Article 45

(1) The mandatory pension fund’s statute shall contain:

a) data on the basic principles and special limitations on investment other than those regulated by 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 fund;

c) the deductions from the mandatory pension fund assets in order to pay the fees of the company or the company managing mandatory and voluntary pension funds;

d) details about the mandatory pension fund accounting;

e) the manner of informing the members and retired members of the mandatory pension fund and the daily newspaper in which the information prospectus of the mandatory pension fund is published;

f) data on the manner of calculating and paying out the programmed withdrawals, and

g) other data of importance to the mandatory pension fund.

(2) the Agency approves the statute of the mandatory pension fund and its every amendment.

CHAPTER V

AGENCY FOR SUPERVISION OF FULLY FUNDED PENSION INSURANCE

Article 46

(1) The Agency is an autonomous and independent regulatory body.

(2) The Agency has a status of a legal entity with public authorisations prescribed in this Law and is registered in the Central Registry of the Republic of Macedonia.

(3) The Council of Experts is the body of the Agency.

(4) The Agency has a statute.

(5) The Headquarters of the Agency is located in Skopje.

(6) The Agency is accountable for its work before the Assembly 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) perform activities of collecting applications for the establishment of pension companies, issuing, withdrawing and cancelling licences for the establishment of pension companies, issuing licences for activity - management of voluntary pension funds, licences for activity - management of mandatory pension funds, and issuing, withdrawing or revoking approvals for management of mandatory and/or voluntary pension funds;

b) supervise the operations of the pension companies and pension funds they manage, especially controlling the legality of their operations;

c) supervise the operations of the legal entities that are custodians of the mandatory and/or voluntary pension funds assets and the foreign asset managers of the mandatory and/or voluntary pension fund regarding the operations with those assets;

d) promotes, organises, and encourages the development of the fully funded pension insurance in the Republic of Macedonia in cooperation with the Ministry of Labour and Social Policy;

e) develops the public awareness of the goals and principles of the pension companies and the mandatory and voluntary pension funds, on the benefits from the membership in a mandatory and/or voluntary pension fund, including the goals, principles, and benefits from participating in an occupational pension 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) proposes initiating misdemeanour and criminal procedures before competent authorities against the pension companies, custodians of mandatory and/or voluntary pension funds, foreign asset managers, and other entities in cases of violation of 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 register of agents, register of members, register of retired members of mandatory pension funds, and register of mandatory and voluntary pension funds;

i) to provide efficient supervision and regulation of the fully funded pension insurance and financial sector, it cooperates with the Ministry of Finance, the National Bank of the Republic of Macedonia, the Securities and Exchange 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 in detail by the Agency with the competent authorities and institutions;

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

k) processes the personal data following the regulations for personal data protection;

l) requires and gives personal data for their utilisation in accordance with the regulations for data protection;

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

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

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

p) acquires membership and participates in national and international organisations when such participation is in the interest of the Macedonian pension system, and

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

(2) the acts and regulations issued by the Agency based on this Law are published in the “Official Gazette of the Republic of Macedonia”.

Article 48

The Agency shall have an active procedural legitimacy and shall be authorised to participate directly or indirectly in any procedure initiated against the pension companies and another person/entity or persons/entities legally affiliated to the pension companies when such action is necessary for the protection of the interests of the members and retired members of the mandatory and/or voluntary pension funds.

Article 49

(1) Members, retired members or former members of mandatory and/or voluntary pension funds may submit complaints to the Agency against the pension companies on actions and activities undertaken by the pension companies, which actions and activities are not in accordance with 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 other persons/entities with which those pension funds and pension companies had had contractual or business relations, in cases when such member or retired member finds that their interests are harmed as a result of breaching this Law or the Law on Voluntary Fully Funded Pension Insurance by such person/entity 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 shall not harm the interests of the person that filed the complaint.

(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 has five members, of which one is the President.

(2) The President of the Council of Experts shall manage the Agency and represents it before third persons.

(3) The President and the four members of the Council of Experts of the Agency shall be appointed and dismissed by the Assembly of the Republic of Macedonia upon a proposal from the Government of the Republic of Macedonia.

(4) The mandate of the Council of Experts members shall be 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 the current members, those members shall continue to perform their functions after their mandates expire, but not longer than 6 months.

(6) The members of the Council of Experts may be dismissed by the Assembly of the Republic of Macedonia before their mandates expire only in case of fulfilling at least one of the conditions of Article 51 paragraph (3) of this Law. In case a member of the Council of Experts is dismissed before the expiry of that member’s mandate, that member shall be replaced by another person appointed until the expiry of the mandate.

(7) The President and two members of the Council of Experts, appointed by the Assembly of the Republic of Macedonia based on the proposition by the Government of the Republic of Macedonia as per paragraph (3) of this Article, 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 compensations apart from the salary as per the general legislation on labour relations, as well as compensations 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 of the Agency:

a) the person is a citizen of the Republic of Macedonia;

b) there is no final court verdict for a fine or criminal sanction prohibiting such person to perform any kind of professional, activity or duty at the moment of appointment;

c) 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) is an expert in the field 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 recognised 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.

(2) A person may not be elected as a member of the Council of Experts of the Agency if the person:

a) has been sanctioned for a misdemeanour with a prohibition to perform a profession, activity, or duty;

b) has been sanctioned with imprisonment for a criminal act against public finances, payment operations and economy, against professional duty, or legal transactions;

c) is an official managing a state body or a state administration body;

d) is a member of a managing body, supervisory body, or a person employed in a pension company, a person who is a founder of a pension company or another legal entity supervised by the Agency;

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

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

(3) The Assembly of the Republic of Macedonia, upon a proposal from the Government of the Republic of Macedonia, may dismiss the President of the Council of Experts before the expiry of the President’s mandate, in the following cases:

a) upon the President’s requests;

b) when the President is deprived of legal capacity;

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

d) if the President does not justify the absence from 3 consecutive meetings of the Council or did not justify the absence from a total of five meetings of the Council in one year;

e) if the President flagrantly neglects duties;

f) if the President has a long-lasting illness preventing the performance of the presidential duties and

g) ) if the President ceases to meet the requirements as of paragraphs (2) and (4) of this Article.

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

(5) It shall be 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 authorisations 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 any other legal entities supervised by the Agency and they must not perform any individual tasks for those entities.

(7) The President 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 compensations 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 legal entity supervised by the Agency.

Article 52

(1) During their engagement in the Agency, the President and the members of the Council of Experts who are professionally engaged full time in the Agency, and the employees of the Agency shall be entitled to salaries and other compensations under 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 shall be entitled to a monthly compensation and compensation of other costs, determined by the Statute and other acts of the Agency.

(3) The maximum salary of the President 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 Statistical Office. The maximum amount of the monthly compensation 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 President, the members of the Council of Experts, and the employees of the Agency shall have the right to perform expert and scientific work and they may participate in the work of expert or scientific associations.

(5) Except for the President and the members of the Council of Experts, the employees of the Agency who perform administrative duties shall have the status of administrative servants.

(6) For issues related to the labor relations of the administrative servants of the Agency that are not regulated by this Law or a collective agreement, the provisions of the Law on Administrative Servants shall apply.

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

(8) For the logistics and technical staff of the Agency, the general labor regulations shall apply.

(9) The method of determining the basic salary and salary supplements for the employees of the Agency shall be regulated by a collective agreement, and the unit value of the basic salary shall be determined by the Council of Experts.

Article 52-a

(1) The Council of Experts shall have the following competence:

a) adopts the statute of the Agency;

b) adopts the Rules of Procedure of the Council of Experts following this Law and the Statute of the Agency;

c) adopts an act on the internal organisation and systematisation of jobs of the Agency;

d) adopts a financial plan and financial reports;

e) adopts the annual work programme 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 the salaries and monthly compensation of the President and the members of the Council of Experts;

h) decides on the amounts of the salaries of employees of the Agency;

i) evaluates the performance of the employees of the Agency once a year, based on the continuous monitoring of their performance;

j) passes acts on the rights of the employees arising from the labour relations;

k) grants, withdraws, and cancels licences for the establishment of pension companies, grants licences for performing an activity - management of voluntary pension funds, grants licences for performing an activity - management of mandatory pension funds, and grants, withdraws and cancels approvals for managing mandatory and/or voluntary pension funds;

l) grants approvals and consent upon request from pension companies and based on the law;

m) passes acts for enforcement of this law and other laws under its jurisdiction;

n) organises and provides lawful performance of the activities within the scope of the Agency, and

o) creates policies and strategies in the area of human resource management in the Agency;

p) adopts 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 by law and the Statute of the Agency.

(2) The Council of Experts deliberates at meetings.

(3) The Council of Experts may decide on matters under its jurisdiction only when the majority of the members are present at the meeting.

(4) The decisions of the Council of Experts shall be considered to be adopted when a majority of the present members have voted in favour, and the President 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 and initiating an administrative dispute before the competent court. Such appeal shall not delay the execution of the decision.

(6) Notwithstanding paragraph (5) of this Article, against a decision of the Council of Experts on the matters related to labour relations, the authority in charge shall be the State Commission for Decision-Making in Administrative Procedure and Employment Procedure in Second Instance.

Article 53

(1) ) In order to perform its duties, the Agency shall be authorised 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 the foreign manager of the mandatory and/or voluntary pension funds;

c) receive for review all the documents and electronic records of the insurer on the method of organisation and financing of the professional pension scheme;

d) receive all documents and electronic records of the Centre, as well as information from its director regarding the activities of the Centre;

e) receive information from members of boards of directors and supervisory boards and other employees of the entities referred to in items 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 listed in items d) and e) of this paragraph.

(2) The President of the Council of Experts may authorise a person to enter the premises of:

a) a pension company for, the purposes of inspection and review of the legality of the operations of that pension company and of the pension fund it manages, and inspection of the implementation of the statute and the other acts of that company;

b) a custodian and a foreign asset manager, for the purposes of review and inspection of the legality of the operations and the implementation of the contracts signed with the respective pension company; and

c) an insurer, for the purposes of inspection and review of the legality of the organisation and financing of the occupational pension scheme

d) the Centre, in order to review and inspect the legality of its operations.

(3) To the person authorised to inspect, the pension company, custodian, foreign asset manager, and the insurer shall be obligated to present all the books, documents, and other records regarding the pension company operations, the pension fund managed by that company, foreign asset manager, custodian, as well as the organisation and financing of the professional pension scheme.

(4) The type and the scope of the inspection shall be determined by a decision for inspection, passed by the President of the Council of Experts.

(5) The person authorised to perform the inspections shall prepare a report and submits it to the Agency. In case the Agency discovers illegalities in the operation and the bookkeeping, the Agency shall issue a decision ordering the pension company, the custodian, the foreign asset manager, the Centre, or the insurer to remove such illegalities within a given deadline.

(6) The Agency shall prescribe in detail the method of conducting the inspection in the pension companies.

53-a

(1) If the person authorised for inspection discovers that there is a first-time irregularity as per Article 21-a paragraphs (3), (4) and (5), Article 75 paragraph (4), Article 77 paragraph (7), and Article 96 of this Law, the authorised person shall be obliged to prepare a report in which to determine the committed irregularity, instructing the removal of such irregularity within 15 days from such instruction and, at the same time delivering an invitation for the education of the person or the entity where the irregularity was discovered.

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

(3) The education shall be organised and conducted by the Agency not later than 8 days from the day of the inspection.

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

(5) In case the person or the entity that should be educated does not attend the agreed appointment for education, it shall be considered that the education was conducted.

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

(7) If during the inspection the person authorised for inspection determines that the irregularities from paragraph (1) of this Article were removed, the person authorised for inspection shall conclude and stop the inspection.

(8) If during the inspection the person authorised for inspection determines that the irregularities as of paragraph (1) of this Article have not been removed, the authorised person shall initiate a misdemeanour procedure before the competent body.

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

53-b

(1) As per Article 53 paragraph (5) of this Law, the pension company, the custodian, the foreign asset manager, the Centre, or the insurer shall be obliged to remove the illegalities by the given deadline and notify the Agency of the removal or correction of such illegalities, and submit evidence of such removal or correction. If the pension company does not remove the illegalities, the Agency may revoke its approval for managing mandatory and/or voluntary pension funds.

(2) If upon inspecting the pension company’s operations and the management with the mandatory and/or voluntary pension funds the Agency discovers operations or acts punishable by law, the President of the Council of Experts or a person authorised by the President shall submit a report for initiation of a procedure before the competent body.

Article 53-c

(1) The Agency shall undertake measures and set deadlines for their implementations when a pension company, a custodian, a managing or supervisory body, or a responsible person of a pension company does not abide by the regulation and/or internal acts that regulate the operations of the pension company and the management of the pension fund assets.

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

a) the first group is education, training, recommendation, reprimand, and warning;

b) the second group is passing a decision for removal of illegality, settlement, and initiating a misdemeanor procedure and

c) the third group is revocation of the approval of the member of the management board and 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 of occurrence of such illegal act and/or irregularity, i.e., the risk of their occurrence, as well as their influence on the stability and safety of the pension companies, pension funds, and the pension system as a 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 irregularity had been deliberate and reoccurring, and

d) the readiness of the pension company’s bodies to remove the discovered illegalities and/or irregularities.

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. The report shall include data about the fully funded pension insurance, an 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) The Agency shall submit a report on its operations in the previous year to the Assembly of the Republic of Macedonia by 30 June of the current year.

Article 55

(1) The President 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 while performing functions or authorisations as per this Law, and which are classified as confidential under the law. The information should be kept confidential for five years after the termination of such function or authorisation, or after the termination of the employment with the Agency.

(2) The obligation to information confidentiality shall not apply in cases in which that information is disclosed based on authorisation determined by this Law and by a final court decision.

(3) The obligation to information confidentiality from paragraph (1) of this Article shall not apply in cases when the disclosure of the information is on the part of the Agency:

a) based on a written request by the Ministry of Labour and Social Policy or other person/entity authorised by the minister when that request is necessary for performing their official duties;

b) based on a written request by a domestic or international authority or organisation for the purpose of providing help to those bodies in the performance of their functions, if similar to the functions of the Agency;

c) in a form of conclusory information regarding the mandatory and/or voluntary pension funds or pension companies, provided that such information is prepared by authorised persons following this Law, and such conclusion is prepared in a manner that does not enable the disclosure of data on members and retired members of the mandatory and/or voluntary pension fund, the pension company operations, the custodian, the Centre or the asset manager, and

d) based on written permission from the pension company, the member, or the retired member to whom the data refer.

Article 56

(1) By 31 December of the current year the Agency shall submit a financial plan for the following year to the Assembly of the Republic of Macedonia for adoption. Not later than 30 June of the current year, the Agency shall submit to the Assembly of the Republic of Macedonia the financial reports for the previous year, audited by an external authorised auditor following the international auditing standards.

(2) The funds necessary for the salaries, monthly compensation, and other compensations for the President, the members of the Council of Experts, and the employees of the Agency shall be provided from the assets of the Agency as determined by the annual financial plan.

(3) Under this Law, the operation of the Agency 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 application forms and documentation in addition to the licence for establishment of a company and approval for management of a pension fund;

c) fee for a licence for establishment of a pension company, licence for activity-management of voluntary pension funds, licence 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 organising exams;

f) fee for registration in the register of agents, which may not exceed the administrative costs of that registration;

g) fee for performing services and

h) other fees determined by the Agency.

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

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

(6) Audit of the Agency’s operations shall be performed by an external authorised auditor.

Article 56-a

(1) If the Agency during the previous year has realised excess income over expenditure, the realised surplus assets shall be distributed in the reserve fund of the Agency in the amount determined by the financial plan of the Agency.

(2) The assets realised from the excess income over expenditure distributed in the Agency reserve fund shall be used for:

a) promoting, organising, and encouraging the development of fully funded pension insurance in the Republic of Macedonia;

b) developing/upgrading the business processes and information system related to the membership in the mandatory and voluntary pension funds and the payment of pension and pension fees from fully funded pension insurance, and

c) covering the shortage of assets if during the previous business year the Agency incurs more expenses relative to the realised incomes.

(3) The assets realised from the excess income over expenditure distributed in the reserve fund of the Agency shall be kept in a special purpose account in a commercial bank in the Republic of Macedonia.

Article 56-b is repealed

(Article 5 of the “Official Gazette of the Republic of Macedonia” No. 245/2018)

Article 57

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

CHAPTER VI

MANDATORY PENSION FUND MEMBERSHIP AND PAYMENT OF CONTRIBUTIONS

Article 58

(1) The contributors who become subject to mandatory pension and disability insurance for the first time after 1 January 2019 and are under the age of 40 on the date of entry, as per Article 118 of the Law on Pension and Disability Insurance shall be obliged to join and pay contributions to a mandatory pension fund of their own choice as long as they shall remain insured in the mandatory pension and disability insurance.

(2) The contributors mentioned in paragraph (1) 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) A member of a mandatory pension fund may freely transfer and join another mandatory pension fund.

(4) The Agency shall be obliged to inform the citizens about the categories of contributors who are obliged to join a mandatory pension fund, the factors which should be taken into consideration when choosing a mandatory pension fund, and the conclusion of a membership contract with a Company that manages a mandatory pension fund.

(5) The contributions of the contributors who have not joined a mandatory pension fund within the deadline determined in paragraph (2) of this Article will be held in the separate accounts in the mandatory pension funds in which they are temporarily allocated following the paragraph (6) of this Article, until the moment when the contributor joins a mandatory pension fund.

(6) The Pension and Disability Insurance Fund of Macedonia shall temporarily allocate the contributors referred to in paragraph (5) of this Article to a mandatory pension fund from the moment of their entrance to the mandatory pension and disability insurance.

(7) When distributing the contributors to the mandatory pension funds under paragraph (6) of this Article, the Agency shall ensure that the number of contributors distributed in each mandatory pension fund is determined according to the return of the mandatory pension fund and the fee referred to in Article 98 paragraph (1) item a) of this Law charged by the company that manages that mandatory pension fund, on the date determined by the Agency.

(8) The contributors from paragraph (1) of this Article who have not signed a membership contract within three months from the day of entering the mandatory pension and disability insurance, after the expiration of this period shall become members of the mandatory pension fund to which they have been allocated following paragraphs (6) and (7) of this Article.

(9) The Agency shall stipulate the manner of allocation of the contributors to mandatory pension funds referred to in paragraphs (6) and (7) of this Article.

Article 58-a

(1) A mandatory pension fund member who has completed an extended period of insurance that allows lowering the age limit for acquiring the right to old-age pension for at least one year as per Article 118 paragraph (3) of the Law on Pension and Disability Insurance, may choose to continue the membership in the second pension pillar with a written statement for extension of the membership in the mandatory pension fund within three months from the completion of the insurance period.

(2) If the mandatory pension fund member does not give a written statement for extension of the membership in the mandatory pension fund within the period from paragraph (1) of this Article, after the expiration of this period, this member’s mandatory pension fund membership shall be terminated.

(3) Upon termination as per paragraph (2) of this Article, the Company shall transfer the total amount of funds from the member’s individual account to the Pension and Disability Insurance Fund of the Republic of North Macedonia, in a manner prescribed by the Agency. After the transfer of funds, the company shall close the member’s individual account.

Article 59

(1) A contributor shall become a member of a mandatory pension fund by signing a membership contract with the Company managing that mandatory pension fund. In addition to the membership contract, the Company shall be obligated to provide the contributor with a document for cancellation of the contract.

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

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

(4) In cases 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, this member shall have the right of one-sided termination 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 cases, 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 shall establishe 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 the assets may be transferred from one mandatory pension fund to another (transfer date). A transfer date must be an evaluation date. A contributor may only become a member of a mandatory pension fund on those dates.

(7) A Company or a company managing mandatory or voluntary pension funds may not deny a contributor a membership in the mandatory pension fund it manages unless the contributor does not meet the conditions specified in the Law on Pension and Disability Insurance.

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

(9) The Agency may specify the conditions under which once a Company or a company for the management of mandatory and voluntary pension funds as per Article 7 of this Law may manage more than one mandatory pension fund, a contributor, notwithstanding paragraph (8) of this Article, may become a member of more than one mandatory pension fund of the mandatory funds managed by the same Company.

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

Article 60

(1) The pension and disability insurance contributions payment shall be made under the Law on Mandatory Social Insurance Contributions.

(2) The Pension and Disability Insurance Fund of Macedonia shall transfer the 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 contributions, provided that appropriate data has been received in the same period following the law, enabling the Pension and Disability Insurance Fund of Macedonia to fulfil that obligation.

(3) If the Pension and Disability Insurance Fund of Macedonia does not transfer the contributions of the mandatory pension funds members to the accounts of the selected mandatory pension funds immediately, and no later than five working days from the day of receiving the contributions due to lack of appropriate data, the Pension and Disability Insurance Fund of Macedonia shall be obliged within a period not longer than three months from the day of receiving the contributions to acquire the appropriate data and to transfer the contributions of the mandatory pension funds members to the accounts of the selected mandatory pension funds with the custodian.

(4) When transferring the contributions after the expiration of the deadline referred to in paragraph (3) of this Article, the Pension and Disability Insurance Fund of Macedonia shall be obliged, upon transferring the contributions, to pay a fee for the untimely transfer of the contributions.

(5) If the Pension and Disability Insurance Fund of Macedonia fails to distribute the contributors referred to in Article 58 paragraph (1) of this Law to the mandatory pension funds immediately, but no later than three months after they acceded to the mandatory pension and disability insurance, upon distributing the contributors in the mandatory pension funds and transferring the contributions, the Pension Fund and disability insurance of Macedonia shall be obliged to also pay the fee for the untimely transfer of the contributions.

(6) If the Pension and Disability Insurance Fund of Macedonia makes an incorrect transfer of the contribution to the mandatory pension fund, on the first following date of the transfer after the day of receiving the notification for the incorrectly transferred contribution from the Pension and Disability Insurance Fund of Macedonia, the Company shall transfer the incorrectly transferred contribution to the Pension and Disability Insurance Fund of Macedonia.

(7) The assets for mandatory fully funded pension insurance realised on the basis of untimely and incomplete payment of contribution shall be transferred to the individual account of the member of the mandatory pension fund.

(8) The Agency shall prescribe the manner of transfer of the contributions referred to in paragraphs (3) and (6) of this Article and the manner of calculation and payment of the fee referred to in paragraphs (4) and (5) of this Article.

Article 61

(1) A member of a mandatory pension fund can transfer and join another mandatory pension fund.

(2) A member who has an individual account in a mandatory pension fund (current 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 that manages the future mandatory pension fund. as per Article 59 of this Law, signing a statement for consent for the transfer and payment of compensation as per Article 98 paragraph (1) item c) of this Law.

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

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

(5) The Agency shall prescribe the content of the agreement for transfer to a mandatory pension fund and the statement of consent for the transfer to a mandatory pension fund.

Article 62 is repealed

(Article 8 of “Official Gazette of the Republic of Macedonia” No. 245/2018)

Article 63

(1) In case of transfer of the member from one to another mandatory pension fund as per 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 date of transfer.

(2) The Assets which are subject to transfer shall consist of the amount standing in the account of the member of the mandatory pension fund on the date of the transfer.

(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, and the contributions that member has paid into the mandatory pension funds where the member had membership 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 as per paragraph (3) of this Article.

Article 64

If a Member of one mandatory pension fund ceases to pay the contributions to the mandatory pension fund before retirement, the member 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, as per Article 63 of this Law.

Article 64-a

(1) The Agency may annul the registration of a mandatory pension fund member in the register of members in the following cases:

a) the registration has been made based on incorrect data;

b) upon court decision or

c) in other cases that are not in accordance with the law.

(2) The Agency may annul the registration of a retired mandatory pension fund member in the register of retired members in the following cases:

a) the registration has been made based on incorrect data;

b) upon court decision or

c) in other cases which are not in accordance with the regulations for pension and disability insurance and the fully funded pension insurance.

(3) When a contributor is wrongly distributed in a mandatory pension fund by the Pension and Disability Insurance Fund of Macedonia, on the first following transfer date after the day of receiving the notification for the incorrect distribution from the Pension and Disability Insurance Fund of Macedonia, the Company shall transfer the total amount of assets from the account of the incorrectly allocated contributor to the Pension and Disability Insurance Fund of Macedonia. After the transfer of the assets, the Company shall close the member’s individual account.

(4) The Agency shall prescribe the manner of transfer of assets referred to in paragraph (3) of this Article.

Article 65

(1) When a member of a mandatory pension fund acquires the right to a disability pension, according to Article 122 of the Law on Pension and Disability Insurance, the Pension and Disability Insurance Fund of Macedonia, through the Agency, will immediately inform the Company managing the pension fund that the member has acquired the right to a disability pension. On the first following transfer date after the day of receiving the information, the Company shall be obliged 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 as per 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 to the Pension and Disability Insurance Fund of Macedonia. After the transfer of assets is made, the Company shall close the member’s individual account.

(3) The provisions from paragraphs (1) and (2) of this Article shall also be accordingly applied to the temporarily allocated contributors from Article 58 paragraph (5) of this Law.

(4) Notwithstanding the paragraph (1) of this Article, when a member or a temporarily allocated contributor acquires the right to a temporary disability pension as per Article 130 of the Law on Pension and Disability Insurance, the temporary disability pension payment shall be made by the Pension and Disability Insurance Fund of Macedonia, and the assets of the member’s individual account remain in the mandatory pension fund until the member acquires the right to an old-age, disability of family pension.

Article 66

(1) In the case of death of a mandatory pension fund member whose family members have a right to a survivor’s pension under 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. On the first following transfer date after the date of receiving the notification, the Company shall transfer the total amount of assets standing in the account of the deceased member to the Pension and Disability Insurance Fund of Macedonia, except in the cases determined in Article 91 of this Law.

(2) On the date of transfer of assets as per 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 mandatory pension fund member has no family members entitled to a survivor’s pension under the Law on Pension and Disability Insurance, the assets on that member’s account shall form part of the member’s estate and will be managed following the Law on Inheritance. Until then, the member’s account will remain open and those assets shall be converted into accounting units and invested by the Company in the same way as the other mandatory pension fund assets. 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 be also accordingly applied to the temporarily allocated contributors from Article 58 paragraph (5) of this Law.

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

Article 66-a

(1) The total assets in the account of the mandatory pension fund member whose membership is cancelled due to the change of the basis of insurance as per Article 118 paragraph (4) of the Law on Pension and Disability Insurance shall be transferred to the Pension and Disability Fund of Macedonia after expiration of the 90 days period from the change of the basis of insurance of the mandatory pension fund member.

(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 in the account of the mandatory pension fund member shall be part of the member’s personal property. The rights to using and handling those assets may not be exercised until the day of the member’s retirement, death, or disability under this Law.

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

(3) The assets standing in 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. The legal activities related to this paragraph shall be null and void.

(4) The provisions of paragraphs (1), (2), and (3) of this Article shall also apply accordingly to the assets in the individual sub-account on the separate account in the mandatory pension fund referred to in Article 68 paragraph (2) of this Law, as well as the assets in the individual account of a retired member.

Article 68

(1) The contributions for which the Pension and Disability Insurance Fund of Macedonia cannot determine to whom they belong shall be kept in an unidentified account in the Pension and Disability Insurance Fund of Macedonia until the ownership of the assets is determined. The contributions paid to the Pension and Disability Insurance Fund of Macedonia for which there are inconsistencies with the accompanying data shall be kept in the unallocated account with individual sub-accounts in the Pension and Disability Insurance Fund of Macedonia.

(2) The Pension and Disability Insurance Fund of Macedonia shall be obliged within a period not longer than three months from the day of receiving the contributions to obtain appropriate data and to transfer the contributions of the members of the mandatory pension funds to the accounts of the selected mandatory pension funds with the custodian of the property.

(3) When transferring the contributions after the expiration of the deadline referred to in paragraph (2) of this Article, the Pension and Disability Insurance Fund of Macedonia shall be obliged, when transferring the contributions, to pay a fee for the untimely transfer of the contributions.

(4) The separate account in the mandatory pension fund shall consist of individual sub-accounts for each insuree and the assets in this account shall come from contributions as per paragraph (5) of Article 58 of this Law. These assets shall be converted into accounting units and invested by the Company or the company for managing mandatory and voluntary pension funds in the same manner as the other assets of the mandatory pension fund.

(5) The Agency shall closely regulate:

a) the procedure of depositing and withdrawing the assets in such accounts;

b) the fees that are charged by Companies or the company for managing mandatory and voluntary pension funds in relation to the assets in those accounts;

c) the manner of distributing the return from those assets to the accounts of the mandatory pension fund members;

d) the manner of transfer of the contributions and the manner of calculation and payment of the fee referred to in paragraph (3) of this Article;

e) the notifications and data that should be submitted and

f) other issues related to the contributions paid, but unallocated to the appropriate mandatory pension fund.

CHAPTER VII

FUNCTIONS OF THE PENSION AND DISABILITY INSURANCE FUND

OF THE REPUBLIC OF MACEDONIA

Article 69

In a special procedure of collecting contributions for pension and disability insurance under the Law on Pension and Disability Insurance, and for the needs of mandatory the fully funded pension insurance, the Pension and Disability Insurance Fund of Macedonia shall execute the following functions:

a) receives the contributions for the members of the mandatory pension funds from those that are obliged to pay pension and disability insurance contributions;

b) on each working day it balances the contributions with the data received from the Public Revenue Office and with the determined data in the records of the Pension and Disability Insurance Fund of Macedonia;

c) temporarily distributes the contributors in a mandatory pension fund as per Article 58 paragraphs (6) and (7) of this Law.

d) transfers the contributions of members of the mandatory pension funds to the accounts of the selected mandatory pension funds at the Custodian, forthwith, and no later than five working days after receiving the contributions, provided that within that period the adequate data has been received following the Law, enabling the Pension and Disability Insurance Fund of Macedonia to fulfil 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;

e) submits data through the Agency to the Companies or companies managing mandatory and voluntary pension funds regarding the completed transfer of the contributions as per item c) of this paragraph;

f) maintains full and updated records for the individual accounts of the members showing the status of contributions paid for the members to each mandatory pension fund;

g) receives data from the Agency for the members of the mandatory pension fund and for the mandatory pension funds they have selected under this Law;

h) keeps and maintains a database determined by this Article and balances the data on a monthly basis, and

i) 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 the Fund’s functions determined in Article 69 of this Law after previous consent of the Ministry of Labour and Social Policy.

Article 70-a

(1) The Pension and Disability Insurance Fund of Macedonia shall charge a fee for performing the activities determined by this Law.

(2) The fee referred to in paragraph (1) of this Article shall be a monthly fee borne by the pension companies in the amount of 0.1% of each paid contribution in the previous month to the mandatory pension funds they manage.

Article 71

The Pension and Disability Insurance Fund of Macedonia shall be obliged to provide and maintain a computer software for the allocation and transfer of the mandatory pension fund members’ contributions to the accounts of the chosen mandatory pension funds, and allocation of the insurees to the mandatory pension funds as per Article 58 paragraphs (6) and (7) of this Law.

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 competent bodies to provide 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 assigned 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 VIII

MARKETING OF MANDATORY PENSION FUNDS

Article 74

(1) No one may offer any kind of gifts to another person in order to make that person enrol or sign an agreement for programmed withdrawals in any mandatory pension fund or to remain a member or retired member in any mandatory pension fund.

(2) No one may offer any gifts to another person to persuade that person to attend or remain at locations where mandatory pension fund marketing is performed.

(3) No one may offer any gifts to an employer or persons/entities that are affiliated with that employer for the purpose of encouragement or reward if that employer induces or orders their employees to join a particular mandatory pension fund.

(4) No one may offer any gifts to a union or any other organisation, collective entity, or entities affiliated with such organisation or entity for the purpose of encouragement or reward if that body induces or orders its employees to join any particular mandatory pension fund.

(5) A gift in terms of this Article shall mean, but shall not be limited to, cash rewards, payment of monetary compensation for premature termination of the membership or termination of programmed withdrawal agreement from another mandatory pension fund, gifts in forms of a real estate or movables, art, organising exhibitions or shows, or other acts which usually must be paid, except for those payments that derive directly from the rights of the members and the retired members of a mandatory pension fund.

Article 75

(1) The entities from paragraph (3) of this Article must not give false or incorrect information on a mandatory pension fund or the Company managing that fund, or any information that might be misleading for the members and the retired members of a mandatory pension fund, persons who are entitled to become members and retired members of a mandatory pension fund, and persons that would have the right to become mandatory pension fund members in the future, neither with verbal statements nor with written materials, announcements, or any kind of advertising material.

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

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

a) mandatory pension funds, companies managing mandatory pension funds, and companies managing mandatory and voluntary pension funds;

b) affiliated entities with the entities of item a) of this paragraph, and

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

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

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

Article 75-a

(1) The person/entity responsible for marketing shall be responsible for advertising the operation of the company and the mandatory pension fund it manages and issuing information related to mandatory fully funded pension insurance following the law.

(2) The person responsible for controlling agents shall be obliged to control the activities of the agents in relation to memberships and transfer of members from one mandatory pension fund to another and concluding agreements for programmed withdrawals.

Article 76

(1) A Company or a company managing mandatory and voluntary pension funds may perform marketing activities for a mandatory pension fund on its premises and the premises of its marketing associates. The premises should meet the following conditions:

a) have at least one agent;

b) have a responsible person for marketing activities of the company managing a mandatory pension fund, employed by the business associate, and

c) to provide an appropriate space for the marketing activities of the company managing a mandatory pension fund.

(2) A marketing associate as per paragraph (1) of this Article may be a bank or an insurance company. The Company or the company managing mandatory and voluntary pension funds shall be obliged to sign a marketing agreement with the business associate for performing marketing activities for the mandatory pension fund on the premises of the business associate.

(3) The Company or the company managing mandatory and voluntary pension funds shall be responsible for meeting the conditions listed in paragraph (1) of this Article.

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

Article 77

(1) The Company or the company managing mandatory and voluntary pension funds may sign a membership agreement, transfer agreement, or programmed withdrawal agreement with a natural person only through its agent.

(2) The presence of the agent shall be obligatory upon signing of a membership agreement, transfer agreement, or programmed withdrawal agreement, where the agent shall be obligated to sign such agreement.

(3) A person may perform marketing activities of mandatory pension funds after that person is registered in the register of agents. The agent shall be obliged to personally communicate with the member, the retired member, or with persons who are entitled to become members or to sign a programmed withdrawal agreement, and the agent may not sign such agreements via third parties.

(4) The agent may perform marketing activities for mandatory pension funds managed by only one Company. The agent shall be obliged to renew the registration in order to perform marketing activities for mandatory pension funds managed by another Company in the future.

(5) The re-registration referred to in paragraph (4) of this Article may not be completed before a one-year period has expired from the date when that person ceased to be an agent of a Company or a company managing mandatory and voluntary pension funds unless the person ceased to be that Company’s agent because that Company’s licence was cancelled.

(6) A person may be registered in the register of agents if that person fulfils the following conditions:

a) is a citizen of the Republic of Macedonia or a foreigner with a regulated status of a foreigner in the Republic of Macedonia following the law;

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

c) has completed at least secondary education;

d) has passed the agent exam set by the Agency, and

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

(7) The Agency shall be obliged to register a person in the register of agents within one month of receiving a complete application if the person fulfils the requirements set out in paragraph (6) of this Article. The Company or the company for the management of mandatory and voluntary pension funds shall be obliged to submit an application on behalf of the agent for registration in the register of agents if the person fulfils the conditions and an application for removing the agent from the register of agents if the person does not fulfil all the conditions referred to in paragraph (6) of this Article.

(8) The Agency officer conducting the procedure shall be obliged within three days from the day of receiving the request ex officio to request the evidence for fulfilment of the conditions from paragraph (6) items a), b), d) and e) of this article by the competent public body.

(9) The officer from the competent public body shall be obliged to submit the required evidence referred to in paragraph (8) of this Article within three days from the day of receiving the request.

(10) The Agency shall undertake the procedure for removing an agent from the register of agents if that agent is incompliant with the provisions of this Law and the Law on Voluntary Fully Funded Pension Insurance. The President of the Council of Experts shall pass a decision for the removal of an agent, and the agent may appeal that decision by initiating an administrative dispute before the competent court.

(11) The Agency shall specify the manner and procedure for the agent exam for acquiring the status of an agent, and the manner and procedure for registering the person in the register of agents.

(12) To the persons who shall pass the exam, the Agency shall issue a certificate for acquiring the status of agents. The form and content of the certificate shall be specified by the Agency.

(13) The person removed from the register of agents as per paragraph (8) of this Article shall not be allowed to re-register in the register for three years from the date of removal.

Article 77-a

(1) An agent exam shall be taken to verify the knowledge necessary for performing marketing activities for pension funds.

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

-is a citizen of the Republic of Macedonia,

-is a resident of the Republic of Macedonia,

-has completed at least a secondary education, and

-is not prohibited by a final court decision to perform any profession, activity, or duty in the duration of the prohibition consequences.

(3) The Agency officer conducting the procedure shall be obliged within three days from the day of receiving the request ex officio to request the evidence for fulfilment of the conditions from paragraph (2) indents 1 and 4 of this Article from the competent public body.

(4) The officer from the competent public body shall be obliged to submit the required evidence referred to in paragraph (3) of this Article within three days from the day of receiving the request.

Article 77-b

(1) The exam shall consist of two parts as follows:

- first part (the theoretical part), shall be to verify the theoretical knowledge of the candidates, and

- second part (practical example), shall be to verify the practical skills of the candidates.

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

(3) The second part of the exam shall consist of:

- practical example, and

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

Article 77-c

(1) The exam isshall be taken according to a programme that contains the material, regulations, and literature.

(2) The programme for the exam shall be passed by the Agency.

Article 77-d

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

(2) The questions from the first part of the exam and the practical examples from the second part of the exam shall be verified by a Verification Committee consisting of three representatives of the Agency.

(3) The Committee from paragraph (2) of this Article shall review and update the questions database and the practical examples database as per Article 77-j of this Law at least twice a year.

(4) Upon the review, the Committee from paragraph (2) of this Article shall particularly consider the amendments of the regulations upon which a question or a practical example is based, the number of candidates that answered the question, the success in answering the questions, as well as other criteria that might help the improvement of the quality of the databases referred to in Article 77-j of this Law.

(5) Based on the review and the update of the databases of questions and databases of practical examples, the Committee from paragraph (2) of this Article shall decide at least 30% of the questions and databases of practical examples to be changed or completely removed and replaced with new ones from the databases from 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 shall be entitled to monetary compensation, which shall be determined by the Agency.

(7) The amount of the monetary compensation from paragraph (6) of this Article shall be 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 monetary compensation from paragraph (6) of this Article shall not surpass two average salaries in the Republic of Macedonia in the previous year, as published by the State Statistical Office.

(9) The professional and administrative matters related to the organisation of the exam shall be carried out by the Agency; the Council of Experts shall appoint a responsible person who shall determine whether the candidate meets the requirements for taking the exam, and the exam shall be technically conducted by a legal entity registered in the Central Registry selected by the Agency.

(10) The responsible person referred to in paragraph (9) of this Article shall be entitled to monetary compensation for each conducted exam for agents in the amount of one third of the average net salary in the Republic of Macedonia, for which the Council of Experts shall pass a decision.

Article 77-e

(1) The agent exams shall be organised at least twice a year.

(2) The application for taking the exam shall be submitted to the Agency by the pension company together with the evidence for meeting the conditions for taking the agent exam, prescribed in this Law.

(3) The candidate shall be allowed to take the exam in the first available term after the application for taking the exam has been approved.

(4) If a candidate does not meet the conditions for taking the exam, the Agency shall pass a decision to reject that candidate’s application, against which an administrative dispute can be initiated before a competent court within 30 days from the receipt of such decision.

Article 77-f

(1) The agent exam shall be taken in an examination room, equipped accordingly for taking professional exams with material, technical and IT equipment, internet connection, and equipment for recording the exam.

(2) Candidates who have been approved to take the exam, the pension company, and the public shall be informed about the date and time of taking the exam at least eight days before the exam through the website of the Agency and the Public Broadcasting Service.

(3) The exam shall be recorded and shall be transmitted live on the Agency’s website, and in case the recording is disrupted due to technical reasons, the recordings from the entire examination shall be posted on the Agency’s website.

(4) The criteria for the conditions of the examination room, the material, technical, and IT equipment of the premises for taking the professional exam shall be closely prescribed by the Agency.

(5) During the examination, three Agency representatives shall be present in the examination room, and one of them shall be an IT specialist.

(6) The representatives referred to in paragraph (5) of this Article shall be entitled to monetary compensation for each exam held, in the amount of one third of the average net salary in the Republic of Macedonia, for which the Council of Experts shall pass a decision.

(7) The authorised legal entity responsible for the technical equipment for conducting the exam shall be obliged to block the radio frequency band in the exam room during the exam for agents.

(8) The Agency for Electronic Communications (hereinafter: AEC) shall perform constant monitoring of the blocking of the radio frequency band in the examination room to prevent any kind of electronic communication with the environment outside the examination room.

(9) In the examination room AEC shall install measuring equipment that provides electronic records of the measurements for 30 days, and they shall be stored in the AEC central control system.

(10) AEC shall form a three-member committee that prepares a report based on the electronic records stored in the AEC central control system and shall submit it to the Agency no later than 15 days after the end of the exam for agents.

Article 77-g

(1) Before the beginning of the exam, a representative from the Agency shall determine the identity of the candidate based on the candidate’s ID card.

(2) During the first part of the exam the candidate shall not be allowed to use laws, laws with comments and explanations, mobile phone, portable computer, and other means of technology and information, previously prepared materials, etc.

(3) During the second part of the exam, the candidate shall be allowed to use only laws (without comments and explanations), which are stored in electronic versions on the computer the candidate uses for taking the exam.

(4) During the first and second part of the exam, the candidate shall not be allowed to contact other candidates or persons except the IT specialists referred to in Article 77-f paragraph (5) of this Law in case the candidate has a technical problem with the computer.

(5) If the technical problems with the computer are removed within five minutes, the exam will continue, and if they are not removed within this deadline, the exam for only that candidate will be postponed and will be held within a maximum of three days from the day of postponing the exam.

(6) If there are problems with more than five computers and if they are not removed within five minutes, the exam will be postponed for all candidates who take the exam and will be held within a maximum of three days from the date of postponing the exam.

(7) If during the taking of the first and the second part of the exam the candidate acts contrary to paragraphs (2), (3), and (4) of this Article, the candidate will not be allowed to take the exam further in that determined term and will be banned from taking the exam for a period of three years, and the Agency adopts a decision against which an administrative dispute can be initiated before a competent court within 30 days from the day of receipt of the decision.

(8) In the cases referred to in paragraph (7) of this Article, it shall be considered that the candidate has failed the exam and it shall be stated in the report for taking the exam.

(9) During the taking of the exam, the authorised representatives referred to in Article 77-f paragraph (5) of this Law may not stay longer than five seconds in the immediate vicinity of the candidate taking the exam, except in case of elimination of a technical problem when they are not allowed to stay longer than five minutes.

Article 77-h

(1) If during the exam period the candidate can not resume taking the exam for justified reasons (illness, maternity leave, etc.), the exam will be suspended for a certain period, which can not be longer than six months.

(2) The decision to resume the exam is shall be made by the President of the Council of Experts of the Agency upon request of the pension company. The request shall be submitted within eight days after the reasons for postponing the exam cease to exist and within six months at the latest.

(3) If the pension company does not submit a request for resuming the exam within the deadline set in paragraph (2) of this Article, the exam shall be considered as failed.

(4) Against the decision from paragraph (2) of this Article, an administrative dispute may be initiated before the competent court within 30 days from the receipt of the Decision.

(5) In the approved continuation of the exam, the candidate shall not be examined for the part of the exam that the candidate had already taken.

Article 77-i

(1) The exam shall start with the first part (theory) and then shall continue with the second part (practical example).

(2) The second part shall be taken within at least five days from the successful passing of the first part.

(3) The Agency shall prescribe the manner of calculating the points for the first and the second part of the exam.

(4) The first part of the exam shall be taken for each relevant field and shall contain a maximum of 50 questions with 5 multiple-choice answers, out of which one shall be correct, two shall be similar, one shall be somewhat incorrect (losing a small number of points) and one shall be incorrect in a large part (losing a lot of points).

(5) In order for the candidate to take the second part of the exam, the candidate 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 shall consist of a practical example.

(8) The questions that are part of the practical example shall refer to the relevant area and shall give five possible options as answers, out of which one shall be correct, three shall be similar and two shall be different.

(9) In case the candidate fails the second part of the exam, it shall be considered that the candidate had failed the exam.

Article 77-j

(1) The first part of the professional exam shall be taken by answering a certain number of questions in a form of an electronic test on a computer.

(2) The questions from the test shall be evaluated using points indicated on the test depending on the difficulty.

(3) The second part of the exam shall be taken by studying a practical example and answering a given number of questions arising from the practical example in a form of an electronic software solution (hereinafter: electronic practical example).

(4) Depending on the difficulty, the questions from the practical example shall be evaluated using points indicated in the practical example.

(5) The test questions in the first part of the exam and their answers, as well as the practical example and the questions arising from the practical examples and their answers shall be kept in the unique electronic system for the exam.

(6) The electronic system from paragraph (5) of this Article shall contain a publicly available database of at least 100 questions for each field, as well as a publicly available database of at least 30 practical examples for each field for the second part of the exam.

(7) The electronic system shall contain references to the legislation and literature containing the answers to the questions of the first part of the exam, and the legislation for the second part of the exam.

(8) The results from the first and the second part of the exam shall be available to the candidate immediately upon completion of the exam on the computer on which the candidate has taken the exam.

Article 77-k

(1) On the day of the first, i.e. second part of the exam, the representative of the Agency shall give the candidate an access code, i.e. a password, which shall allow the candidate to access the electronic system referred to in Article 77-j of this Law.

(2) After being approved the access, the candidate shall be given an electronic test for the first part of the exam, or an electronic practical example for the second part of the exam, both generated by the computer, with a content that is randomly determined by the electronic system software referred to in Article 77-j paragraph (5) of this Law, and from the databases referred to in Article 77-j paragraph (6) of this Law.

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

(4) The electronic system for the exam shall not allow identical contents of the electronic test for the first part of the exam nor an electronic practical example for the second part of the exam for more than one candidate.

(5) In case the first or the second part of the exam is interrupted due to reasons that cause technical difficulties preventing the functioning of the electronic system, as per Article 77-j of this Law, the exam shall be terminated.

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

(7) In case the reasons from paragraph (1) of this Article are not removed within the deadline given in paragraph (6) of this Article, the exam shall be rescheduled for another term.

(8) The time allowed for answering the questions of the first part of the test for taking the exam shall be 120 minutes.

(9) The candidate who earned at least 70% of the total number of positive points by answering correctly the questions in the test shall be considered to have passed the exam.

(10) The time allowed for answering the questions for each of the practical examples in the second part of the exam shall be 120 minutes.

Article 77-l

(1) The candidates who passed the agent exam will be issued a certificate within 15 days from the completion of the exam.

(2) The form and the contents of the certificate referred to in paragraph (1) of this Article shall be prescribed by the Agency.

(3) Upon request from the candidate, the Agency shall inform the candidate of the errors the candidate made while taking the professional exam by allowing the candidate a direct review of the test.

(4) The tests and the practical examples shall be used and shall be given to the candidate only during the professional exam.

(5) The materials from the exams that were held, especially the hard copies of the tests and the practical examples for taking the professional exam, and the specimens for checking the accuracy of the answers and the practical example, as well as the recordings of the held exam shall be kept in the Agency.

(6) The Committee referred to in Article 77-d paragraph (2) of this Law shall review the held exams.

(7) The Committee as of paragraph (6) of this Article meets after each exam and reviews the conducting of the exam and shall submit a report to the President of the Council of Experts.

(8) The members of the Committee from paragraph (6) of this Article shall be entitled to monetary compensation, which on an annual level shall be one average net salary in the Republic of Macedonia, for which the Council of Experts passes a decision.

(9) In case the Committee from paragraph (6) of this Article discovers irregularities in conducting the exam caused by individuals in terms of Article 77-g paragraph (5) of this Law, the Committee shall suggest revocation of the certificate of paragraph (1) of this Article.

(10) The Council of Experts of the Agency shall pass a decision for revocation of a certificate based on the proposal from the Committee of paragraph (6) of this Article within three days from the receiving of such proposal.

(11) An administrative dispute may be initiated against the decision of paragraph (10) of this Article, before a competent court within 30 days from the receiving such decision.

Article 77-m

(1) The costs for the exam shall be borne by the pension company.

(2) The costs from paragraph (1) of this Article shall be determined by the Council of Experts of the Agency based on the actual costs incurred for the exam, necessary for the conducting of the first and the second part of the exam, preparation of the questions database, conducting of the electronic test, preparation of the materials and invitations, and preparation of the certificates.

(3) The costs for the exam shall be paid to the Agency's own-source revenue account.

(4) If the costs are not paid on the Agency’s appropriate account not later than 15 before the scheduled date of the exam, 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 a Company or a 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 sign an agreement with the Company represented by that employee, representative, agent or affiliated person, the priority must be given to the interests of that member, and not to the personal interest of that employee, representative, agent or affiliated person or the interests of the Company.

(2) In case a company that manages a mandatory pension fund persuades a male over the age of 50 or a female over the age of 45 to join a mandatory pension fund through an employee, representative, agent, or an affiliated person with that Company, the Company must be able to prove that at the time of concluding the membership contract, it could not have been reasonably assumed that person’s membership in that mandatory pension fund is contrary to the interests of that person.

(3) Personal contact in terms of paragraph (1) of this Article shall mean a meeting, telephone conversation, or personally addressed correspondence between an employee, representative, or agent of the Company or the company for managing mandatory and voluntary pension funds and the person concerned or any affiliated persons with the person concerned.

Article 79

(1) The usage of any actions 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 shall be prohibited for a person with special authorisations and responsibilities to advertise a mandatory pension fund to an employee.

Article 80

The Agency shall closely regulate the manner and procedure for the marketing of mandatory pension funds.

CHAPTER IX

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 in the individual accounts under the names of the members and retired members of the mandatory pension fund.

(2) The records of individual accounts in a mandatory pension fund shall be kept 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 the total net assets of that mandatory 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 fund’s net assets calculated according to Article 83 of this Law.

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

Article 83

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

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

(3) The Agency shall closely regulate the manner of valuation of the mandatory pension funds assets and calculation of the value of their net assets.

Article 84

(1) The contributions shall be converted into accounting units on previously determined dates (valuation dates) based on the accounting unit value 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 such necessity is imposed 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 the contributions are converted into accounting units they shall be kept in 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 on each valuation date, and the Agency shall be notified forthwith.

(2) On each valuation date, the value of an accounting unit of that mandatory pension fund shall also be calculated, and the Company or the company for managing mandatory and voluntary pension funds shall notify the Agency forthwith.

(3) The calculations referred to in paragraphs (1) and (2) of this Article shall be made by the Company or the 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 the company managing mandatory and voluntary pension funds shall be obliged to change the valuated amount for certain security upon request from the Agency, should the Agency during the inspection find that that Company used an inadequately calculated price of the security during the valuation, or that the fair value does not match the actual condition on the market, or when the Agency discovers that the interests of the members and the retired members are threatened.

Article 86

(1) At the end of June and December of each year, a Company managing a mandatory pension fund shall be obliged to determine the return in nominal and real amounts for the previous 84 months, as per paragraph (2) of this Article. If a mandatory pension fund had not received contributions for 84 months but has received them for 12 months, at the end of June or 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 time of the calculation. The Company submits the data on the return to the Agency.

(2) The return of the mandatory pension fund in nominal value shall be equal to the change of the accounting unit value on the last date of valuation referred to in paragraph (1) of this Article concerning the accounting unit value on the last date of valuation of the starting month referred to in paragraph (1) of this Article. The return of the mandatory pension fund in real amount shall be calculated based on the return of the mandatory pension fund in its nominal value and the costs of living for the same period for which the return is calculated, as published by the State Statistical Office of the Republic of Macedonia. The return shall be expressed in percentages.

Article 87

The Agency shall closely regulate:

a) the methodology for calculation of the return of the mandatory pension funds and the methods for rounding those values.

b) the date when the Company or the company managing mandatory and voluntary pension funds shall be obligedto 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 and the calculations shall be made based on the condition on those dates; the methodology of valuation; the value of an accounting unit; the respective mandatory pension fund’s 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 following the laws and the international accounting standards.

(2) The Agency shall closely regulate 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 detail the form and the content of the financial reports of the Companies.

CHAPTER X

PAYMENTS OF PENSION BENEFITS

Article 89

(1) When a member of a mandatory pension fund acquires the right to an old-age pension under the Law on Pension and Disability Insurance, the whole amount of accumulated assets standing in that member’s account shall be used at the member’s discretion for:

a) purchasing an annuity payable for life from an insurance company authorised for such purpose or

b) programmed withdrawals provided by the Company managing the mandatory pension fund with which the member shall sign an agreement for programmed withdraws or

c) combination of the options listed 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 or equal to the necessary amount for a disability pension under the Law on Pension and Disability Insurance, instead of that disability pension the member may choose 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 or equal to the necessary amount for a family pension according to the Law on Pension and Disability Insurance, instead of that family pension, the family pension beneficiary may choose 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 following the Law on Payment of Pensions and Pension Benefits from the fully funded pension insurance.

Article 92

(1) When a mandatory pension fund member is not entitled to an old-age pension under the Law on Pension and Disability Insurance because that member has not completed at least 15 years of pensionable service, the member may 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 that member’s account.

(3) Purchase of pension annuity and payment of accumulated amounts as per (1) and (2) of this Article may be done after the age of 65.

Article 93

Pension annuities and programmed withdrawals shall be provided following the Law on Payment of Pensions and Pension Benefits from the fully funded pension insurance.

CHAPTER XI

NOTIFICATION AND INFORMING OBLIGATIONS

Article 94

(1) Each Company or company managing mandatory and voluntary pension funds shall be obliged to have an information prospectus for the mandatory pension fund under its management. The information prospectus shall contain complete, correct, and fair data on the mandatory pension fund and the Company managing that fund, which is necessary for the potential member to be able to decide on membership in that mandatory pension fund, and for the potential retired member to be able to sign a programmed withdrawals agreement, such as:

a) name and address of the Company and the fund it manages;

b) names of the members of the management board and the supervisory board of the Company;

c) names and addresses of the shareholders and their share in the company’s share capital;

d) name and address of the custodian and data on any changes of custodian made in the previous year and the reasons for those changes;

e) data on the auditor of the mandatory pension fund and the Company;

f) the basic principles of investment for the period stipulated in paragraph (2) of this Article and any self-imposed limitations on investment other than the limitations 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) manner of acquiring the membership, signing a programmed withdrawals agreement and transfer agreement;

j) manner of notifying the members and retired members;

k) right to a pension;

ј) portfolio of the mandatory pension fund;

l) the number of members and retired members of the mandatory pension fund;

m) the net value of the mandatory pension fund assets; and

n) other data regarding the operation of the company and the management of the mandatory pension fund that may be prescribed by the Agency in order to provide transparency.

(2) The Company or the company for the management of mandatory and voluntary pension funds shall be obliged to publish the information prospectus listed in paragraph (1) of this Article no later than 31 March each current year with data on the conditions on 31 December of the previous year, on the web site of the Company and in one of the daily newspapers with most wide circulation distributed in the entire 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 the company for managing mandatory and voluntary pension funds shall be obliged 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 the company managing mandatory and voluntary pension funds shall be obliged 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 programmed withdrawals with the mandatory pension fund under management of such Company.

(5) The Company or the company managing mandatory and voluntary pension funds shall be obliged to inform a person upon that person’s request, whether that person is a member of the mandatory pension fund under the management of that Company, and what are the rights arising from the membership.

Article 95

(1) The Company or the company managing mandatory and voluntary pension funds shall be obliged 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 contribution payments, and the asset transfers during the respective period, and on the conversion of the contributions and the transferred assets into accounting units. Upon prior written consent of the member, this information may also be submitted in electronic form instead of in writing.

(2) Upon request from a member of the mandatory pension fund, at any time, the Company or the company for managing mandatory or voluntary pension funds shall be obliged within eight working days following the receipt of such request, to provide that member with a statement of the value of the assets standing in that member’s account.

(3) At least once a year the Company or the company managing mandatory or voluntary pension funds shall be obligedt o provide information to each member of the mandatory pension fund under its management on the value and participation of the assets of the mandatory pension fund invested in particular classes of assets, including data on the issuer of the respective security, on the last valuation date including 31 December each year. The obligation to provide data on the issuers of securities applies to investments in securities representing at least 1% of the value of mandatory pension fund assets. The Company or the company managing mandatory or voluntary pension funds shall also be obliged to provide data on the total transaction fees paid by the Company or the company managing mandatory or voluntary pension funds and its foreign managers of the mandatory pension fund assets in the period since the last report and on the average amount of such fees per accounting unit of that fund. Upon prior written consent of the member, this information may also be submitted electronically instead of in writing.

(4) The data referred to in paragraphs (1) and (3) of this Article shall be delivered free of charge to the mandatory pension fund members. A Company or a company for managing 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 delivered as necessary and in shorter intervals as specified by the Agency. The Agency shall closely prescribe the type and period in respect of which such data shall be submitted, and the manner and format in which the data shall be provided.

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

Article 96

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

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 data on the acquisition and transfer of assets of the mandatory pension fund by stating each asset, the date and the price of the transaction, and the legal entity performing the service with the securities;

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

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

f) names of the members of the managing bodies and the employees of the Company and the amounts of compensation 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 data on the total number of members in the mandatory pension fund, number of members who joined 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 data on the total number of retired members of the mandatory pension fund, number of persons who have signed agreements for programmed withdrawals and combinations per types of payment, number of retired members who cancelled their agreements for programmed withdrawals and changed the Company making payments of programmed withdrawals or the type of pension benefit payout and the number of deceased retired members;

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

k) confirmation containing the opinion of the authorised actuary;

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

m) report on the manner of fulfilling 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 controls and internal audits; 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 expiry of the period 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 expiry 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 website of the Company or the 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 valuation date, 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 refer.

(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 quarter.

(8) The confirmation with the opinion as per paragraph (1) item k) of this Article shall be submitted within one month after the end of the period to which that confirmation refers, 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.

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

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

Article 97

The data relating to the implementation of competencies of the Pension and Disability Insurance Fund of Macedonia determined by this Law shall be mutually exchanged between the Fund and the Company or the company managing mandatory and voluntary pension funds based on an agreement.

CHAPTER XII

FEES AND COMMISSIONS

Article 98

(1) A Company and the company for managing 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 before the conversion of assets into accounting units. The company shall determine the amount of the fee, but it shall not exceed 2% of each paid contribution;

b) a monthly fee from the value of the mandatory pension fund net assets for covering the costs of the Company or the company managing mandatory and voluntary pension funds for managing the mandatory pension fund. 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 date of valuation of the mandatory pension fund assets and it is charged on the fifth working day in the month after the valuation and

c) fee in case of 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 closely prescribed by the Agency after obtaining the opinion from the Ministry of Labour 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 transfers 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 cases:

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 in paragraph (1) of this Article in six months preceding the date of asset transfer;

b) if the Agency proves that the person joined the mandatory pension fund as a result of marketing and advertising activities that are contrary to the provisions of this Law;

c) if the Company managing that mandatory pension fund enters into bankruptcy procedures or its licence to manage that mandatory pension fund has been withdrawn or cancelled;

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

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

Article 99

(1) The Company or the company for managing mandatory and voluntary pension funds shall charge all mandatory pension fund members the fees referred to in Article 98 paragraph (1) of this Law in the same percentage.

(2) Notwithstanding paragraph (1) of this Article, the fee referred to in Article 98 paragraph (1) item a) of this Law may be reduced for the members who have been members of that mandatory pension fund for a period specified by the Agency. Fees shall be reduced on a uniform basis so that there is no differentiation between the members who have been members of the same mandatory pension fund in the same period.

Article 100

(1) The Company or the company for the management of mandatory and voluntary pension funds shall be obliged to inform all mandatory pension fund members of any proposal referring to an 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 mandatory pension fund member and the Agency. This notification must be published on the website of the Company or a company for managing mandatory and voluntary pension funds, and in at least one of the daily newspapers with the highest circulation in the country.

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

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 the company managing mandatory and voluntary pension funds shall be obligedto control the commissions paid from the mandatory pension fund’s assets under its management to the chosen legal entities performing services with securities that are directly connected to the trading with the mandatory pension fund’s assets, in order to make sure that the commissions charged are entirely competitive with the commissions charged by other legal entities for similar transactions. To protect the interests of the members and the retired members of the mandatory pension funds, the Agency may prohibit an affiliated entity with the Company to perform services with securities that are directly connected with trading with the mandatory pension funds assets.

(3) To ensure the competitiveness stipulated in paragraph (2) of this Article, the selection of domestic legal entities that can perform services involving securities shall be based on: the lowest commission, scope of trading, staff, technical and organisational capabilities. In order for a domestic legal entity to be selected, it shall have at least two authorised brokers employed, each with at least two years of working experience as authorised brokers.

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

(5) The selection of legal entities that perform services involving securities shall be done f of 365 days, following the procedure prescribed in this article.

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

Article 102 is repealed.

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

Article 103

All other costs related to the management of a mandatory pension fund 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 XIII

INVESTMENT OF MANDATORY PENSION FUNDS ASSETS

Article 104

(1) The Company or the company managing mandatory and voluntary pension funds shall be obligedto invest the mandatory pension fund assets following the provisions of this Law and the investment strategy to obtain the highest return solely in the interests of the members and retired members of the mandatory pension fund and through diversification and financial analysis to minimise the risks of losses, which might occur:

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

2) due to the impact of 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 selling mandatory pension fund assets to obtain liquidity of the mandatory pension fund.

(2) A member of a management board, supervisory board, and a person responsible for investment decisions in the Company or the company managing mandatory and voluntary pension funds, when managing and controlling the investments of the mandatory pension fund assets, shall be obliged to employ care, efficiency, and skills that would be applied by a reasonable person upon the investment of own assets. Each member should meet their obligations in accordance with their fiduciary duties and should ensure their application by each employee or otherwise engaged persons in the Company.

Article 105

(1) Based on the provisions of Articles 106 and 107 of this Law, the mandatory pension fund assets 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 they are interest-bearing;

b) bonds and other securities issued or guaranteed by the National Bank of the Republic of Macedonia;

c) certificates of deposit, commercial notes, and bonds 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 North 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 that are not close-end investment funds, issued on the grounds of approval from the Securities and Exchange Commission of the Republic of Macedonia that are traded on the official market or the market of joint-stock companies, with special reporting obligations within the regular stock exchange market or another organised security market in the Republic of Macedonia controlled by the 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 long-term security stock exchange or another organised security market in the Republic of Macedonia controlled by the Securities and Exchange Commission of the Republic of North Macedonia, issued by the local self-government units and domestic joint-stock companies that are not banks;

h) commercial notes issued by first-class Macedonian joint-stock companies in the Republic of Macedonia that are not banks;

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

j) bonds and other securities issued by foreign governments or central banks of the member states of the European Union or countries that are members of the OECD;

k) debt securities with a recommendable investment-grade level rating by reputable international rating agencies, issued by non-state, foreign companies, or banks in the member states of the EU, countries members of the OECD;

l) shares with a recommendable investment-grade level rating by reputable international rating agencies issued by foreign companies or banks and traded on the main stock exchanges in the member states of the European Union, countries members of the OECD;

m) participation units, shares, and other instruments issued by authorised investment funds established in any of the member states of the European Union or member of the OECD that invested primarily in instruments quoted on the stock markets in those countries, and whose investment policy allows the use of derivative instruments up to 20% of the investment fund assets, with the sole purpose to protect the assets and liabilities of the investment fund or for more efficient realisation of the investment policy goals of investment funds that follow the performance of a certain index and

n) other forms of investments following the regulations of the Agency, provided that they are not contrary to Article 108 of this Law.

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

(3) Mandatory pension funds assets may be invested in instruments that fulfil the requirements set up by the Agency for:

a) the requirements to be satisfied by organised secondary capital markets where mandatory pension fund assets are traded;

b) the quality of the shares, bonds, and other instruments 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 an exception, they may be invested in bonds and other debt securities issued by local self-government units and domestic joint-stock companies up to the 20% of the nominal value of each security issued by the issuers, 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 unit. 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 assets may be invested in instruments issued by the same entity that is not established by the state and is registered in the Central Registry 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 assets may be invested in instruments of such interconnected entities.

(3) Notwithstanding paragraph (2) of this Article, up to 15% of the value of the mandatory pension fund assets may be invested in participation units and shares of investment funds issued by the same management company from a member-state of the EU or OECD, where up to 5% of the value of the mandatory pension fund assets may be invested in one investment fund. Not more than 2.5% f the mandatory pension fund assets may be invested in participation units and shares of open-end and closed-end investment funds issued by the same management company from the Republic of Macedonia, where up to 1% of the value of the mandatory pension fund assets may be invested in one investment fund. Not more than 1.25% of the value of the mandatory pension fund assets may be invested in participation units of private investment funds issued by the same management company from the Republic of Macedonia, where up to 0.5% of the value of the mandatory pension fund assets may be invested in one investment fund.

(4) Not more than 3% of the mandatory pension fund assets 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 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 limitations for certain types of instruments different from the limitations stipulated in Article 107 of this Law, which shall be valid within a deadline prescribed by the Agency, but not longer than 5 years. The limitations may not be partially nor entirely cancelled without prior notification to each company managing mandatory pension funds, at least one year before the cancellation.

Article 107

The investments in certain types of instruments as per Article 105 paragraph (1) (a)-(n) of this Law shall be subject to the following limitations:

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

b) not more than 80% of the value of the mandatory pension fund assets can be invested in the instruments stated in Article 105 paragraph (1) items (b) and (e) of this Law;

c) not more than 60% of the value of the mandatory pension fund assets can be invested in the instruments stated in Article 105 paragraph (1) items (a), (c) and (d) of this Law, from which no more than 30% of the value of the mandatory pension fund assets 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 the instruments stipulated in Article 105 paragraph (1) items g) and h) of this Law. Within this limitation, not more than 10% of the value of the mandatory pension fund assets may be invested in bonds issued by local self-government units.

e) not more than 30% of the value of the mandatory pension fund assets can be invested in the instruments stated in Article 105 paragraph (1) item (f) of this Law, and

f) not more than 5% of the value of the mandatory pension fund assets may be invested in the instruments stipulated in Article 105 paragraph (1) item i) of this Law. Within this limitation, not more than 1.5% of the value of the mandatory pension fund assets may be invested in participation units issued by private investment funds.

Article 108

The mandatory pension fund assets may not be invested in the following types of instruments:

a) shares, bonds, and other securities that are unlisted on the official market or not publicly traded;

b) instruments that cannot be legally disposed of;

c) commodities that are rarely quoted on organised markets and have an uncertain valuation, for example, antiques, artworks, and motor vehicles;

d) real estate or any participation unit in real estate except mortgage-backed securities and indirect investment through investment funds;

e) shares, bonds, and other securities issued by:

1) a shareholder of the Company or the company managing mandatory and voluntary pension funds;

2) a custodian of the mandatory pension fund, and

3) an affiliated entity with the entities listed in sub-items (1) and (2) of this item;

f) bank deposits in banks that are shareholders of the Company or the company for the management of mandatory or voluntary pension funds;

g) futures contracts, options contracts, forward contracts, and other derivative instruments, except indirect investments through investment funds following the limitations referred to in Article 105 paragraph (1) item m) of this Law and

h) other instruments regulated by the Agency in which the investment would be contrary to the interests of the members of the mandatory pension funds.

Article 109

(1) In the case of breach of the provisions of this Law as a result of 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 respective Company or company managing mandatory and voluntary pension funds, the Company or the company managing mandatory and voluntary pension funds must forthwith report this to the Agency, must cease further investment in that instrument and undertake measures to conform the investment activities of its mandatory pension fund to the provisions of this Law. The Company shall submit to the Agency monthly reports regarding the measures undertaken for consolidation of the investments activities.

(2) Notwithstanding paragraph (1) of this Article, the Company or the company managing mandatory and voluntary pension funds shall not be obliged to immediately correct the excess of investment limitations set out in this Law if the individual excess does not exceed the limitation by 20% and the total sum of all excesses does not exceed 5% of the net value of the mandatory pension fund assets.

(3) The Company or the company managing mandatory and voluntary pension funds shall be obliged to conform the investment activities of the mandatory pension fund it manages to the requirements specified in this Law within six months after the date on which the breach occurred, or after the date of valuation of the mandatory pension fund assets when it became clear that there is a breach of this Law, whichever of the above occurs first.

(4) Upon request from the Company or the company managing mandatory and voluntary pension funds submitted within at least 60 days prior to the date of expiry of the deadline referred to in paragraph (3) of this Article, the Agency shall have the right to extend the deadline referred to in 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 a company for the management of mandatory and voluntary pension funds shall be prohibited from:

a) selling the mandatory pension fund assets to itself, to the custodian, the foreign asset manager, and affiliated entity with any of the entities listed above, except through a transaction performed through a securities exchange authorised by the Securities and Exchange Commission of the Republic of Macedonia, i.e. an appropriate competent authority if the assets are invested abroad;

b) buying assets from any of the entities listed in sub-paragraph a) of this paragraph using the mandatory pension fund assets, except through a securities exchange authorised by the Securities Commission of the Republic of Macedonia i.e. an appropriate competent authority if the assets are invested abroad;

c) using the mandatory pension fund assets to grant loans or to provide guarantees except the loan guarantees listed in Article 113 paragraph (1) of this Law.

Article 111

(1) The Company or the company for the management of mandatory and voluntary pension funds, its shareholders, its custodian, the asset managers, the members of the management board and the supervisory board, and any person, including Agency employees who have obtained information regarding the investment of the mandatory pension fund assets or a planned investment due to their professional position, and such information has not been released officially to the market and could affect the price of the listed instruments, shall be obliged to keep such information confidential according to the classification with an appropriate level of secrecy following the law.

(2) The entities referred to in paragraph (1) of this Article may not directly or indirectly use the confidential information referred to in paragraph (1) of this Article to gain benefit for themselves or others by buying and selling securities, except for the mandatory pension fund.

(3) A Company shall be obliged to compensate any damage that was directly inflicted on the mandatory pension fund by the Company, directors, persons with special authorities, and other employees as a result of a breach of the provisions of this Law and especially the provisions of Articles 104 - 114 of this Law.

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

Article 111-a

(1) The persons stipulated in article 111 paragraph (1) of this Law shall be obliged to notify the Agency about all transactions of securities they have entered into on their behalf and their own account, every 180 days or less 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 the company managing mandatory and voluntary pension funds shall be obliged to manage the mandatory pension fund assets and must not delegate that responsibility to others.

(2) Notwithstanding paragraph (1) of this Article, the Company or the company managing mandatory and voluntary pension funds may delegate the managing of the mandatory pension fund assets abroad to an asset manager or asset managers whose headquarters are abroad if they are authorised to do so based on the laws in their countries.

(3) In the cases referred to in paragraph (2) of this Article, the statute of a Company or a company managing mandatory and voluntary pension funds shall define the criteria and the manner of delegating the right to manage the foreign assets of the mandatory pension fund.

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

(5) The Agency shall closely regulate the delegation of the management of the mandatory pension fund assets to an asset manager whose headquarters are in a foreign country.

Article 112-a

(1) Every company that manages a mandatory and/or voluntary pension fund shall have an investment strategy document and shall revise it at least every three years.

(2) The investment strategy document should particularly contain the grounds for analyses that encompass the setting of the planned return for the mandatory pension fund for a period that corresponds to the period in which a mandatory pension fund member at an average age is a member of that fund, considering the costs of living, and following the provisions of Article 104 of this Law. The investment strategy document should state the manner of managing the risks connected to the achieving of the planned return and the strategic investment of assets, the methods of measuring the investment risk, the risk management processes that shall be applied to achieve the planned return and monitoring the manner of its realisation.

(3) At least once a year, the Company or the 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 limitations on investments and the risk exposure.

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

Article 113

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

(2) The total amount of the borrowed assets cannot exceed a certain percentage of the value of the mandatory pension fund assets, as specified by the Agency, but not more than 5%.

Article 114

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

CHAPTER XIV

CUSTODIAN

Article 115

(1) A Company or a company for the management of mandatory and voluntary pension funds shall be obliged to appoint a single custodian to whom it shall entrust the responsibility for keeping the assets of the mandatory pension fund.

(2) If the mandatory pension fund has assets outside the Republic of Macedonia, the custodian shall appoint a sub-custodian to keep those assets, which shall be a bank or specialised depository institution holding a working licence issued by the authorised body in the country outside the Republic of Macedonia and is authorised for such activity under to the laws of the country where the mandatory pension fund assets shall be kept. The selected sub-custodian must fulfil the requirements stipulated in Article 116 paragraph (2) items b) and c) of this Law and have an investment-grade level rating according to renowned international credit rating agencies. The agency shall prescribe in detail the criteria for ranking the sub-custodian of the assets.

(3) All instruments in which the mandatory pension fund assets are invested must be kept by a custodian.

(4) The custodian may perform the service of asset safekeeping for more than one mandatory pension fund at the same time but shall be obliged to carry out that safekeeping, operations, and records for each fund’s assets strictly segregated from each other, from the other account holders and its own assets, operations, and records.

Article 116

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

(2) In order to provide custody services for the mandatory pension funds, the bank must fulfil the following conditions:

a) to have minimum own assets of EUR 20,000,000 in MKD counter value at the average exchange rate of the National Bank of the Republic of Macedonia, under the definition of own assets in the Law on Banks;

b) is not a shareholder in the Company that manages the mandatory pension fund whose assets it safe keeps, nor a shareholder in an entity which is an affiliated entity and/or person to the Company, and must not maintain any other capital relation between these entities, and

c) none of the members of the custodian's bodies and other employees of the custodian shall be members of the management board or supervisory board, hold positions of general manager, director, or other staff members of the company that manages the mandatory pension fund whose assets are kept by the custodian, and shall not be in such relations with other entities that are affiliated with the Company.

(3) if the bank ceases to fulfil any of the conditions prescribed in paragraph (2) of this Law in the period of acting as a custodian of a mandatory pension fund, the bank shall be obligedto forthwith notify the Agency and the company that manages that mandatory pension fund, and to start activities to comply with the provisions of paragraph (2) of this Article in a period not longer than three months from the day when it ceased fulfilling any of the conditions.

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

Article 117

(1) The custodian of a mandatory pension fund shall perform the following activities:

a) safekeeping the securities that constitute the mandatory pension fund assets;

b) keeping the securities that constitute the assets of the mandatory pension fund in a separate account in the Central Securities Depositary in a form of electronic records;

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

d) acting as a settlement intermediary, buys or sells securities under the Company’s instructions, and collects payments of dividends, interests, and all other incomes resulting from the mandatory pension fund asset investments;

e) ensuring that contracts related to the acquisition, investment, and transfer of mandatory pension fund assets are under the law, the statute of the mandatory pension fund and the instructions of the Company or the company managing mandatory and voluntary pension funds, and that such instructions are according to the law;

f) calculating the net assets and the accounting unit of the mandatory pension fund, inspecting and verifying the calculations made by the Company or the company managing mandatory and voluntary pension funds, and it is responsible for the accuracy of the calculations;

g) reporting to the shareholders’ annual assemblies of the companies and on the ownership-related rights, and executing the orders related to the realisation of ownership rights;

h) verifying the compliance of the mandatory pension fund’s portfolio with the investment limitations as per this Law and bylaws;

i) cooperating with and supervising the sub-custodians and

j) calculating and paying taxes.

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

Article 118

(1) The custodian shall be obliged to notify the Agency immediately, first verbally and then in writing, about any doubts or breaches related to the custody agreement in which the custodian is one of the contracting 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.

(2) The obligation referred to in paragraph (1) of this Article shall equally apply to illegal acts or other actions performed by the Company or the company for the management of mandatory and voluntary pension funds and another person/entity.

(3) On each valuation date, the custodian shall notifie the Agency of the value of the net assets and 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 made by the Company or the company managing mandatory and voluntary pension funds and the calculations made by the custodian, the Company or the company managing mandatory and voluntary pension funds shall be obliged to comply with the calculations of the custodian. The custodian shall notify the Agency immediately of the manner of resolution of such inconsistency.

(5) If after the inspection referred to in 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 forthwith.

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

(7) The Agency shall regulate 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 Article.

Article 119

(1) The Company or the company managing mandatory and voluntary pension funds and the custodian must have a permanent custody agreement. This contract must set out the following:

a) the specific functions, duties, and obligations of the custodian including its responsibilities for records and settlement;

b) the extent of responsibility for sub-custodians, and

c) the fee of the custodian.

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

Article 120

(1) No agreement can limit the custodian’s statutory responsibilities and if a custody agreement contains such provisions, they shall be null and void.

(2) The custodian shall be liable for damages incurred as a result of non-performance, or improper or negligent performance of its duties, and such damages can not be covered using the assets of the mandatory pension fund.

(3) The custodian cannot delegate the liability referred to in paragraph (2) of this Article even in the cases when a custodian delegates any of its responsibilities to a sub-custodian as per Article 115 paragraph (2) of this Law.

(4) In cases where the custodian bank or its affiliated entities are shareholders in another Company or company managing mandatory and voluntary pension funds that manage the mandatory pension funds, the bank shall be obliged to take appropriate measures to ensure complete data confidentiality.

Article 121

(1) The notice period for dissolution of a custody agreement may not be less than six months except in the conditions specified in Article 122 of this Law. The contracting party giving the notice shall be obliged to do this in writing and immediately inform the Agency thereof, stating the reasons for the dissolution of the contract.

(2) The selection of another custodian shall be made only with the prior consent of the Agency, based on a reasoned request with the necessary data on the proposed custodian, which shall be submitted to the Agency by the Company or the company for the management of mandatory and voluntary pension funds.

Article 122

(1) In the event of revocation of a custodian’s licence by the National Bank of the Republic of Macedonia for non-performance or negligent performance of duties from the custody agreement, or in case of bankruptcy or liquidation procedure of the custodian:

a) the Company or the company managing mandatory and voluntary pension funds shall be obligedto immediately inform the custodian and the Agency of the termination of the agreement;

b) the Company or the company managing mandatory and voluntary pension funds shall be obligedto appoint a new custodian immediately and to obtain the Agency’s consent in writing for that purpose, and

c) if the Company or the company managing mandatory and voluntary pension funds fails to comply with items (a) and (b) of this paragraph, the Agency may issue a decision ordering the change of the custodian or to appoint a new custodian.

(2) The Agency may also order the Company or the company managing mandatory and voluntary pension funds to change the custodian if the financial or organisational 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 authorised institution shall immediately notify the Agency of any deterioration in the financial or organisational structure of the bank performing the custody services 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 mutually regulated by the Agency and the National Bank of the Republic of Macedonia, and other authorised institutions.

Article 123

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

(2) When a custody agreement is dissolved, the custodian shall be obliged to release the assets in its custody and all records of the mandatory pension funds and documents relating to the performance of duties referred to in Article 117 of this Law to the new custodian within a period that shall be determined, but not longer than 30 working days after the signing of the agreement between the new custodian and the Company or the company managing mandatory and voluntary pension funds.

Article 124

The mandatory pension fund assets deposited under the provisions of this Law may not be a subject to enforcement in the procedure against the custodian, and shall not be a part of the assets of the custodian to which the bankruptcy or liquidation procedure applies, and cannot be subject to any settlement proceedings.

CHAPTER XV

GUARANTEES

Article 125

(1) The state budget of the Republic of Macedonia shall make a payment to a mandatory pension fund in the following circumstances:

a) if the assets of the mandatory pension fund are depleted as a result of a criminal act like fraud, theft, or embezzlement. The obligation of this paragraph does not apply to the depletion of value of the mandatory pension fund assets in the event of an investment contrary to 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) if the assets of the Company managing mandatory pension fund are insufficient to meet the loss referred to in item a) of this Article;

c) if the Agency submits a financial report to the minister of finance proposing a payment from the state budget and confirms that it is unlikely that the loss in the mandatory pension fund will be covered within the following six months, and that the other requirements in this Article have been fulfilled, and

d) the report referred to in item c) of this paragraph shall be made publicly available not later than five working days after it is delivered to the minister of finance.

(2) The payment of state budget funds shall not be conditioned by bringing a bill of indictment against a person/entity for the criminal act as per this Article.

(3) If all the conditions in paragraph (1) of this Article are satisfied, funds from the Budget of the Republic of Macedonia shall be transferred to the mandatory pension fund immediately after receiving the report referred to in 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 to the average results of all mandatory pension funds, calculated for the period between the date of depletion and the date of payment.

(5) If the Agency has suggested in the Report, 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 programmed withdrawals until the funds from the Budget are paid. This limitation shall also apply to the provisions from Articles 58 to 61 of this Law.

(6) Immediately after issuing the Report as per paragraph (1) item c) of this Article, the Agency shall be obliged to inform in writing all members and retired members of the mandatory pension fund of the possibility of 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) If payment is made from the Budget of the Republic of Macedonia, the Agency shall abrogate the approval to the company for the management of mandatory pension funds or the company for the management of mandatory and voluntary pension funds that is receiving the payment if it considers that the Company is culpable for the loss.

(2) If payment is made from the Budget of the Republic of Macedonia, the Agency shall be obligedto take all reasonable measures to trace and recover the depleted assets and request return and indemnification from those directly responsible for the loss or those who have unjustifiably acquired benefit from those assets of the mandatory pension fund.

(3) To the extent to which the Agency can locate 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 returning the paid funds from the Budget of the Republic of Macedonia in the amount equal to the amount that was paid from the Budget of the Republic of Macedonia, and increased for the interest with a discount rate of the National Bank of the Republic of Macedonia. After returning the funds to the Budget of the Republic of Macedonia, the excess assets shall be transferred to the mandatory pension fund whose assets were reduced upon prior verification if that mandatory pension fund is still in existence and has members and retired members. In case the mandatory pension fund no longer exists or has no members, the excess assets shall be transferred to the Budget of the Republic of Macedonia.

(4) The Agency shall closely regulate the manner and terms of returning the funds that the Budget of the Republic of Macedonia transferred to the mandatory pension fund.

(5) If the conditions for the payment from the Budget of the Republic of Macedonia are fulfilled, and the Company or the company managing mandatory and voluntary pension funds does not have its approval to manage a mandatory pension fund abrogated, the Company or the company managing mandatory and voluntary pension funds shall be obliged to delegate to the Agency its rights to take legal actions concerning 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 its licence.

CHAPTER XVI

PENALTY AND MISDEMEANOUR PROVISIONS

**a) Criminal Acts**

Article 127

(1) A responsible person in a company for the management of mandatory pension funds or company for the management of mandatory and voluntary pension funds who with false presenting or covering up of facts, misleading or in another illegal way induce a decision in the Company to illegally use or invest the mandatory pension fund assets, and because of that causes 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 the mandatory pension fund assets suffered extensive damage, the perpetrator will be punished with imprisonment from one to ten years.

Article 128

(1) A responsible person in a custodian institution, who by non-performance or improper performance of its legal duties for safekeeping of securities that are mandatory pension fund assets, causes damage to those assets, will be punished with a fine or with imprisonment for a maximum of three years.

(2) A responsible person in the custodian who shall permit the realisation of a contract for investment acquisition or transfer of the mandatory pension fund assets being aware that it is illegal, and because of that a damage has been caused to those assets, shall also face the penalty referred to in paragraph (1) of this Article.

(3) If due to the act referred to in paragraphs (1) and (2) of this Article, the mandatory pension fund assets suffered extensive damage, the perpetrator will be punished with imprisonment from one to five years.

Article 129

A responsible person in a company managing mandatory pension funds, a 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 the authorisations shall harm, deprive of or limit a right of the 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 Misdemeanours**

Article 130

Misdemeanour Authority

(1) For the misdemeanours stipulated in Article 136-a of this Law, a Commission for Deciding upon a Misdemeanour shall be in charge of conducting a misdemeanour procedure and deciding on the misdemeanour sanction (hereinafter: Misdemeanour Commission).

(2) The Council of Experts shall select the members of the Misdemeanour Commission from the authorised officers employed in the Agency, and it may also appoint a Secretary of the Misdemeanour Commission.

(3) The Misdemeanour Commission consists of three members, one of which shall perform the function of President of the Misdemeanour Commission:

- the President of the Misdemeanour Commission shall be a law graduate who has passed the law bar exam and has at least five years of working experience in the field, and

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

(4) The members of the Misdemeanour Commission shall be entitled to compensation for performing their duties as members of such Commission. The amount of the compensation shall be determined by the Council of Experts. Such amount should be reasonable and adequate to the importance, duties, scope of work, and the complexity of the misdemeanours.

Article 131

Misdemeanour Commission’s Duties

(1) The members of the Misdemeanour Commission shall be autonomous and independent regarding their work of the Misdemeanour Commission and shall decide based on their expert knowledge and personal conviction.

(2) The Misdemeanour Commission shall have the right to disclose evidence and collect data necessary to determine the misdemeanour, as well as to perform other activities and take actions specified by this Law, the Law on Misdemeanours and/or other laws.

(3) The Misdemeanour Commission shall decide on the misdemeanours specified in this Law and shall impose misdemeanour sanctions specified by this Law.

(4) Under the Law on Misdemeanours a legal remedy can be filed against the decisions of the Misdemeanour Commission imposing misdemeanour sanctions.

(5) The Misdemeanour Commission shall maintain the unique record of misdemeanours under the Law on Misdemeanours.

(6) The Misdemeanour Commission shall adopt rules of procedures for its work.

Article 132

Settlement

(1) The persons authorised for inspection shall conduct a settlement procedure under the Law on Misdemeanours. For the misdemeanours stipulated in Articles 133, 134, 135, 136, 136-a, and 136-f of this Law, before submitting a request for misdemeanour procedure, the persons authorised for inspection are obliged to propose a settlement procedure to the perpetrator.

(2) The Agency shall prescribe the form and content of the misdemeanour payment order in paragraph (1) of this Article.

Article 133

(1) A fine in the amount of EUR 9,000-10,000 in MKD equivalent shall be imposed for a misdemeanour against a company for the management of mandatory pension funds or company for the management of mandatory and voluntary pension funds if:

1) it refuses to provide access to the books, documents and other records to the authorised person inspecting on behalf of the Agency according to Article 53 paragraph (3) of this Law;

2) it fails to remove the illegalities according to Article 53 paragraph (5) of this Law;

3) the assets in 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 parties contrary to Article 67 paragraph (3) of this Law;

4) it fails to allocate the contributions, transferred assets, fee for untimely asset transfer, and the return from the investments in the 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 convert the funds from the contributions and the transferred funds into accounting units as per Article 82 of this Law;

6) it valuates the mandatory pension fund’s assets contrary to the rules in Article 83 of this Law and the acts of the Agency;

7) it fails to calculate the net assets of the fund and the value of the accounting unit on each valuation date and if it fails to modify the estimated value of a specific security, as per 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 North 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 delegates the responsibility for that onto another entity contrary to Article 112 of this Law;

14) it obtains loans contrary to the goals and limitations stipulated in Article 113 of this Law;

15) the selected custodian of the assets does not fulfil the requirements stipulated in Article 116 of this Law;

16) it fails to select a custodian to whom it will entrust the responsibility for safekeeping the assets of the mandatory pension fund or if it has no permanent contract with the custodian as per Article 115, paragraphs (1) and (2) and Article 119 of this Law;

17) it fails to fulfil the obligations stipulated in Article 122 paragraph (1), items a) and b) and paragraph (2) of this Law;

18) it fails to ensure the continuous performance of the services related to providing custody of the mandatory pension fund assets as per 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 the Agency to undertake legal actions as per Article 126 paragraph (5) of this Law.

(2) A fine of up to twice the amount stipulated in paragraph (1) of this Article shall be imposed against the company for the management of mandatory pension funds or the company for the management of mandatory and voluntary pension funds if it committed the misdemeanour stipulated in paragraph (1) of this Article and thereby acquired substantive material benefits or caused substantive material damages.

(3) The company for the management of mandatory pension funds shall be fined for a misdemeanour with a fine of 9,000 to 10.000 EURO in MKD equivalent if the Company:

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

2) fails to increase and maintain the assets as per Article 10 paragraphs (2), (4) and (5) of this Law;

3) fails to maintain, calculate and increase own assets calculated per the methodology stipulated by the Agency as per Article 10 paragraphs (6) and (7) of this Law;

4) fails to maintain liquid assets as per Article 10 paragraph (9) of this Law;

5) fails to apply for consent for each acquisition or transfer of shares as per Article 16 paragraph (1) of this Article;

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

7) fails to enter the Centre as per Article 39-g paragraph (5) of this Law.

8) makes changes without the approval of the Agency as per Article 39-h of this Law;

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

(4) A fine of up to twice the amount stipulated in paragraph (3) of this Article shall be imposed against the company for the management of mandatory pension funds if it committed the misdemeanour stipulated in paragraph (3) of this Article and thereby acquired substantive material benefits or caused substantive material damages.

(5) For the misdemeanour stipulated in paragraph (1) of this Article, a fine in the amount of EUR 400-500 in MKD equivalent shall also be imposed on the responsible person in case of a misdemeanour in the company for the management of mandatory pension funds or the company for the management of mandatory and voluntary pension funds, whereas for the misdemeanour stipulated in paragraph (3) of this Article, only on the responsible person in case of a misdemeanour in the company for the management of mandatory pension funds.

(6) For the misdemeanours determined in this article, a misdemeanour procedure is conducted and a misdemeanour sanction is pronounced by a competent court.

Article 134

(1) A fine in the amount of EUR 8,000-9,000 in MKD equivalent shall be imposed for a misdemeanour against the company for the management of mandatory pension funds or the company for the management of mandatory and voluntary pension funds if:

1) it uses its assets for purposes prohibited under Article 20 of this Law;

2) fails to meet any of the requirements stipulated with Article 21 paragraphs (1), (2), (3), (4) and (5) of this Law;

3) start with activities of managing a mandatory pension fund, marketing and public opinion research contrary to conditions prescribed in Article 39-g paragraph (6) of this Law;

4) fails to establish an individual account as per Article 59 paragraph (5) of this Law;

5) it refuses to grant membership to an insured person that fulfils the requirements prescribed by the Law on Pension and Disability Insurance in terms of Article 59 paragraph 7 of this Law;

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

7) fails to fulfil the obligations from Article 63 paragraph (1) of this Law;

8) fails to fulfil the obligations from Article 63 paragraph (3) of this Law;

9) fails to secure the rights of the member of the mandatory pension fund who has ceased paying contributions to the fund before retirement as per Article 64 of this Law;

10) fails to transfer to the Pension and Disability Insurance Fund of the Republic of North Macedonia the assets from the account of a pension fund member who has acquired the right to a disability pension as per Article 65 of this Law;

11) fails to fulfil its obligations in cases of death of a mandatory pension fund member, stipulated in Article 66 of this Law;

12) fails to transfer the paid contributions from the account of the mandatory pension fund member to the Pension and Disability Insurance Fund of North Macedonia as per Article 66-a paragraph (1) of this Law.

13) provides wrong and incorrect information about a mandatory pension fund or the company managing that fund, or gives statements and forecasts about the future investment results of a mandatory pension fund, or does not act according to the decision of the Agency in terms of Article 75 paragraph (1), (2) and (5) of this Law.

14) fails to meet the requirements of Article 76 paragraph (1) of this Law;

15) fails to sign an agreement for the marketing of the mandatory pension fund with a business associate, as per Article 76 paragraph (2) of this Law;

16) signs a membership agreement, transfer agreement or programmed withdrawals agreement with a natural person without the presence of a sales agent contrary to Article 77 paragraph (1) of this Law;

17) implements procedures for mandatory pension fund marketing prohibited by Article 79 of this Law;

18) fails to determine the return of the mandatory pension fund it manages as per Article 86 of this Law;

19) fails to comply with the requirements related to the publication of an information prospectus stipulated in Article 94 paragraphs (1), (2) and (3) of this Law;

20) fails to submit an informative prospectus and 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 fails to inform a person as per Article 94 paragraphs (4) and (5) of this Law;

21) submits data to the members and the retired members in a form contrary to Article 95 paragraph (5) of this Law;

22) fails to fulfil the obligation to regularly inform the members and the retired members of the mandatory pension fund in accordance with Article 95 of this Law;

23) fails to submit to the Agency the information referred to in Article 96 paragraph (1) of this Law and the acts as stipulated by the Agency;

24) 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 the deadlines provided in Article 100 of this Law;

25) fails to ensure full competitiveness of the fees as per Article 101 of this Law;

26) acts contrary to the limitations provided in Article 109 of this Law;

27) fails to inform the Agency when it intends to terminate the custody agreement as per Article 121 of this Law, and

28) fails to act following the standpoints and opinions expressed in the acts of the Agency.

(2) A fine of up to twice the amount stipulated in paragraph (1) of this Article shall be imposed against the company for the management of mandatory pension funds or the company for the management of mandatory and voluntary pension funds if it committed the misdemeanour 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 8,000 to 9,000 Euro in MKD counter value shall be imposed on a company managing mandatory pension funds for a misdemeanour if:

1) fails to adopt a Good Corporate Governance Code and does not work following the provisions of Article 4 paragraph (3) of this Law;

2) fails to establish efficient control mechanisms and procedures and fails to appoint persons as per Article 18-b of this Law;

3) fails to establish an organisational unit as per Article 21-a paragraph (1) of this Law;

4) fails to meet the obligations as per Article 21-b paragraphs (1), (2), (3) and (4) of this Law;

5) fails to establish activities for risk management, appoint a responsible person for risk management and submit the report as per Article 21-c paragraphs (1), (2) and (5) of this Law;

6) fails to appoint an authorised external auditor with good references and to publish an excerpt of the audited financial report with the auditor’s opinion as per Article 22 of this Law;

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

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

(4) A fine of up to twice the amount stipulated in paragraph (3) of this Article shall be imposed against the company for the management of mandatory pension funds if it committed the misdemeanour stipulated in paragraph (3) of this Article and thereby acquired substantive material benefits or caused substantive material damages.

(5) For the misdemeanour stipulated in paragraph (1) of this Article, a fine in the amount of EUR 300-400 in MKD counter value shall also be imposed against the responsible person in case of a misdemeanour in the company for the management of mandatory pension funds or the company for the management of mandatory and voluntary pension funds, whereas for the misdemeanour stipulated in paragraph (3) of this Article, only against the responsible person in case of a misdemeanour in the company for the management of mandatory pension funds.

(6) For the misdemeanours determined in this Article, a misdemeanour procedure is conducted and a misdemeanour sanction is pronounced by a competent court.

Article 135

(1) The company for the management of mandatory pension funds or company for the management of mandatory and voluntary pension funds shall be charged with a misdemeanour and fined EUR 4,000-5,000 in MKD equivalent if:

1) fails to 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 of the net assets value of the mandatory pension fund and the value of the accounting unit of the mandatory pension fund as per Article 85 paragraphs (1) and (2) of this Law, and

4) fails to submit information and data to the Agency or provides inaccurate information in the deadlines provided in Article 96 of this Law.

(2) A company for the management of mandatory pension funds shall be charged for a misdemeanour with a fine of EUR 4,000-5,000 in MKD counter value if:

1) fails to prepare the annual working plan, the report for its work and fails to submit them to the Agency as per Article 21-a paragraphs (3), (4) and (5) of this Law.

(3) For the misdemeanour stipulated in paragraph (1) of this Article, a fine in the amount of EUR 300-400 in MKD counter value shall also be imposed against the responsible person in case of a misdemeanour in the company for the management of mandatory pension funds or the company for the management of mandatory and voluntary pension funds, whereas for the misdemeanour stipulated in paragraph (2) of this Article, only against the responsible person in case of a misdemeanour in the company for the management of mandatory pension funds.

(4) For the misdemeanours determined in this article, a misdemeanour procedure shall be conducted and a misdemeanour sanction shall be pronounced by a competent court.

Article 136

„(1) A fine in the amount of EUR 9,000-10,000 in MKD counter value shall be imposed against the custodian for a misdemeanour if the custodian:

1) failed to provide access to the books, documents and other records to the person authorised to conduct an inspection on behalf of the Agency as per Article 53 paragraph (3) of this Law;

2) fails to remove the illegalities as per Article 53 paragraph (5) of this Law;

3) fails to perform the custody of the assets, operations regarding such assets and the keeping of the pension funds’ records for each pension fund separate from the other clients and its own assets, operations and records as per Article 115 paragraph (4) of this Law;

4) fails to undertake activities for compliance with the provisions of Article 116 paragraph (2) in a period not longer than three months from the day when it ceased to meet any of the conditions as per Article 116 paragraph (3) of this Law;

5) fails to fulfil the obligations stipulated in Article 117 of this Law;

6) acts contrary to Article 118 of this Law;

7) covers damages using the assets of the mandatory pension fund, contrary to Article 120 paragraph (2) of this Law;

8) fails to provide full data confidentiality as per Article 120 paragraph (4) of this Law;

9) fails to inform the Agency when it intends to terminate the custody agreement as per Article 121 of this Law, and

10) fails to fulfil the obligations stipulated in Article 123 paragraph (2) of this Law in the event of termination of the custody agreement.

(2) A fine of up to twice the amount stipulated in paragraph (1) of this Article shall be imposed against the custodian if it committed the misdemeanour 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 EUR 400-500 in MKD counter value shall be imposed for the misdemeanour stipulated in paragraph (1) of this Article against the responsible person in case of a misdemeanour in the custodian.

(4) For the misdemeanours determined in this article, a misdemeanour procedure shall be conducted and a misdemeanour sanction shall be pronounced by a competent court.“

Article 136-a

(1) A fine in the amount of EUR 200-250 in MKD counter value shall be imposed for a misdemeanour against a natural person if:

1) as a member of the management board, the supervisory board or a responsible person for investment decisions, risk management, internal audit, individual accounts, marketing, control of agents and calculation of programmed withdrawals fails to meet the fiduciary duty as per Article 18-a paragraph (1) of this Law;

2) as a person responsible for individual accounts fails to comply with the obligations referred to in Article 21 paragraph (8) of this Law;

3) as an actuary fails to meet the obligations as per Article 21-b paragraphs (5), (6), (7) and (10) of this Law, and

4) as a person responsible for risk management fails to provide an objective analysis of the risks and fails to advise correctly the management board as per Article 21-c paragraph (3) of this Law;

5) as an agent of a company managing mandatory pension funds fails to comply with the obligations and limitations stipulated in Article 75 paragraphs (1) and (2) of this Law;

6) as a person responsible for marketing fails to comply with the obligations referred to in Article 75-a paragraph (1) of this Law;

7) as a person responsible for the control of agents fails to comply with the obligations referred to in Article 75-a paragraph (2) of this Law;

8) as an agent of a company managing mandatory pension funds fails to comply with the obligations and limitations stipulated in Article 77 paragraphs (2), (3) and (4) of this Law.

(2) A fine in the amount of EUR 50-60 in MKD counter value shall be imposed on the candidate for a misdemeanour if the candidate acts contrary to Article 77-g paragraphs (2), (3) and (4) of this Law.

Article 136-b

(1) A fine in the amount of EUR 7,000-8,000 in MKD counter value shall be imposed against the Pension and Disability Insurance Fund of the Republic of North Macedonia for a misdemeanour if:

1) it fails to transfer the contributions to the mandatory pension funds chosen by the members in the percentages deadlines specified by Articles 60 and 69, paragraph (1), items c) and d) of this Law;

2) it fails to fulfil 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 as per Article 69 paragraph (1) item d) of this Law.

(2) For the misdemeanour stipulated in paragraph (1) of this Article, a fine in the amount of EUR 300-400 in MKD counter value shall also be imposed against the responsible person in case of a misdemeanour in the Pension and Disability Insurance Fund of the Republic of North Macedonia.

(3) For the misdemeanours determined in this article, a misdemeanour procedure shall be conducted and a misdemeanour sanction shall be pronounced by a competent court.

Article 136-c

„(1) An employee in the Agency shall be fined EUR 200-250 in MKD counter-value for a misdemeanour in the following cases:

1) if such employee accepts a function or employment or acquires shares contrary to Article 51 paragraph (7) of this Law;

2) if, as an authorised person in the Agency who determines whether the candidate meets the conditions for taking the exam, allows a candidate who does not meet the prescribed conditions of this Law to take the exam;

3) if, as an authorised representative from Article 77-f paragraph (5) of this Law allows the candidate to act contrary to Article 77-g paragraphs (2), (3) and (4) of this Law;

4) if, as a member of the Commission referred to in Article 77-l paragraph (6) of this Law, determines irregularities the during the exam, and fails to ascertain that in the report to the Council of Experts, and

5) as an officer of the Agency fails to request the evidence ex officio within three days from receiving the request as per Articles 77 paragraph (8) and 77-a paragraph (3) of this Law.

(2) For the misdemeanours determined in this article, a misdemeanour procedure shall be conducted and a misdemeanour sanction shall be pronounced by a competent court.“

Article 136-d

(1) If the officer fails to submit the requested evidence ex officio within three days of receiving the request as per Articles 77 paragraph (9) and 77-a paragraph (4) of this Law, for that misdemeanour the officer shall be fined EUR 200-250 in MKD counter value by the competent public body.

(2) For the misdemeanours determined in this article, a misdemeanour procedure shall be conducted and a misdemeanour sanction shall be pronounced by a competent court.“

Article 136-e

(1) A fine in the amount of EUR 4,000-5,000 in MKD equivalent shall be imposed for a misdemeanour against a legal entity that applied for a licence to establish a Company if:

1) fails to pay the initial capital in a manner prescribed by Article 11 of this Law;

2) the initial capital originates from sources contrary to Article 12 of this Law;

3) fails to harmonise within six months as per Article 14 paragraph (5) of this Law, and

4) it provided incorrect data in the submitted documentation contrary to Article 39-c of this Law.

(2) For the misdemeanour stipulated in paragraph (1) of this Article in the legal entity, the responsible person in case of a misdemeanour shall also be fined EUR 300-400 in MKD equivalent.

(3) For the misdemeanours determined in this article, a misdemeanour procedure shall be conducted and a misdemeanour sanction shall be pronounced by a competent court.

Article 136-f

(1) A fine in the amount of EUR 9,000-10,000 in MKD counter value shall be imposed on the Centre for a misdemeanour if:

1) it denies access to books, documents and other records to the authorised person performing an inspection on behalf of the Agency as per Article 53 paragraph (1) item d) of this Law, and

2) it fails to remove the illegalities as per Article 53 paragraph (5) of this Law.

(2) For the misdemeanours determined in this article, a misdemeanour procedure shall be conducted and a misdemeanour sanction shall be pronounced by a competent court.“

Article 136-g

„(1) A fine in the amount of EUR 4,000-5,000 MKD counter value shall be imposed on the authorised legal entity responsible for the technical equipment used for the exam as referred to in Article 77-f paragraph (7) of this Law if it fails to block the radio frequency band in the exam room.

(2) For the misdemeanours determined in this article, a misdemeanour procedure shall be conducted and a misdemeanour sanction shall be pronounced by a competent court.“

CHAPTER XVII

TRANSITIONAL AND FINAL PROVISIONS

Article 137

(1) The Agency shall begin to operate from the day of the 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 of the Agency within 60 days of this Law coming into force.

(4) The Agency shall adopt the statute within 30 days of the appointment of the members of the management board.

(5) The Agency shall adopt the regulations for the implementation of this Law within 180 days of beginning its operations.

Article 138

(1) The contributors who enter the mandatory pension and disability insurance for the first time after 1 January 2003, but before the date of granting licenses for establishing Companies, shall be obliged to join a mandatory pension fund until the date stipulated in Article 58 paragraph (4) of this Law.

(2) The contributors who enter the mandatory pension and disability insurance for the first time after the date of granting licenses for establishing Companies and before the date stipulated in Article 58 paragraph (4) of this Law, shall be obliged to join a mandatory pension fund within 3 months from the date stipulated in Article 58 paragraph (4) of this Law.

Article 139 is repealed

(Article 21 of the “Official Gazette of the Republic of Macedonia” No. 245/2018)

Article 139-a is repealed

(Article 24 of the “Official Gazette of the Republic of Macedonia” No. 48/09)

Articles 139-b, 139-c, 139-d, 139-e, and 139-f are repealed

(Article 24 of the “Official Gazette of the Republic of Macedonia” No. 50/10)

Article 139-g

(Article 19 of the “Official Gazette of the Republic of Macedonia” No. 113/05)

The provisions of Articles 90 and 91 of this Law shall be applied after the expiry of the five-year period, calculating from the starting date of the payment of contributions to the mandatory fully funded pension insurance as per Article 58 (4) of this Law.

Article 140

(Article 70 of the “Official Gazette of the Republic of Macedonia” No. 88/08)

(1) Upon a request from a pension fund member, the Agency can annul that member’s registration in the register of Members if the estimations of the future pension based on that member’s age and service before the membership in the mandatory fully funded pension insurance show that such membership would be contrary to that member’s interests.

(2) The mandatory pension fund member can submit the request stipulated in paragraph (1) of this Article to the Agency within 180 days of this Law coming into force.

Article 141

(Article 71 of the “Official Gazette of the Republic of Macedonia” No. 88/08)

The highest amount of the fee from the contributions determined by the Agency as per Article 36, paragraph (3) of this Law, for 2008 shall be determined for the remaining period of this year.

Article 142

(Article 72 of “Official Gazette of the Republic of Macedonia” No. 88/08)

(1) Until the Law on Payment of Pensions by way of annuities or programmed withdrawals is enacted, when a mandatory pension fund member acquires the right to an old-age pension under the Law on Pension and Disability Insurance, then this member can withdraw the full amount from their 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 an old-age pension under the Law on Pension and Disability Insurance because the member had not completed the minimum of 15 years of pension insurance, then that member can withdraw the full amount from their individual account.

Article 143

(Article 73 of the “Official Gazette of the Republic of Macedonia” No. 88/08)

(1) Throughout the text of the law, the words “pension fund” shall be replaced with the words: “mandatory pension fund” with different articles and numbers.

(2) The provision stipulated in paragraph (1) of this Article shall not apply to Articles 46,47, 48, 49, 50, 51, 52, 53, 55, and 56.

Article 144

(Article 74 of the “Official Gazette of the Republic of Macedonia” No. 88/08)

The bylaws that arise from this Law shall be adopted within 180 days after the day of this Law coming into force.

Article 145

(Article 75 of the “Official Gazette of the Republic of Macedonia” No. 88/08, repealed by the decision of the Constitutional Court of the Republic of Macedonia No. 165/08, published in the “Official Gazette of the Republic of Macedonia” No. 40/09)

The provisions stipulated in Article 15 of this Law shall start to apply from 1 January 2008.

Article 146

(Article 76 of the “Official Gazette of the Republic of Macedonia” No. 88/08)

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 Financed Pension Insurance (“Official Gazette of the Republic of Macedonia” no. 29/02, 85/03, 40/04, 113/05, and 29/07) shall cease to apply.

Article 147

(Article 77 of the “Official Gazette of the Republic of Macedonia” No. 88/08)

Within 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 managing pension funds that have been granted approvals for the management of pension funds for a period of ten years.

Article 148

(Article 25 of the “Official Gazette of the Republic of Macedonia” No. 48/09)

(1) The custodian of the mandatory pension fund managed by a Company or a company for the management of mandatory and voluntary pension funds established before this Law comes into force is the National Bank of the Republic of Macedonia.

(2) Within 6 months after this Law enters into force, the companies stipulated in paragraph (1) of this Article shall select a custodian of the mandatory pension fund as per Articles 115 and 116 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 and 88/08).

(3) Until the selection of the custodian stipulated in paragraph (2) of this Article the company for the management of mandatory pension funds and the company for the management of mandatory and voluntary pension funds shall inform the Agency about the instruments in which they intend to invest the assets of the mandatory pension fund they manage.

(4) The Agency shall continue to keep records of permitted financial instruments for the investment of the assets of the mandatory pension funds until the function of a custodian performed by the National Bank of the Republic of Macedonia is transferred to a bank.

Article 149

(Article 26 of the “Official Gazette of the Republic of Macedonia” No. 48/09)

Article 19 of this Law shall not apply to the bank deposits invested in banks before the day of this Law coming into force.

Article 150

(Article 27 of the “Official Gazette of the Republic of Macedonia” No. 48/09)

Article 27 paragraph (2) of the Law for Amending the Law on Mandatory Fully Funded Pension Insurance (“Official Gazette of the Republic of Macedonia”, No. 88/08) shall be repealed.

Article 151

(Article 65 of the “Official Gazette of the Republic of Macedonia” No. 50/10)

The existing companies for the management of mandatory and voluntary pension funds have an obligation to harmonise with the provisions of Article 9 paragraphs (7) and (8) of this Law within one year from the day of this Law coming into force.

Article 152

(Article 66 of the “Official Gazette of the Republic of Macedonia” No. 50/10)

The Agency shall register the existing mandatory pension funds in the register of mandatory and voluntary pension funds and assign an identification number within 15 days from the day when this Law comes into force.

Article 153

(Article 67 of the “Official Gazette of the Republic of Macedonia” No. 50/10 is changed with Article 13 of the “Official Gazette of the Republic of Macedonia” No. 171/10)

(1) The Agency opens an account in a commercial bank on 3 January 2011.

(2) On the day of opening the account per paragraph (1) of this Article, 15% of the Agency’s assets in its account kept in the Budget of the Republic of Macedonia shall be transferred to the account opened in the commercial bank, while 85% of the assets shall be transferred to the account of the Budget of the Republic of Macedonia.

Article 154

(Article 68 of the “Official Gazette of the Republic of Macedonia” No. 50/10)

(1) If the Company or the company for the management of mandatory and voluntary pension funds fails to prove that during the conclusion of the membership agreement with the person listed in Article 38 paragraph (1) of this Law it was not possible to reasonably assume that this person’s membership shall be against this person’s interests, the person that concluded a membership contract before this Law would come into force has the possibility to submit a request to the Agency to nullify their registration in the register of members within one year after this Law takes effect.

(2) If the Company or the company for the management of mandatory and voluntary pension funds fails to prove that during the conclusion of the membership agreement with the person listed in Article 38 paragraph (1) of this Law it was not possible to reasonably assume that this person’s membership shall be against this person’s interests, the person that concluded a membership contract after this Law took effect has the possibility to submit a request to the Agency to nullify their registration in the Register of members within one year after signing the membership agreement.

Article 155

(Article 69 of the “Official Gazette of the Republic of Macedonia” No. 50/10)

The amount of the contribution fee listed in Article 43 paragraph (1) of this Law, which is charged by the company or the companies for the management of mandatory and voluntary pension funds, 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 of the “Official Gazette of the Republic of Macedonia” No. 50/10)

The amount of the fee listed in Article 45 of this Law, which is charged by the Pension and Disability Insurance Fund of Macedonia for 2010 may not be higher than 0.2% per year.

Article 157

(Article 71 of the “Official Gazette of the Republic of Macedonia” No. 50/10)

The provision of Article 46 of this Law concerning the investment in deposits of banks that have a licence issued by the National Bank of the 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 of the “Official Gazette of the Republic of Macedonia” No. 50/10)

(1) The provisions of Article 47 paragraph (3) and Article 48 of this Law shall start to apply one year after the day of effectiveness of this Law.

(2) Notwithstanding paragraph (1) of this Article, the provisions of Article 47 paragraph (3) of this Law, in the period 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 a licence issued by the 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 of the “Official Gazette of the Republic of Macedonia” No. 50/10)

The bylaws envisaged with this Law shall be adopted within six months from the day when this Law takes effect.

Article 160

(Article 14 of the “Official Gazette of the Republic of Macedonia” No. 171/10)

The bylaws deriving from this Law shall be adopted within 15 days from the day this Law enters into force.

Article 163

(Article 22 of the “Official Gazette of the Republic of Macedonia” No. 98/12)

The Council of Experts shall be established within a maximum of 90 days from the day this Law enters into force.

The director, the deputy director, and the members of the management board of the Agency that have been appointed before this Law entered into force shall continue to perform their duties until the members of the Council of Experts are elected following this Law.

Article 164

(Article 23 of the “Official Gazette of the Republic of Macedonia” No. 98/12)

Each amendment and addendum to the Agency’s financial plan for 2012 is submitted for adoption to the Assembly of the Republic of Macedonia by the Agency.

Article 165

(Article 24 of the “Official Gazette of the Republic of Macedonia” No. 98/12)

The statute of the Agency prescribed with this Law shall be passed within 90 days from the day this Law enters into force.

The rules of procedure of the Council of Experts shall be passed within 30 days from the day the statute is adopted.

The acts on the internal organisation and systematisation of jobs of the Agency shall be adopted within six months from the day this Law enters into force.

Until the regulations as per paragraphs (1), (2), and (3) of this Article are passed, the existing regulation shall be applicable.

Article 166

(Article 25 of the “Official Gazette of the Republic of Macedonia” No. 98/12)

The Company or the company managing mandatory and voluntary pension funds shall conform the investment activities of the mandatory pension fund under its management with Articles 17 and 18 of this Law not later than 15 January 2013.

Article 167

(Article 26 of the “Official Gazette of the Republic of Macedonia” No. 98/12)

This Law enters into force on the eighth day after the day of its publishing in the “Official Gazette of the Republic of Macedonia“.

Article 168

(Article 71 of the “Official Gazette of the Republic of Macedonia” No. 13/2013)

Article 72 of the Law Amending the Law on Mandatory Fully Funded Pension Insurance (“Official Gazette of the Republic of Macedonia” No. 88/08) is amended and it states:

(1) Until the application of the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance begins, a pension fund member who has acquired the right to an old-age pension as per the Law on Pension and Disability Insurance may withdraw the entire amount from their individual account.

(2) Until the application of the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance begins, when a pension fund member has not acquired the right to an old-age pension under the Law on Pension and Disability Insurance because of not completing the minimum of 15 years of pension insurance, such member may withdraw the entire amount from their individual account.

Article 169

(Article 72 of the “Official Gazette of the Republic of Macedonia” No. 13/2013)

In the Law amending 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, which becomes item 5” are changed with the number “4-a”.

Article 170

(Article 73 of the “Official Gazette of the Republic of Macedonia” No. 13/2013)

The amount of the fee from contributions as per Article 52 paragraph (1) of this Law, which amends Article 98 paragraph (1) item a) of the Law on Mandatory Fully Funded Pension Insurance and is charged by the Companies or the companies managing mandatory and voluntary pension funds, is decreased every year 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.

The amount of the fee from the net assets value 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 is charged by the Companies or the companies managing mandatory and voluntary pension funds is decreased every year 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.

As of 1 July 2013, the amount of the fee from contributions as per Article 52 paragraph (1) of this Law, which amends Article 98 paragraph (1) item a) of the Law on Mandatory Fully Funded Pension Insurance and is charged by the Companies or companies managing mandatory and voluntary pension funds from each paid contribution, may not be higher than 3.75%, and the amount of the monthly fee from the net assets value as per Article 52 paragraph (2) of this Law, which amends Article 98 paragraph (1) item b) of the Law on Mandatory Fully Funded Pension Insurance, may not be higher than 0.045 %.

Article 171

(Article 74 of the “Official Gazette of the Republic of Macedonia” No. 13/2013)

The bylaws stipulated with this Law shall be passed within one year from the day this Law enters into force.

Article 172

(Article 75 of the “Official Gazette of the Republic of Macedonia” No. 13/2013)

The Legislative Committee of the Assembly of the Republic of North Macedonia shall be authorised to determine a consolidated text of the Law on Mandatory Fully Funded Pension Insurance.

Article 173

(Article 76 od “Official Gazette of the Republic of Macedonia” No. 13/2013)

The provisions of Article 31 of this Law that 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 98/2012) shall enter into force on 1 January 2014.

The provisions of Article 55 of this Law, with which Article 102 of the Law on Mandatory Fully Fudged Pension Insurance is repealed (“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 98/2012), shall enter into force on 1 January 2013.

The provisions of Article 58 paragraph (1) of this Law that 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 98/2012) shall enter into force on 1 January 2014.

The provisions of Article 59 of this Law that 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 98/2012), shall enter into force on 1 January 2014.

Article 174

(Article 77 of the “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.

Article 175

(Article 5 of the “Official Gazette of the Republic of Macedonia” No. 164/2013)

The bylaws stipulated with this Law shall be passed within six months from the day this Law enters into force.

Article 176

(Article 6 of the “Official Gazette of the Republic of Macedonia” No. 164/2013)

The Legislative Committee of the Assembly of the Republic of Macedonia is authorised to determine a consolidated text of the Law on Mandatory Fully Funded Pension Insurance.

Article 177

(Article 7 of the “Official Gazette of the Republic of Macedonia” No. 164/2013)

The agent exam procedures that have already started before the day this Law enters into force shall be completed following the provisions of the regulations under which they were initiated.

Article 178

(Article 8 of “Official Gazette of the Republic of Macedonia” No. 164/2013)

This Law enters into force on the eighth day after the day of publishing in the Official Gazette of the Republic of Macedonia, and Articles 1 and 4 of this Law shall be implemented within one year after the day this Law entered into force.

Article 179

(Article 4 of the “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 enters into force.

Article 180

(Article 5 of the “Official Gazette of the Republic of Macedonia” No. 44/2014)

The members of the Council of Experts of the Agency appointed before the day of the commencement of the application of this Law shall continue to perform their duties until the expiry of their mandates.

Article 181

(Article 6 of the “Official Gazette of the Republic of Macedonia” No. 44/2014)

The provisions of Article 1 of this Law shall be enforced one year after the day this Law enters into force, except the provisions that refer to the condition of knowing a foreign language, which shall be enforced two years after the day this Law enters into force.

The provisions of Article 2 of this Law with which a new paragraph (5) is added 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).

Article 182

(Article 8 of the “Official Gazette of the Republic of Macedonia” No. 192/2015)

The Legislative Committee of the Assembly of the Republic of Macedonia is authorised to determine a consolidated text of the Law on Mandatory Funded Pension Insurance.

Article 183

(Article 9 of the “Official Gazette of the Republic of Macedonia” No. 192/2015)

This Law enters into force on the eighth day after the day of publishing in the “Official Gazette of the Republic of Macedonia”.

Article 184

(Article 9 of the “Official Gazette of RM” No. 30/2016)

The procedures that have already started before the day this Law enters into force shall be completed following the law under which they were initiated.

Article 185

(Article 10 of the “Official Gazette of RM” No. 30/2016)

The application of the provisions of Articles 2, 3, 4, 5, 6, 7, and 8 of this Law shall start with the beginning of the application of the Law on General Administrative Procedure as per Article 141 of the Law on General Administrative Procedure. (“Official Gazette of the Republic of Macedonia” No. 124/15).

Article 186

(Article 11 of the “Official Gazette of RM” No. 30/2016)

This Law enters into force on the eighth day after the day of publishing in the Official Gazette of the Republic of Macedonia.

Article 187

(Article 2 of the “Official Gazette of RM” No. 21/2018)

The provisions of Article 51 paragraph (1) item e) 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, 88/2008, 48/2009, 50/10, 171/10, 36/11, 98/12, 13/13, 164/13, 44/14, 192/15, and 30/16), and the provisions of Article 1 of this Law with which a new indent 6 is added to Article 51 paragraph (1) item e), shall not be applied from the day when this Law enters into force until 1 September 2018.

Article 188

(Article 3 of the “Official Gazette of RM” No. 21/2018)

The Council of Experts member of the Agency for Supervision of Fully Funded Pension Insurance who is appointed in the period from the day this Law enters into force until 1 September 2018 shall be obligedto fulfil the condition of knowing a foreign language within one year from the date of the appointment as a member of the Council of Experts. If the Council of Experts member of the Agency for Supervision of Fully Funded Pension Insurance fails to fulfil the condition of knowing a foreign language within the deadline determined in paragraph (1) of this Article, that member’s mandate shall be terminated.

Article 189

(Article 4 of the “Official Gazette of RM” No. 21/2018)

The Legislative Committee of the Assembly of the Republic of Macedonia shall be authorised to determine a consolidated text of the Law on Mandatory Fully Funded Pension Insurance.

Article 190

(Article 5 of the “Official Gazette of RM” No. 21/2018)

This law shall enter into force on the day of its publication in the “Official Gazette of the Republic of Macedonia”.

Article 191

(Article 22 of the “Official Gazette of RM” No. 245/2018)

(1) The membership of a mandatory pension fund member born before 1 January 1967 shall be terminated on 1 January 2019. Upon termination of the membership, the insured person remains insured only in the current funded pension insurance based on intergenerational solidarity.

(2) Notwithstanding paragraph (1) of this Article, a mandatory pension fund member born before 1 January 1967 who joined the mandatory fully funded pension insurance of personal choice and joined a mandatory pension fund, as per Article 58 paragraph (3) 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, 88/2008, 48/2009, 50/2010, 171/2010, 36/2011, 98/2012, 13/2013, 164/2013, 44/2014, 192/2015, 30/2016, and 21/2018) that member has the right to choose to terminate or continue the membership in the second pension pillar with a written statement for termination or extension of membership in the mandatory pension fund no later than 30 September 2019. If the member does not give a statement for extension of the membership in the mandatory pension fund within this period, the mandatory pension fund membership of that member terminates after the expiration of this period. The mandatory pension fund membership of the member who gives a statement for termination of the membership in a mandatory pension fund before 30 September 2019, that member’s membership shall be terminated on the date of giving the statement.

(3) For the members whose membership has been terminated as per paragraph (1) of this Article, the company transfers the total amount of funds from the members’ account to the Pension and Disability Insurance Fund of Macedonia within six months starting from 1 January 2019 in a manner prescribed by the Agency. After the transfer of the funds, the Company shall close the member’s individual account.

(4) Regarding the members from paragraph (2) of this Article, the individual accounts in the mandatory pension fund shall remain open and those assets shall be invested in the same way as the other assets of the mandatory pension fund until the date of giving the statement for termination of the membership or until the expiration of the period from paragraph (2) of this Article. Upon termination of the membership as per paragraph (2) of this Article, the Company shall transfer the total amount of funds from the member’s account to the Pension and Disability Insurance Fund of Macedonia in a manner prescribed by the Agency. After the transfer of funds, the Company shall close the individual account of that member.

Article 192

(Article 23 of “Official Gazette of RM” No. 245/2018)

In cases where the insurees have acquired membership in the mandatory fully funded pension insurance in accordance with Article 58 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, 88/2008, 48/2009, 50/2010, 171/2010, 36/2011, 98/2012, 13/2013, 164/2013, 44/2014, 192/2015, 30/2016, and 21/2018) and were born after 1 January 1967, their membership in the mandatory fully funded pension insurance shall continue.

Article 193

(Article 24 of “Official Gazette of RM” No. 245/2018)

(1) In cases where the mandatory pension fund members, until the day of application of this Law, during the insurance have acquired the status of insurees in accordance with Article 11 items 9 and 15 of the Law on Pension and Disability Insurance, or during the insurance had an insurance period that is considered to be an extended period of insurance, their membership in the mandatory fully funded pension insurance shall be terminates on 1 January 2019.

(2) For the members whose membership has been terminated in accordance with paragraph (1) of this Article, the company shall transfer the total amount of funds from the member accounts to the Pension and Disability Insurance Fund of Macedonia within six months starting from 1 January 2019 in a manner prescribed by the Agency. After the transfer of the assets, the Company shall close the member’s individual account.

Article 194

(Article 25 of “Official Gazette of RM” No. 245/2018)

(1) In cases where insureеs are mandatory members of the mandatory pension funds as per Article 58 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, 88/2008, 48/2009, 50/2010, 171/2010, 36/2011, 98/2012, 13/2013, 164/2013, 44/2014, 192/2015, 30/2016, and 21/2018), but until the day of implementation of this Law have not been distributed in the mandatory pension funds by the Pension and Disability Insurance Fund of Macedonia as per Article 69 paragraph (1) item c) of this Law, the Pension and Disability Insurance Fund of Macedonia shall be obliged during their distribution in the mandatory pension funds, in addition to the transfer of the contributions for those insurees paid for the period from the date of payment of the contribution to the mandatory fully funded pension insurance until the date of their distribution, to pay a fee for the untimely transfer of the contributions.

(2) The manner of the calculation and payment of the fee referred to in paragraph (1) of this Article shall be prescribed by the Agency.

Article 195

(Article 26 of “Official Gazette of RM” No. 245/2018)

In the Law Amending the Law on Mandatory Fully Funded Pension Insurance (“Official Gazette of the Republic of Macedonia” No. 98/12), Article 1 is repealed.

Article 196

(Article 27 of “Official Gazette of RM” No. 245/2018)

The bylaws provided by this Law shall be adopted within 30 days after this Law enters into force.

Article 197

(Article 28 of “Official Gazette of RM” No. 245/2018)

The Legislative Committee of the Assembly of the Republic of Macedonia shall be authorised to determine a consolidated text of the Law on Mandatory Fully Funded Pension Insurance.

Article 198

(Article 29 of “Official Gazette of RM” No. 245/2018)

This Law shall enter into force on the day of its publication in the “Official Gazette of the Republic of Macedonia”, and shall enter into force on 1 January 2019.

Article 199

(Article 2 of “Official Gazette of RNM” No. 180/2019)

(1) A member of a mandatory pension fund who, until the day when this Law entered into force, has completed an extended period of insurance that allows lowering the age limit for acquiring the right to old-age pension for at least one year as per Article 118 paragraph (3) of the Law for Pension and Disability Insurance, can choose to extend the membership in the second pension pillar giving a written statement for extension of the membership in the mandatory pension fund not later than 30 November 2019.

(2) If the mandatory pension fund member fails to give a written statement for extension of the membership in the mandatory pension fund within the period from paragraph (1) of this Article, after the expiration of this period that member’s membership in the mandatory pension fund shall be terminated.

(3) Upon termination of the membership as per paragraph (2) of this Article, the Company shall transfer the total amount of assets from the member’s individual account to the Pension and Disability Insurance Fund of the Republic of North Macedonia in a manner prescribed by the Agency. After the transfer of the assets, the Company shall close that member’s individual account.

Article 200

(Article 3 of the “Official Gazette” of RNM No. 180/2019)

The Legislative Committee of the Assembly of the Republic of North Macedonia shall be authorized to determine a consolidated text of the Law on Mandatory Fully Funded Pension Insurance.

Article 201

(Article 4 of the “Official Gazette” of RNM No. 180/2019)

This Law shall enter into force on the day of its publication in the “Official Gazette of the Republic of North Macedonia”.

Article 202

(Article 28 of the “Official Gazette” of RNM No. 103/2021)

The bylaws provided by this Law will be adopted within six months from the day this Law enters into force.

Article 203

(Article 29 of the “Official Gazette” of RNM No. 103/2021)

This law shall enter into force on the day of its publication in the “Official Gazette of the Republic of North Macedonia”.