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**ON VOLUNTARY PENSION FUNDS AND PENSION SCHEMES**

**I. GENERAL PROVISIONS**

**Subject of Regulation**

**Article 1**

This law shall govern:

- 1) organization and management of voluntary pension funds;
- 2) establishing, activity and operations of voluntary pension fund management companies;
- 3) activities and responsibilities of custody banks, within the meaning of this Law;
- 4) competence of the National Bank of Serbia in the conduct of supervision of operations of voluntary pension fund management companies;
- 5) other issues of significance for the functioning of voluntary pension funds.

**Principles of Voluntary Pension Funds**

**Article 2**

The principles on which voluntary pension funds are based shall be:

- 1) voluntary membership;
- 2) investment risk sharing;
- 3) equality of members;
- 4) operational transparency;
- 5) accumulation of funds.

**Meaning of Certain Terms**

**Article 3**

For the purposes hereof, certain terms shall have the following meanings:

- 1) *voluntary pension fund management company* – a company which organizes and manages voluntary pension funds, in conformity with the law (hereinafter: management company);
- 2) *voluntary pension fund* – a collective investment institution within which pension contribution is collected and invested in different types of assets with a view to generating revenue and reducing investment risk;
- 3) *custody bank* – a bank which maintains the fund’s account and renders other custody services for the account of the voluntary pension fund, and which, with respect

to the assets of the voluntary pension fund, acts exclusively in line with the orders of the management company that are in conformity with the law and the fund's prospectus;

4) *voluntary pension fund member* – a domestic and foreign natural person which, directly or via an organizer of the pension scheme, joins the voluntary pension fund;

5) *investment unit* – a pro rata accounting share in total net assets of the voluntary pension fund;

6) *employer* – an employer within the meaning of the law governing labour relations;

7) *contributor* – a domestic and foreign legal entity and natural person which pays pension contribution for the account of a voluntary pension fund member, and which can be an employer, a third party or fund member, in conformity with the provisions hereof;

8) *pension contribution* – funds credited to the voluntary pension fund by the contributor;

9) *scheduled payment* – payment of accumulated funds from the accounts of voluntary pension fund members, subject to a special contract;

10) *pension scheme* – a contract in favour of third parties, which constitutes an integral part of the voluntary pension fund, concluded between the employer, association of employers, professional association or trade union (hereinafter: organizer) and management company, subject to which the organizer undertakes to pay the pension contribution in favour of its employees, or members, and the management company invests collected funds;

11) *qualified stake* – shall be held by a person which is a direct or indirect shareholder, or holder of other rights based on which it acquires a capital stake or voting rights of another person in the amount of over 10%;

12) *related parties* – legal entities interrelated by means of management, ownership or other relationships with a view to achieving common business objectives, in such a way that the operations or results of operations of one such party may have a significant effect on the operations, and results of operations of another party. For the purposes hereof, related parties shall also mean the parties related:

- as family members,
- in such a way that one party, or parties, deemed to constitute related parties subject hereto, participate jointly, indirectly or directly, in another party,
- in such a way that the same party, or parties, deemed to constitute related parties subject hereto, hold a stake in both parties,
- in the manner prescribed for related parties in the law governing the legal position of companies,
- as members of management or supervisory boards, or family members of such parties;

13) for the purposes hereof, *family members* shall mean:

- spouses, or persons living in cohabitation,
- descendents and antecedents in the direct line without limitations,
- relatives up to the third degree of kinship, in the indirect line, including relations by marriage,
- adopter and adoptees, and adoptees' descendants,
- foster parent and foster children, and foster children's descendants;

14) *market recognized legal entity* – a legal entity which is listed on stock exchange in OECD member countries, or has been awarded a rating by credit rating agencies, or was ranked at least BBB according to the latest *Standard and Poor's*, *Fitch-IBCA* or *Thompson Bank Watch* rating, or at least Baa3 according to the latest *Moody's* rating.

## **II. MANAGEMENT COMPANY**

### **Legal Form**

#### **Article 4**

The management company shall be established exclusively as a closed joint-stock company.

The provisions of the law governing companies shall apply to management companies, unless otherwise provided herein.

The management company can be established by domestic and foreign natural persons and legal entities.

A domestic legal entity with majority state or social capital, or its related party, cannot be the founder of the management company.

By way of exception to paragraph 4 hereof, banks and insurance companies with majority state, or social capital, can be the founders of the management company.

Legal entities and natural persons can be shareholders in only one management company.

### **Activity of the Management Company**

#### **Article 5**

The management company shall perform the activity of organizing and managing voluntary pension funds.

A management company can organize and manage several voluntary pension funds.

The management company shall manage the voluntary pension fund, make investment decisions, perform scheduled payments, perform administrative and marketing operations and activities, and other operations, in conformity herewith.

The management company may commission other persons to perform administrative and marketing operations and activities, which does not, however, exclude the responsibility of the management company.

The management company can perform exclusively the activity referred to in paragraph 1 hereof.

### **Use of Business Name**

#### **Article 6**

The business name of the management company must contain the words "voluntary pension fund management company".

A legal entity which has not obtained a managing company operating license cannot use the name "voluntary pension fund management company" or another similar name in legal transactions.

## **Level of Share Capital**

### **Article 7**

The pecuniary part of share capital of the management company at the time of founding shall amount to at least EUR 1,000,000 (one million) in the dinar equivalent value, at the median rate of exchange of the National Bank of Serbia at the date of payment.

The pecuniary part of share capital shall be credited to a temporary account with a bank in its entirety prior to the entry of the management company in the registry of economic entities.

The pecuniary part of share capital of the management company cannot originate from loans or credits, nor can it be encumbered in any other way.

In its operations, the management company shall be required to ensure that the company's capital always be at the level equaling at least the dinar equivalent value of EUR 1,000,000 (one million).

The National Bank of Serbia shall prescribe in closer detail the structure and manner of calculating the capital referred to in paragraph 4 hereof.

## **Organizational and Technical Resources**

### **Article 8**

The management company shall be required to permanently employ at least one portfolio manager and certified internal auditor.

The management company shall be required to meet minimum requirements regarding organizational and technical resources, as prescribed by the National Bank of Serbia.

The provisions of the law governing the market of securities shall apply to the issuance and revocation of portfolio manager licenses accordingly.

## **Establishment of a Management Company**

### **Article 9**

A person intending to establish a management company shall be required to submit an application for the issuance of a management company operating license to the National Bank of Serbia (hereinafter: operating license).

The person referred to in paragraph 1 hereof shall at the same time submit an application for the issuance of the license to organize and manage the fund (hereinafter: fund management license).

## **Application for the Issuance of an Operating License and of a Fund Management License**

### **Article 10**

Along with the application for the issuance of an operating license, the founders of the management company shall submit:

- 1) deed of association;

2) evidence that the pecuniary part of share capital has been credited to a temporary account with a bank, with representation on the origin of funds, pursuant to Article 7, paragraph 3 hereof;

3) list of shareholders by surname, name and address, or business name and head office, with overall nominal amount of shares and percentage of the stake held in the share capital of the management company;

4) for shareholders – legal entities holding a qualified stake:

(1) decision on entry in the register, or certified translation of statement from the register for foreign legal entities and their owners, down to the level of natural persons, or market recognized legal entities,

(2) transcript of shareholders from the book of shares, or evidence from another adequate public register, if the shareholder is a joint-stock management company,

(3) financial statements, with certified auditor's opinion for the past three years,

(4) evidence of tax settlement issued by the competent administration authority, not older than six months;

5) for shareholders – natural persons holding a qualified stake:

(1) evidence that in the past three years such person has not been a member of management, supervisory board or vested with special authorizations in a legal entity in respect of which liquidation or bankruptcy proceedings were instituted,

(2) evidence that such person was not unconditionally sentenced for criminal offences against economy, property, official duty and criminal offence of corruption,

(3) evidence of tax settlement issued by the competent administration authority, not older than six months;

6) management company's rules of operations;

7) business plan for the first three years;

8) list of proposed members of management of the management company with such members' resumes, statements of acceptance of duties, and evidence of fulfillment of the conditions referred to in Article 15 hereof;

9) evidence of organizational and technical resources of the management company, with the list of persons to perform the activities referred to in Article 8 hereof.

Along with the application for the issuance of a fund management license, the founders of the management company shall submit:

1) draft standardized contract of membership in the voluntary pension fund;

2) draft prospectus and abbreviated prospectus of the fund;

3) draft contract with the custody bank;

4) list of persons that shall perform portfolio manager activities of the fund that is organized;

5) tariff code.

### **Additional Documentation**

#### **Article 11**

Within 15 days following the day of receipt of the application for the issuance of an operating license, the National Bank of Serbia can request other evidence of significance for the appraisal of solvency of the founder of the management company, and for the appraisal of viability of establishing such company, which the founders shall submit within fifteen days following the day of delivery of the communication.

The National Bank of Serbia shall cooperate with other state authorities and organizations, collect documents and other information of significance for rendering a decision on the application for the issuance of an operating license.

## **Issuance of Operating License and Fund Management License**

### **Article 12**

The National Bank of Serbia shall issue an operating license when it has ascertained the validity of the application referred to in Article 10, paragraph 1 hereof and when it estimates that:

- 1) the origin of share capital is clear and indisputable;
- 2) based on obtained information, it can be concluded that the founders of the management company and all related parties have good business reputation, and that their financial position is such that it can be assumed not to have any adverse effect on the operations of the management company;
- 3) the structure of related parties is such that it shall not impede efficient supervision of operations;
- 4) the proposed business name of the management company is not misleading for future fund members and other persons in legal transactions.

The National Bank of Serbia shall issue a fund management license when it has ascertained the validity of the application referred to in Article 10, paragraph 2 hereof and when, taking into account the proposed objectives, size and other important fund characteristics, it estimates that:

- 1) the level of share capital of the management company ensures sustainable fund management;
- 2) the portfolio managers that will manage the fund hold a license issued in conformity with the law governing the market of securities;
- 3) fund members' interests shall be safeguarded in an adequate manner.

The National Bank of Serbia shall issue the decision issuing an operating license and the decision on issuing a fund management license at the same time, within 45 days from the day of receipt of the application, or from the day of subsequently received documentation and information within the meaning of Article 11, paragraph 1 hereof.

A fund management license cannot be issued unless the application for the issuance of a management company operating license has been resolved in a positive manner.

If it intends to organize another voluntary pension fund, the management company shall submit only the application for the issuance of a fund management license.

## **Negative Decision**

### **Article 13**

If the National Bank of Serbia denies the application for the issuance of an operating license, it shall render a decision in which it must specify the reasons for denying the application.

The decision referred to in paragraph 1 hereof shall be final.

An administrative procedure can be instituted against the decision of the National Bank of Serbia.

### **Approval of Acquisition of a Qualified Stake**

#### **Article 14**

For any acquisition of shares of a management company based on which a person acquires, indirectly or directly, a qualified stake in the management company, the approval of the National Bank of Serbia shall be required.

The National Bank of Serbia shall issue the approval when it estimates that the conditions referred to in Article 12, paragraph 1, indents 1) to 3) hereof have been met.

When a shareholder's stake in the capital of a management company declines by ten or more percent, the company shall be required to notify the National Bank of Serbia thereof.

### **Bodies of the Management Company**

#### **Article 15**

The provisions of the law governing companies shall apply to the bodies of the management company accordingly, unless otherwise provided herein.

A person that has not effectively been sentenced for criminal offences against labour relations, economy, property, judiciary, public order and legal transactions, official duty, for criminal offences of bribery or corruption, or for criminal offences and economic offences specified in the laws governing the market of securities, privatization, insurance, banks and other financial organizations can be appointed general manager and member of management of a management company.

A general manager and member of management of the management company cannot be a person that:

- 1) is a member of management or an employee of another management company;
- 2) is a member of management or an employee of the custody bank with which the management company has concluded a contract;
- 3) is a functionary, appointed or nominated person, or civil servant;
- 4) is a related party of the persons referred to in indents 1) and 2) hereof.

The general manager and members of management of the management company must have university degrees, while the general manager and at least one half of members of management must have at least three years' working experience in complex financial and economic operations related to securities in the country and abroad, acquired while working:

- 1) in a broker-dealer company;
- 2) on the securities or financial derivatives stock exchange;
- 3) in a bank;
- 4) in an investment or pension fund management company;
- 5) in an insurance company;
- 6) in a central bank, or another state authority or organization;

7) in a legal entity commissioned to engage in securities-related operations for the account of the government.

### **Issuance of Approval of Selection of a Member of Management of the Management Company**

#### **Article 16**

The National Bank of Serbia shall issue its approval of selection of proposed members of management and general manager of the management company.

The National Bank of Serbia shall render a decision on issuing approval of selection of a member of management and general manager of the management company when it has ascertained that the conditions referred to in Article 15 hereof have been met, and when it estimates that the proposed members of management and general manager have a business reputation which supports the conclusion that they will efficiently perform their activities in the management company, that their financial position is such that it can be assumed not to have any adverse effect on the operations of the management company, as well as that their selection would ensure adequate protection of interests of voluntary pension fund members.

When deciding on issuing the approval referred to in paragraph 1 hereof, the National Bank of Serbia may, if necessary, request that the proposed members of management, or general manager, personally attend an interview.

Concurrently with deciding on the application referred to in Article 10, paragraph 1 hereof, the National Bank of Serbia shall also decide on issuing the approval of selection of proposed members of management and general manager of the management company.

### **Withdrawal of Approval of Selection of a Member of Management (General Manager) of the Management Company**

#### **Article 17**

The National Bank of Serbia shall withdraw the approval of a member of management, or general manager, of the management company, when it ascertains that:

- 1) the decision was rendered based on false or incorrect data;
- 2) such person has stopped meeting the conditions referred to in Article 15 hereof in the meantime;
- 3) such person has violated the provisions of this law, rules of business ethics, rules of conscientious business and risk management rules, or has gravely jeopardized the interests of voluntary pension fund members in another way;
- 4) such person has been proclaimed incapable of work by means of an effective decision.

As of the day of delivery of the decision whereby approval of its appointment has been withdrawn, the member of management, or the general manager, shall no longer perform any function in the management company.

The management of the management company shall convene a meeting of the company's management as soon as possible, and within 15 days following the day of delivery of the decision referred to in paragraph 2 hereof at the latest, in which it shall propose a new member of management.



## **Business Secret**

### **Article 18**

The general manager, members of management of the management company, employees of the management company and related parties of such company shall be required to keep as business secret, and cannot disclose information on:

- 1) voluntary pension fund or fund management company that could create a misleading picture of the company's, or fund's, operations;
- 2) future activities and business plans of the management company, except in cases envisaged in the law;
- 3) balance and turnover in the accounts of the voluntary pension fund and its members;
- 4) other data that are of significance for the operations of the voluntary pension fund, and which they had acquired in the course of performing management company operations.

By way of exception to paragraph 1 hereof, data can be communicated and presented for consideration to third parties only during supervision of operations, based on an order of a court, competent administration authority, or pursuant to the law.

## **Entry in the Register**

### **Article 19**

Within 30 days following the day of receipt of the decision on issuing an operating license and of the decision on issuing a fund management license, and the issuing of the approval of selection of members of management, the management company shall be required to submit an application for registration in conformity with the law governing the registration of business entities.

Within seven days following the day of receipt of the decision on entry in the register of business entities, the management company shall be required to submit the certificate of entry in the register to the National Bank of Serbia.

The management company cannot perform the activity of organizing and managing the voluntary pension fund prior to the entry of this activity in the Register of Business Entities.

## **Operating License in the Event of Merger by Acquisition**

### **Article 20**

The management company (acquiring company) can assume exclusively the entire capital of another management company (company which ceases to exist by acquisition).

Prior to submitting an application for the entry of the change in the Register of Business Entities, the acquiring company shall submit to the National Bank of Serbia an application for merger license.

The acquiring company shall undertake the operations related to organization and management of the voluntary pension funds of the company which ceases to exist by acquisition.

The acquiring company can merge the voluntary pension fund that was managed by the company which ceases to exist by acquisition with its fund, or it can manage such voluntary pension fund separately.

The application referred to in paragraph 2 hereof shall contain:

- 1) financial statements of the acquiring company and the company which ceases to exist by acquisition with external auditor's report;
- 2) a report which proves the viability of merger;
- 3) a plan which specifies in detail the intention related to voluntary pension funds and pension schemes of the company which ceases to exist by acquisition.

The provisions of the law governing companies shall apply to the merger by acquisition of management companies.

The National Bank of Serbia shall regulate the conditions and manner of merger of voluntary pension funds in closer detail.

### **General Documents of the Management Company**

#### **Article 21**

General documents of the management company are the deed of association, rules of operations and other general documents.

Rules of operations of the management company shall regulate:

- 1) operations performed by the management company, conditions and manner of performing these operations;
- 2) mutual relations of the management company and fund members;
- 3) criteria for forming an investment portfolio of the fund and investment policy aimed at increasing the value of the fund's assets;
- 4) manner of notifying voluntary pension fund members on:
  - (1) amendments to investment policy,
  - (2) value of assets of the voluntary pension fund and value of investment units,
  - (3) special investment risks,
  - (4) amendments to the tariff code,
  - (5) other important issues;
- 5) manner and conditions under which members of bodies and employees in the management company can invest their funds in the voluntary pension fund managed by that company;
- 6) administrative and accounting procedures;
- 7) control and safety measures for data processing and safekeeping;
- 8) internal control system;
- 9) procedures for preventing conflict of interest and measures for preventing the use of the managed assets for own account;
- 10) measures for preventing misuse of privileged information;
- 11) other issues of significance for the company's operations.

## **Amendments and Supplements to Rules of Operations**

### **Article 22**

A management company shall be required to notify the National Bank of Serbia on any amendments and supplements to its rules of operations.

The National Bank of Serbia can order a management company to amend or supplement its rules of operations, in case it ascertains that the company's rules of operations fail to safeguard the interest of fund members to a sufficient degree.

The management company shall deliver any amendments and supplements to its rules of operations to all voluntary pension fund members, and to contributors to which such amendments apply, at least 30 days prior to the implementation of the amended rules.

## **Fees Charged by the Management Company**

### **Article 23**

The fee for the services rendered by the management company and the fee for the transfer of a fund member's account shall be paid by the fund member, subject to the tariff code of the management company.

The fee for the services rendered by the management company shall comprise:

- 1) fees charged at the time of payment of pension contributions, at the rate of at most 3% of the value of payments made;
- 2) fees for fund management, at the rate of at most 2% p.a. of the value of assets of the voluntary pension fund.

The fee referred to in paragraph 2, indent 2) hereof shall be calculated on a daily basis, and charged on a monthly basis.

All costs related to the purchase, sale and transfer of securities constituting the voluntary pension fund shall be collected from the fund's assets, whereas the costs of custody bank services referred to in Article 63, paragraph 2 hereof and other costs shall be borne by the management company.

The management company shall charge the transfer of voluntary pension fund member's account to the fund organized and managed by another management company based on actual costs of such transfer.

By way of exception to paragraph 1 hereof, the fee referred to in paragraph 2, indent 1) hereof shall be paid by the organizer of the pension scheme based on a contract of pension scheme management.

The National Bank of Serbia shall regulate in closer detail the manner of calculating the fees.

## **Change of Business Name and Head Office**

### **Article 24**

Prior to submitting an application for entry of the change of business name and head office in the register of business entities, the management company shall be required to notify the National Bank of Serbia of such change.

## **Liability of the Management Company**

### **Article 25**

The management company shall be held liable to voluntary pension fund members for any damage incurred by the failure to meet, delay in meeting or partial meeting of its obligations related to fund management, unless such failure, delay or partial meeting of obligations has been occasioned by causes that the management company could neither foresee nor avoid or eliminate.

The management company shall be required to indemnify any damages incurred by its failure to meet, delay in meeting or partial meeting of its obligations.

## **Limitations on the Operations of the Management Company**

### **Article 26**

The management company cannot, directly or through related parties, hold a stake in the capital and management of other legal entities.

The management company cannot be a lender, nor assume obligations under a surety contract.

## **Books of Accounts and Financial Statements**

### **Article 27**

The management company's books of accounts shall be maintained and its financial statements compiled in conformity with the law governing accounting and audit, and in conformity with the regulation of the National Bank of Serbia.

The regulation of the National Bank of Serbia referred to in paragraph 1 hereof shall regulate in closer detail:

- 1) chart of accounts and content of accounts in the chart of accounts for management companies and voluntary pension funds;
- 2) content and template of financial statement forms for management companies;
- 3) content of financial statements for voluntary pension funds shown within financial statements of management companies.

The management company shall be required to maintain the books of accounts and compile financial statements for the voluntary pension fund it manages separately from its own.

In the books of accounts and financial statements, the management company shall be required to show data for each fund it manages separately.

The management company shall be required to ensure external audit of financial statements.

The National Bank of Serbia shall prescribe the content of external auditor's reports.

The management company shall be required to submit to the National Bank of Serbia:

1) annual financial statements for the company, within which it shall show the financial statement of the voluntary pension fund it manages separately, with external auditor's report, until March 31 of the current year for the preceding year;

2) semiannual financial statements for the company, within which it shall show the financial statement of the voluntary pension fund it manages separately, with external auditor's report, until August 31 of the current year for the first six months of that year;

3) monthly reports for the voluntary pension fund, until the tenth day of the month for the preceding month, which shall contain data on:

(1) securities constituting the assets of the voluntary pension fund that were traded, by type of securities and issuers;

(2) real estate constituting the assets of the fund that were traded, by type and location,

(3) balance of money deposits constituting the assets of the voluntary pension fund, by financial organizations with which such deposits are held,

(4) dates of transactions and prices at which transactions in securities were effected,

(5) brokers' fees, custody bank fees and other costs of transactions,

(6) value of assets of the voluntary pension fund, and number of subscribed investment units and their individual value, with financials as of the last business day in the month for which the report is submitted,

(7) number of voluntary pension fund members, as of the last business day in the month for which the report is submitted,

(8) other data at the request of the National Bank of Serbia.

The management company shall be required to permanently store the documentation and data recorded on electronic media that refer to voluntary pension fund members.

### **III. VOLUNTARY PENSION FUNDS**

#### **Voluntary Pension Fund**

##### **Article 28**

The voluntary pension fund shall be organized for the purpose of collecting funds through the payment of pension contribution by contributors, and investing such funds with the aim of increasing the value of the fund's assets.

The voluntary pension fund shall be managed by the fund management company, in conformity with this law.

The voluntary pension fund is a fund of special kind, and represents separate assets, without legal entity status.

#### **Assets of a Voluntary Pension Fund**

##### **Article 29**

The assets of a voluntary pension fund shall be owned by fund members, in proportion with their share in the fund's assets.

The assets of the voluntary pension fund shall be separate from the assets of the management company.

The assets of the voluntary pension fund shall necessarily be maintained in an account with the custody bank.

The assets of the voluntary pension fund cannot be the subject of debt enforcement, pledge, mortgage, cannot be included in liquidation or bankruptcy estate of the management company, custody bank or other persons, nor used in order to settle the obligations of a voluntary pension fund member and other persons to third parties.

The voting right carried by the shares constituting the assets of the voluntary pension fund shall be exercised by the management company which organizes and manages such fund.

### **Investment Principles and Investment Policy**

#### **Article 30**

The assets of the voluntary pension fund shall be invested with a view to increasing total return in favour of voluntary pension fund members, subject to the following principles:

1) principle of security of voluntary pension fund assets – the structure of the portfolio of the voluntary pension fund shall contain securities of issuers with high credit rating;

2) principle of portfolio diversification – the structure of the portfolio of the voluntary pension fund shall comprise securities that differ in type and issuer, and in other elements;

3) principle of maintaining adequate liquidity – the structure of the portfolio of the voluntary pension fund shall comprise securities that can be bought and sold quickly and efficiently at a relatively uniform and stable price.

The rules of operations of the management company shall set out the investment policy of the voluntary pension fund.

The investment policy shall define:

1) the manner of implementing the principles referred to in paragraph 1 hereof;

2) minimum and maximum part of voluntary pension fund assets that can be invested in certain securities and real estate;

3) maximum part of voluntary pension fund assets that can be invested in money deposits;

4) bodies of the management company that render decisions on investments and the procedure for rendering such decisions;

5) manner of amending the investment policy.

### **Investment of Voluntary Pension Fund Assets**

#### **Article 31**

The assets of the voluntary pension fund shall be invested in:

1) debt securities issued by the National Bank of Serbia, subject to the law governing the organization and scope of competencies of the National Bank of Serbia;

- 2) debt securities issued by the Republic of Serbia (hereinafter: Republic), units of territorial autonomy and local government in the Republic and other legal entities with the guarantee of the Republic, subject to the law governing public debt;
- 3) securities issued by international financial institutions;
- 4) debt securities issued by foreign governments or foreign legal entities with minimum credit rating "A" awarded by *Standard and Poor's*, *Fitch-IBCA*, *Thompson Bank Watch* or *Moody's* credit rating agencies;
- 5) mortgage bonds issued in the territory of the Republic;
- 6) securities issued by legal entities headquartered in the Republic that are traded in an organized market in the Republic;
- 7) shares of foreign legal entities listed and traded in stock exchange markets of the EU or OECD member states;
- 8) money deposits in banks headquartered in the Republic, established subject to the law governing the operations of banks and other financial organizations;
- 9) certificates of deposit issued by banks headquartered in the Republic;
- 10) certificates of deposit issued by banks headquartered in the EU or OECD member states, based on deposited securities referred to in indents 3), 4) and 7) hereof;
- 11) real estate located in the territory of the Republic.

Investment in real estate can take the form of investment in land, buildings (office, residential, residential-office, outbuildings, etc), and special parts of buildings (flats, office facilities, etc.) entered in public registers of records of real estate and title to real estate, if the transfer of title to such real estate is unlimited, and if such real estate is not encumbered by the right of pledge, right of usufruct, right of use, right of residence or right of actual lien.

No more than up to 5% of assets of the voluntary pension fund can be invested in a single real estate.

Total investments of the voluntary pension fund in real estate can amount to no more than 15% of voluntary pension fund assets.

Voluntary pension fund assets that consist of real estate shall be entered in the registers referred to in paragraph 2 hereof as the fund's property, with specification of the name of the management company, and shall be recorded in the custody bank.

The value of the real estate in which the assets of the voluntary pension fund are invested shall be appraised by a certified appraiser. Real estate must be insured against all risks.

Voluntary pension fund members shall not have the first right of purchase at the time of sale of real estate.

The National Bank of Serbia shall regulate in closer detail the manner and frequency of assets appraisal referred to in Article 31, paragraph 1, indent 11) hereof.

The National Bank of Serbia shall prescribe the maximum level of investment of voluntary pension fund assets referred to in paragraph 1 hereof.

The National Bank of Serbia shall prescribe conditions and manner of investment of voluntary pension fund assets abroad.

## **Limitations on Investment**

### **Article 32**

The following limitations shall apply to the investment of assets referred to in Article 31 hereof:

1) up to 10% of voluntary pension fund assets shall be invested in the securities of a single issuer or in total in the securities of two or more issuers that are related parties, with the exception of the securities issued by the Republic, or the National Bank of Serbia;

2) up to 5% of voluntary pension fund assets shall be invested in the securities issued by the organizer that has organized the pension scheme which has joined that fund;

3) up to 5% of voluntary pension fund assets shall be invested in money deposits held with banks.

No more than 15% of ownership stake, or voting shares of a single issuer, can be acquired by investing voluntary pension fund assets.

### **Article 33**

Voluntary pension fund assets cannot be invested in the securities issued by:

- 1) the management company;
- 2) the custody bank with which the account of the voluntary pension fund is maintained;
- 3) a broker-dealer company, or authorized bank, which performs brokerage services in securities trade for the management company;
- 4) a shareholder of the management company;
- 5) a related party of the persons referred to in indents 1) to 4) hereof.

### **Article 34**

Voluntary pension fund assets must be invested in conformity with investment limitations prescribed herein and in the prospectus.

If the management company deviates from investment limitations specified herein and in the prospectus due to the onset of circumstances that the management company could not have foreseen or influenced, the management company shall be required to notify the National Bank of Serbia thereof immediately and, within three months from the occurrence of the said deviation, bring the structure of voluntary pension fund assets in line with investment limitations.

Should a deviation from investment limitations occur in cases other than that referred to in paragraph 2 hereof, the National Bank of Serbia shall take supervision measures in conformity with this law immediately upon learning of such deviation.

## **Name of the Voluntary Pension Fund**

### **Article 35**

Voluntary pension fund shall have a name.



The name of the voluntary pension fund must contain the words "voluntary pension fund".

A legal entity and entrepreneur cannot use the name "voluntary pension fund" nor any derivative thereof in their business name or name, or in the name of its product or service, unless they are using such terms pursuant to this law.

### **Management of Several Funds and the Register of Funds**

#### **Article 36**

A management company which intends to organize and manage several voluntary pension funds shall be required to submit to the National Bank of Serbia an application for the issuance of the fund management license for each fund separately, along with which it shall submit the documentation referred to in Article 10, paragraph 2 hereof.

The National Bank of Serbia shall issue the fund management license within 45 days from the day of submission of the application.

### **Issuance of Licenses and Register Maintenance**

#### **Article 37**

The National Bank of Serbia shall issue a fund management license in the manner specified in Article 12, paragraph 2 hereof.

The National Bank of Serbia shall maintain a Register of Voluntary Pension Funds.

### **Prospectus of the Voluntary Pension Fund**

#### **Article 38**

The voluntary pension fund shall have a prospectus and an abbreviated prospectus.

The abbreviated prospectus shall be used exclusively for the purpose of advertising the voluntary pension fund and must correspond to the content of the prospectus.

The prospectus must contain information based on which interested parties can get a clear picture of the fund and make a reasonable decision.

The management company shall present the prospectus for consideration to each interested party at its request.

The management company shall be required to submit the prospectus of the voluntary pension fund to the National Bank of Serbia for approval, by March 31 of the current year, with data as of December 31 for the preceding year.

Should any significant changes occur due to which the data in the prospectus and abbreviated prospectus do not correspond to the actual state, the management company shall be required to submit the amended voluntary pension fund prospectus to the National Bank of Serbia for approval, within eight days from the day of onset of such circumstances.

Within 15 days from the day of obtaining the approval, the management company shall be required to publicly publish the abbreviated prospectus in at least one daily newspaper distributed in the entire territory of the Republic with the circulation of at least 100,000 copies, and on its Internet page.

## Content of the Prospectus

### Article 39

The prospectus of the voluntary pension fund shall contain:

- 1) data on the voluntary pension fund;
- 2) data on the management company;
- 3) business name and head office of the custody bank;
- 4) date of issuance of the prospectus.

Data on the voluntary pension fund are:

- 1) fund's name and date of establishment;
- 2) investment policy and principal risks related thereto;
- 3) minimum amount of pension contributions;
- 4) tax treatment of the voluntary pension fund, and fund members – tax rates and bases, and manner of their calculation;
- 5) value of the fund's assets on the day of issuance of the prospectus;
- 6) current structure of voluntary pension fund assets, as follows:
  - (1) percentage share of securities by type of securities, name and head office of the issuer, and name and head office of the organized market in which such securities are traded, when such securities constitute over 1% of the total value of the fund's assets,
  - (2) percentage share of money deposits by name and head office of the financial organization with which funds have been deposited, when the deposits in such organizations constitute over 1% of the total value of the fund's assets,
  - (3) percentage share of real estate by type and location of such real estate;
- 7) net return of the fund subject to Article 48 hereof;
- 8) data on the level of fees and costs:
  - (1) fee at the time of payment of pension contribution,
  - (2) fees for fund management to the management company for the preceding year, expressed as percentage of the value of the fund's assets,
  - (3) costs related to the purchase, sale and transfer of securities, costs of custody bank services and other costs for the preceding year, expressed as percentage of the value of the fund's assets,
  - (4) fee for fund management, expressed as percentage of the value of the fund's assets for the current year,
  - (5) maximum amount of costs from sub-indent (3) hereof, expressed as percentage of the value of the fund's assets for the current year;
- 9) grounds for termination of contract of membership, and rights and obligations of the management company and voluntary pension fund members in the event of termination of contract of membership;
- 10) time, place and manner of payment of pension contributions;
- 11) time and place of publishing data on the value of investment units and the manner of calculating such units;
- 12) schedule and manner of calculating scheduled payments.

Data on the management company are:

1) business name, head office and registration number of the management company;

2) name and authorizations of members of management of the management company;

3) business name and head office, or names and addresses of shareholders holding 10% or more stake in capital or votes of another person;

4) level of share capital of the management company;

5) list and type of all voluntary pension funds it manages, if the management company manages more than one fund;

6) business name and head office of the audit company which conducts external audit of financial statements of the management company and the fund;

7) time and place where general documents of the management company and financial statements of the management company can be accessed.

At the time of organization of a voluntary pension fund, the prospectus shall not contain the data referred to in paragraph 2, indents 5) to 7) hereof.

The National Bank of Serbia shall prescribe closer content and standardized form of the prospectus.

### **Membership in the Voluntary Pension Fund**

#### **Article 40**

A domestic and foreign natural person can be a member of one or several voluntary pension funds.

At the time of joining a fund, the person shall sign a representation whereby it shall confirm that it fully understands the prospectus and the fees that are charged.

When the same person is a member of several pension funds, it shall be required to conclude a special contract of membership for each voluntary pension fund.

If a member of the voluntary pension fund stops paying contributions, it shall still remain a member of the fund.

#### **Contributor**

#### **Article 41**

Pension contribution shall be paid to the voluntary pension fund by:

1) a natural person, or another person for the account of a natural person;

2) an organizer, in its name and for the account of the employee, or trade union member, subject to pension scheme;

3) an employer, in the name and for the account of the employee, subject to contract of membership concluded between voluntary pension fund member and management company.

## **Contract of Membership**

### **Article 42**

A person can become a voluntary pension fund member by concluding a contract of membership, whereby the management company undertakes to invest, for the account of the voluntary pension fund member, funds collected in respect of pension contribution in the voluntary pension fund and to enable the withdrawal of accumulated funds, in conformity herewith, whereas the voluntary pension fund member undertakes to pay the pension contribution and fees to the management company and to bear other costs.

Contract of membership shall be concluded in a standardized written form, containing at least:

- 1) name, or business name, of the contributor;
- 2) minimum amount of pension contribution;
- 3) date of membership.

The National Bank of Serbia shall prescribe detailed content and standardized format of the contract of membership.

## **Individual Account of the Fund Member**

### **Article 43**

The management company shall be required to maintain individual accounts of fund members.

Individual accounts shall contain at least the following data:

- 1) name and surname of voluntary pension fund members;
- 2) number of investment units owned by a voluntary pension fund member;
- 3) records of pension contribution payments and scheduled payments.

The procedure for opening and maintaining individual accounts, and the manner of issuing statements from such accounts, maintaining records of fund members' investments units, and giving data from such records, shall be regulated in closer detail by the National Bank of Serbia.

## **Account Transfer**

### **Article 44**

A voluntary pension fund member that intends to effect account transfer shall be required to submit to the management company managing the voluntary pension fund of which such person is member (hereinafter: present voluntary pension fund) a request for account transfer to another pension fund (hereinafter: other voluntary pension fund).

Within 15 days from the day of receipt of the request referred to in paragraph 1 hereof, the management company shall be required to:

- 1) effect account transfer in conformity with that request, when the same company organizes and manages the present and the other voluntary pension fund;
- 2) conclude a contract of account transfer with another management company.

Account transfer cannot be effected unless all obligations resulting from membership in the present voluntary pension fund have previously been settled.

At the time of account transfer, the fund member shall terminate the contract of membership in the present voluntary pension fund and conclude a contract of membership in the other voluntary pension fund.

The balance in the account of a voluntary pension fund member cannot be transferred in favour of a third party, except in the case referred to in Article 62, paragraph 5 hereof.

The National Bank of Serbia shall regulate in closer detail the process of account transfer from the present voluntary pension fund to the other voluntary pension fund.

### **Obligation of the Management Company at the Time of Account Transfer**

#### **Article 45**

A management company which manages the present voluntary pension fund shall be required:

1) prior to the conclusion of the contract referred to in Article 44, paragraph 2, indent 2) hereof, to submit to the company managing the other voluntary pension fund:

- (1) draft contract of account transfer,
- (2) report on total assets of the present voluntary pension fund member;

2) within eight days from the day of conclusion of the contract referred to in Article 44, paragraph 2, indent 2) hereof, to submit to the custody bank an account transfer order.

### **Net Asset Value of the Voluntary Pension Fund**

#### **Article 46**

The value of the fund's assets shall comprise the sum of values of securities from the fund's portfolio, real estate in the fund's ownership and money deposits held by the fund in banks.

The value of the fund's assets shall be calculated according to market value.

The fund's net asset value shall represent the value of assets less obligations.

The management company shall calculate the fund's net asset value on a daily basis, and submit the data thereon to the custody bank with which the account of the voluntary pension fund is maintained.

The custody bank shall perform the control and confirmation of the calculated net asset value of the fund, and submit data thereon to the National Bank of Serbia.

The manner and frequency of calculating the market value by categories of assets, and of calculating the fund's net asset value, shall be prescribed by the National Bank of Serbia, subject to internationally recognized standards.

## **Investment Units**

### **Article 47**

The total value of all investment units of a voluntary pension fund shall equal the fund's net asset value.

Paid pension contributions shall be converted in investment units on the date of payment, through the recording of such units in the individual account of a voluntary pension fund member.

Investment units can be expressed in the form of shares.

The uniform initial value of the investment unit for all funds shall be set by the National Bank of Serbia.

The acquirer of an investment unit shall have the following rights:

- 1) right to withdraw and use accumulated funds;
- 2) right to a pro rata share of return on investment;
- 3) right to a pro rata share of assets of the voluntary pension fund in the event of dissolution of the fund;
- 4) other rights in conformity with this law.

The acquirer of an investment unit shall have no voting right in that respect.

The investment unit shall be recorded in the individual account of the voluntary pension fund member in the form of an electronic entry in the information system of the management company.

The management company shall publish the value of investment units on a daily basis in at least one daily newspaper distributed in the entire territory of the Republic of Serbia with the circulation of at least 100,000 copies, and on the Internet page of the management company or voluntary pension fund.

## **Return of the Voluntary Pension Fund**

### **Article 48**

Management companies shall be required to publish the return of the voluntary pension fund four times a year, at the end of each quarter.

The return shall be calculated for the past 12 months immediately preceding the day of publication, or cumulatively for the period of five years and since the start of operations.

Return shall be calculated for each calendar year separately.

Return shall be calculated as net return, or after the deduction of fees and costs.

By way of exception to paragraph 1 hereof, returns on investment during the entire first year of operations of voluntary pension funds shall not be announced.

Return shall be published in at least one daily newspaper distributed in the entire territory of the Republic with the circulation of at least 100,000 copies, and on the Internet page of the management company or voluntary pension fund.

The National Bank of Serbia shall prescribe the manner of calculating the return of the voluntary pension fund, including the principle of value rounding.

### **Marketing of Voluntary Pension Funds**

#### **Article 49**

The management company can offer no benefits for the purpose of conclusion of contract of membership in a voluntary pension fund.

The benefits referred to in paragraph 1 hereof do not include the benefits that the management company offers by renouncing a part or entire sum of the revenues it earns, or to which it is entitled.

The management company cannot offer benefits to the employer or the employer's related party so that they should encourage employees to join a particular pension scheme.

The management company cannot offer benefits to the trade union or another form of organization of employees so that they should encourage their members to join a particular fund.

#### **Article 50**

The management company can only advertise the voluntary pension fund it manages and publicly invite to the conclusion of contract of membership in the fund after being granted the approval of the text of such advertisement, or public invitation, by the National Bank of Serbia.

The text of the advertisement, or invitation, must not contain incorrect information, or information that may create a misleading idea of terms of investment and operations of the voluntary pension fund.

Along with the application for the issuance of the approval referred to in paragraph 1 hereof, a copy of the material which is published shall also be enclosed.

Within eight days from the day of receipt of the application at the latest, the National Bank of Serbia shall render a decision on issuing the approval of publication of the advertisement, or public invitation, if it ascertains that all conditions stipulated in the law have been met. If the National Bank of Serbia fails to issue its approval in the specified time period, the approval shall be considered to have been granted.

Comparison advertising shall be allowed only if it is concrete, objective, true and complete.

In making comparisons with other funds, the management company shall have to give a clear picture of the fund which it is advertising and of other voluntary pension funds.

The National Bank of Serbia shall regulate the advertising of voluntary pension funds and the standardized text used in advertising in closer detail.

### **Intermediaries**

#### **Article 51**

The management company can render services of providing information on membership in the voluntary pension fund, other actions whereby interested parties are

informed of the operations of the voluntary pension fund, and distribution of prospectuses, directly or through intermediaries.

The types of financial institutions that can act as intermediaries shall be determined by the National Bank of Serbia.

The management company and its intermediaries may, by means of a special contract, hire natural persons that must hold a license for the performance of the activities referred to in paragraph 1 hereof, which is issued by the National Bank of Serbia.

The persons referred to in paragraph 3 hereof cannot receive money payments for the purpose of purchasing investment units.

Responsibility for any procedures and damage incurred by intermediaries and natural persons in the course of rendering these services shall be borne by such intermediaries and natural persons, as well as by the management company.

The National Bank of Serbia shall maintain records of intermediaries and natural persons and regulate in closer detail the conditions for the issuance of licenses.

### **Notification of Voluntary Pension Fund Members**

#### **Article 52**

Once a year, by March 31 of the current year for the preceding year at the latest, the management company shall be required to deliver to each voluntary pension fund member a notification, with balance as of the last day of the preceding year, on:

- 1) dates and amounts of pension contribution payments;
- 2) number of investment units owned by the member and their individual value at the time of payment of the pension contribution;
- 3) fees for services paid from the account of the voluntary pension fund member;
- 4) value of assets of the voluntary pension fund.

The management company shall be required to submit the notification referred to in paragraph 1 hereof to a voluntary pension fund member at its request, within three days from the day of request submission.

### **Cessation of Operations of the Management Company**

#### **Article 53**

The management company shall stop managing the voluntary pension fund immediately if:

- 1) its operating license is revoked by the National Bank of Serbia;
- 2) bankruptcy and liquidation proceedings have been instituted in respect of the management company;
- 3) the bodies of the management company render a decision that the company should cease its operations.

In cases referred to in paragraph 1, indent 1) hereof, the custody bank shall be required to perform only urgent operations related to voluntary pension fund management.



Urgent operations referred to in paragraph 2 hereof shall mean such operations that need to be performed in order to prevent any damage from being incurred to the fund.

## **Public Invitation**

### **Article 54**

As of the day of cessation of management by the management company, within the meaning of Article 53 hereof, the National Bank of Serbia shall send a public invitation to the existing management companies to submit, within 15 days, a bid for management, or acquisition, of the voluntary pension fund.

Within 30 days from the day of expiration of the time period referred to in paragraph 1 hereof, the National Bank of Serbia shall render a decision on the most successful bid of the management company.

The National Bank of Serbia shall prescribe the conditions for the choice of the most successful bid of the management company in closer detail.

## **Unsuccessful Public Invitation**

### **Article 55**

If no management company submits a bid following the public invitation, the National Bank of Serbia shall notify voluntary pension fund members and submit an authorization to the custody bank to cash in the fund's assets and transfer fund members' accounts to another voluntary pension fund.

Within 6 months from the day of receipt of the authorization, the custody bank shall cash in the fund's assets in the best interest of the fund's members.

Within 30 days from the day of receipt of the notification referred to in paragraph 1 hereof, voluntary pension fund members shall select another voluntary pension fund and notify the custody bank of their choice.

The costs of activities related to management, and cashing in of the fund's assets and the transfer of accounts referred to in paragraph 1 hereof shall be borne by the management company, and if that is not possible, these costs shall be settled from the assets of the voluntary pension fund which is being dissolved.

The National Bank of Serbia can regulate the procedure of dissolution of a voluntary pension fund in closer detail.

## **Responsibilities of the Custody Bank**

### **Article 56**

The custody bank shall submit to the National Bank of Serbia a report on the cashing in of the fund's assets, and on the transfer of accounts within the meaning of Article 55, paragraphs 1 and 2 hereof.

Based on the report referred to in paragraph 1 hereof, the National Bank of Serbia shall remove the fund from the register of voluntary pension funds.

The custody bank shall keep the books of accounts and the documentation of the dissolved voluntary pension fund for at least five years, in conformity with the regulations governing archival material.

## **IV. PENSION SCHEMES**

### **Article 57**

An employer, association of employers, professional association and trade union can organize a pension scheme and conclude a contract with the management company whereby the organizer shall undertake to make pension contribution payments for the account of its employees, or trade union members (hereinafter: scheme member) and to pay to the management company a fee for services, whereas the management company shall undertake to invest collected funds and enable scheme members to withdraw and use such accumulated funds.

An employer can organize a pension scheme for its employees only.

The organizer that organizes a pension scheme cannot be a related party of the management company.

Several organizers can organize or join a single pension scheme.

The terms and procedure for organization and functioning of pension schemes shall be prescribed by the minister in charge of labour and pension insurance.

The organizer shall deliver a copy of the contract referred to in paragraph 2 hereof to the ministry in charge of labour and pension insurance, for the purpose of appraisal of fulfillment of conditions, issuance of approval and recording.

### **Article 58**

The pension scheme contract shall be concluded in writing and shall contain at least the following:

- 1) business name of the management company;
- 2) date in the current month until which the employer pays the pension contribution for the preceding month;
- 3) amount of pension contribution by scheme member;
- 4) name, surname, address and unique identification number of scheme members;
- 5) date and place of conclusion of contract and signatures of contracting parties.

### **Article 59**

The employer shall be required to submit a notification of termination of employment of a pension scheme member to the management company.

### **Article 60**

A pension scheme member whose employment with the employee is terminated can remain the member of the same voluntary pension fund or transfer its account in conformity with Article 44 hereof.

### **Article 61**

The organizer of the pension scheme shall be required to ensure equitable conditions of membership in the pension scheme for its employees.

Pension contribution for the pension scheme cannot be deducted from wages without employees' approval.

Membership in a pension scheme cannot be a requirement for employment or membership in a trade union and other forms of organization of employees.

## **V. WITHDRAWAL AND USE OF ACCUMULATED FUNDS**

### **Article 62**

A voluntary pension fund or pension scheme member shall acquire the right to withdraw and use accumulated funds upon turning 53 years of age.

Accumulated funds can be withdrawn by means of a lump-sum payment, scheduled payment, purchase of annuities or a combination thereof.

Scheduled payments shall be effected subject to a contract concluded between a fund member and the management company in a standardized format prescribed by the National Bank of Serbia.

By withdrawing and using accumulated funds for the purchase of annuities, the voluntary pension fund shall, at the order and for the account of the fund member, transfer the funds to an insurance company and purchase annuity.

In the event of death of a voluntary pension fund member, the balance in its account shall be transferred to such person as the fund member had previously designated, and if the fund member had designated no such person, or such person is unknown or nonexistent, action shall proceed in conformity with the law governing inheritance.

By way of exception to paragraph 1 hereof, the right to withdraw and use accumulated funds can be exercised even before turning 53 years of age in the event of extraordinary medical treatment costs or permanent work disability.

Closer requirements for the exercise of the right to use and withdraw accumulated funds in cases referred to in paragraph 6 hereof shall be prescribed by the minister in charge of labour and pension insurance.

A fund member shall start the withdrawal and use of accumulated funds at the age of 70 at the latest.

## **VI. CUSTODY BANK**

### **Contract with Custody Bank**

#### **Article 63**

Within eight days following the day of obtaining the license to organize and manage a voluntary pension fund, the management company shall be required to conclude a contract with the custody bank on the provision of custody services, separately for each fund it manages.

By means of the contract referred to in paragraph 1 hereof, the custody bank shall undertake to open and maintain the account of the voluntary pension fund and to perform all activities in conformity with Article 64 hereof, whereas the management company shall undertake to pay a fee to the custody bank.

Custody services for a fund shall be provided exclusively by a single custody bank.

The custody bank can perform activities for several voluntary pension funds.

The custody bank cannot be a related party of the management company.

The management company shall submit a copy of the concluded contract referred to in paragraph 1 hereof, and copies of any amendments and supplements thereto, to the National Bank of Serbia.

The National Bank of Serbia can prescribe maximum fees charged for the provision of custody services.

### **Custody Bank Services**

#### **Article 64**

The custody bank shall provide the following custody services:

1) open and maintain accounts of securities constituting the assets of the voluntary pension fund in the Central Securities Depository in its name, and for the account of voluntary pension fund members (collective custody account);

2) open a monetary account of the voluntary pension fund, collect pension contributions, transfer any funds constituting the fund's assets to money deposits, and effect payments of accumulated funds for each voluntary pension fund member;

3) notify the management company of corporate actions that need to be taken with respect to the fund's assets;

4) execute the orders of the management company for the purchase and sale of assets if these are not contrary to the law and the fund's prospectus;

5) control, confirm and report to the National Bank of Serbia on a daily basis on the net asset value of the voluntary pension fund, and the value of the investment unit, as calculated by the management company;

6) control the return of the voluntary pension fund, as calculated by the management company;

7) notify the National Bank of Serbia of any irregularities established in the operations of the management company immediately after detecting such irregularities;

8) notify the management company of executed orders and other activities taken with respect to the fund's assets;

9) submit to the National Bank of Serbia and other authorities, in the name of the fund, reports against the management company for any damage incurred to the fund;

10) perform other activities for which it is authorized subject to contract with the management company and which are in conformity with this law and the law governing the market of securities.

The National Bank of Serbia shall govern in closer detail the frequency, manner and standardized form of reporting by the custody bank, and the manner of reconciliation in the event of any differences between the net asset value of the voluntary pension fund and the value of the investment unit calculated by the management company and the custody bank referred to in paragraph 1, indent 5) hereof, or the return calculated by the management company and custody bank referred to in paragraph 1, indent 6) hereof.

## **Termination of Contract with the Custody Bank**

### **Article 65**

The party which intends to terminate the contract referred to in Article 63, paragraph 1 hereof shall be required to notify the other contracting party thereof at least 30 days prior to the termination of the contract.

The contract which is being terminated shall be deemed terminated as of the moment of conclusion of the contract with a new custody bank.

The custody bank shall notify the National Bank of Serbia of the termination of the contract and of reasons for such termination.

The custody bank shall be required to deliver all documentation and archive to the new custody bank, within eight days from the day of termination of the contract referred to in paragraph 2 hereof.

### **Article 66**

In the event of institution of bankruptcy proceedings in respect of a custody bank, the management company shall be required to immediately terminate the contract and immediately notify the National Bank of Serbia of the contract concluded with another custody bank.

If the management company fails to act in conformity with paragraph 1 hereof, the National Bank of Serbia shall render a decision whereby it shall appoint another custody bank.

The National Bank of Serbia can suggest a change of custody bank to the management company, if the operations of such custody bank pose a significant threat to the interests of voluntary pension fund members.

## **VII. SUPERVISION**

### **Competence of the National Bank of Serbia**

#### **Article 67**

The National Bank of Serbia shall conduct supervision of implementation of this law, enact, within its scope of competence, secondary legislation for the purpose of implementation of this law, and maintain a Register of Voluntary Pension Funds.

#### **Supervision**

#### **Article 68**

The National Bank of Serbia shall conduct supervision:

- 1) off-site, through the collection, monitoring and inspection of reports and notifications submitted to the National Bank of Serbia in conformity herewith;
- 2) on-site.

Based on the conducted supervision, the National Bank of Serbia shall pronounce supervision measures, subject hereto, and report to competent authorities in the event of reasonable doubt that the established illegalities and irregularities contain elements of criminal offence, economic offence or infringement.

The National Bank of Serbia shall set down the rules related to conducting supervision of operations of the management company and voluntary pension funds, and the rules of identification, measurement, control and management of risks in their operations.

If, in the conduct of its function, the National Bank of Serbia determines that there are legal entities that perform the activity of the management company or that operate as voluntary pension funds, and which have no license or registration subject hereto, it can prohibit their work and take other measures, subject to the law.

An authorized person in the National Bank of Serbia can, in the course of on-site supervision:

1) examine general documents, books of accounts, account statements and other documents of the management company and the custody bank and make copies of documents;

2) request information on certain issues of significance for the operations of the management company and the custody bank.

Records of conducted on-site supervision of the operations of the management company shall be compiled.

## **Supervision Measures**

### **Article 69**

If, in the course of supervision of the management company and the custody bank, it establishes any illegalities or irregularities, or non-compliance with the risk control rule, the National Bank of Serbia shall, depending on the severity of the established irregularities and the extent to which they threaten the interests of fund members, take one or more measures, as follows:

- 1) issue a written warning notice;
- 2) issue an order that all established irregularities be eliminated in the time period no longer than 60 days from the day of receipt of the order;
- 3) institute proceedings before a competent authority;
- 4) withdraw approval of appointment of a member of management of the management company;
- 5) revoke the operating license of the management company.

The manner of conducting supervision, the procedure for issuing orders and taking measures, and the time periods for the execution of orders and the duration of measures shall be prescribed by the National Bank of Serbia.

## **Written Warning Notice**

### **Article 70**

A written warning notice shall be sent to the body of the management company if less significant irregularities are established, the nature of which is such that they do not affect significantly and directly the operations of the company, or of the fund it manages.

The written warning notice shall contain an order and the time period within which the management company is required to notify the National Bank of Serbia of the activities it has taken with a view to eliminating the irregularities referred to in paragraph 1 hereof.

## **Revocation of Management Company's Operating License**

### **Article 71**

The National Bank of Serbia shall issue a decision on the revocation of a management company's operating license if:

- 1) the company has not been managing the fund for the period of over six months;
- 2) the company's operating license was issued based on false or incorrect data;
- 3) the company stops meeting the conditions prescribed for obtaining the operating license;
- 4) the company fails to conclude the contract with the custody bank within the time period referred to in Article 63, paragraph 1 hereof for unjustified reasons;
- 5) the company commits a grave violation of the provisions hereof, and the provisions of the law governing the market of securities;
- 6) the company fails to act in accordance with the given order within the time period specified in the written warning notice referred to in Article 70 hereof;
- 7) the company notifies the National Bank of Serbia of cessation of fund management and submits an application for removal from the register of issued licenses.

As of the rendering of the decision referred to in paragraph 1 hereof, all issued licenses for voluntary pension fund management shall cease to be valid.

The decision referred to in paragraph 1 hereof shall be final.

An administrative dispute can be instituted against the decision referred to in paragraph 1 hereof.

## **VIII. PENALTY PROVISIONS**

### **1. Criminal Offences**

#### ***Publication of the Prospectus with False Data***

### **Article 72**

Anyone who, with a view to misleading the public, publishes false data on the legal and financial position of the fund or its business opportunities, or other false facts relevant for making the investment decision, or fails to publish complete data on such facts in the prospectus, abbreviated prospectus, annual and semiannual report of the voluntary pension fund, shall be sentenced to up to three years in prison.

Anyone who, with a view to misleading the public, fails to publish the supplement to the prospectus or report on important events that may significantly affect the decision on membership, shall be sentenced to up to three years in prison.

### **2. Economic Offences of the Management Company and Other Legal Entities**

### **Article 73**

A management company, or another legal entity, shall be fined 500,000 to 3,000,000 dinars for economic offence if it:

- 1) uses the name "voluntary pension fund management company" or another similar name in legal transactions, and it does not hold a management company operating license (Article 6 hereof);
- 2) fails to obtain the approval of the National Bank of Serbia of acquisition of a qualified stake in the management company (Article 14, paragraph 1 hereof);
- 3) proposes persons that do not meet the conditions referred to in Article 15 hereof for the post of general manager or member of management;
- 4) performs merger by acquisition, without prior approval of the National Bank of Serbia (Article 20, paragraph 2 hereof);
- 5) calculates fees contrary to Article 23 hereof;
- 6) fails to compile and submit financial statements in conformity with Article 27, paragraphs 1 and 7 hereof;
- 7) fails to store documentation and data in the prescribed manner (Article 27, paragraph 8 hereof);
- 8) invests the assets of the voluntary pension fund contrary to the provisions of Articles 31, 32, and 33 hereof;
- 9) uses the name "voluntary pension fund" or a derivative thereof contrary to Article 35 hereof;
- 10) starts managing the voluntary pension fund before the National Bank of Serbia has issued it a fund management license (Article 36, paragraph 1 hereof);
- 11) fails to submit the prospectus, or abbreviated prospectus, of the voluntary pension fund for approval to the National Bank of Serbia within the specified time period (Article 38, paragraphs 5 and 6 hereof);
- 12) fails to publish the abbreviated prospectus in the manner prescribed in Article 38, paragraph 7 hereof;
- 13) fails to maintain individual accounts of voluntary pension fund members in conformity with Article 43 hereof;
- 14) fails to effect account transfer subject to Article 44, paragraph 2 and Article 45 hereof;
- 15) fails to calculate the net asset value of the fund on a daily basis, and fails to deliver data thereon to the custody bank with which the voluntary pension fund's account is maintained (Article 46, paragraph 4 hereof);
- 16) offers benefits contrary to Article 49, paragraphs 1, 3, and 4 hereof;
- 17) publishes an announcement, or public invitation, or provides information contrary to Article 50, paragraphs 1, 2, 5 and 6 hereof;
- 18) hires natural persons without the license of the National Bank of Serbia (Article 51, paragraph 3 hereof);
- 19) fails to deliver notifications to voluntary pension fund members subject to Article 52 hereof;
- 20) fails to execute the contract regarding withdrawal and use of accumulated funds through scheduled payments (Article 62, paragraphs 3 and 4 hereof);
- 21) fails to conclude a contract of maintaining the fund's account with the custody bank, within the prescribed time period (Article 63, paragraph 1 hereof);
- 22) fails to enable the supervision of legality of the operations of the management company and voluntary pension fund by the National Bank of Serbia (Article 68 hereof);
- 23) fails to act in compliance with the written warning notice issued by the National Bank of Serbia (Article 70, paragraph 2 hereof).



For the actions referred to in paragraph 1 hereof, a responsible person in the management company, or in another legal entity, shall also be fined 50,000 to 200,000 dinars for economic offence.

### **3. Economic Offences of the Custody Bank**

#### **Article 74**

A custody bank shall be fined 500,000 to 3,000,000 dinars for economic offence if it:

1) fails to notify the management company of corporate actions that need to be taken with respect to the fund's assets (Article 64, paragraph 1, indent 3) hereof);

2) fails to execute the orders of the management company that are in conformity with the law and the fund's prospectus, or executes the orders of the management company for the sale and purchase of assets contrary to the law and the fund's prospectus (Article 64, paragraph 1, indent 4) hereof);

3) fails to control, confirm and report on a daily basis to the National Bank of Serbia on calculated net asset value of the voluntary pension fund and the value of investment units (Article 64, paragraph 1, indent 5) hereof);

4) fails to control the return of the voluntary pension fund (Article 64, paragraph 1, indent 6) hereof);

5) fails to notify the National Bank of Serbia of established irregularities in the management company's operations immediately after detecting such irregularities (Article 64, paragraph 1, indent 7) hereof);

6) fails to submit to the National Bank of Serbia and other competent authorities, in the name of the fund, reports against the management company for the damage incurred to the fund (Article 64, paragraph 1, indent 9) hereof);

7) fails to notify the National Bank of Serbia of termination of contract and reasons for such termination (Article 65, paragraph 3 hereof).

For the actions referred to in paragraph 1 hereof, a responsible person in the custody bank shall also be fined 50,000 to 200,000 dinars for economic offence.

### **4. Economic Offence of Another Legal Entity**

#### **Article 75**

A legal entity using the name "voluntary pension fund management company" or another similar name in legal transactions which has not obtained a management company operating license (Article 6, paragraph 2 hereof) shall be fined 100,000 to 1,000,000 dinars for economic offence.

## **IX. TRANSITIONAL AND CLOSING PROVISIONS**

#### **Article 76**

Insurance companies holding a license to engage in voluntary pension insurance operations pursuant to the law governing insurance (hereinafter: voluntary pension insurance companies) shall be required to adapt their organization and operations to the provisions hereof by December 31, 2006.

Adaptation of operations means that voluntary pension insurance companies can:

1) register as voluntary pension fund management companies and organize a voluntary pension fund to which they shall transfer the funds collected in respect of voluntary pension insurance in the course of former operations;

2) establish management companies that will organize a voluntary pension fund, and transfer all funds received in respect of voluntary pension insurance to such fund;

3) transfer the funds collected in respect of voluntary pension insurance to a voluntary pension fund.

Voluntary pension insurance companies can continue to conclude contracts of voluntary pension insurance based on the funds accumulation principle from the date of effect hereof until March 31, 2006.

As of April 1, 2006, voluntary pension insurance companies shall not be allowed to conclude voluntary pension insurance contracts based on the funds accumulation principle.

From April 1, 2006 until the day of enactment of the law governing voluntary pension insurance, voluntary pension insurance companies shall only perform the activities of contracting different types of annuities and conclude contracts whereby rights in the event of disability are ensured.

By July 1, 2006, voluntary pension insurance companies shall notify the beneficiaries of their services of the chosen manner of adaptation of their operations.

The beneficiaries of the services referred to in paragraph 6 hereof that do not agree with the manner of adaptation of the operations of the voluntary pension insurance company may request termination of contract and return of funds on terms subject to which the contract was concluded.

The National Bank of Serbia shall issue a regulation setting out the methodology for adapting the operations of voluntary pension insurance companies to this law.

#### **Article 77**

The annuities referred to in Article 76, paragraph 5 hereof can be:

1) life annuity, which represents periodical payments until the death of the annuitant;

2) term certain annuity, which represents periodical payments in a given period of time;

3) joint annuity, which represents periodical payments that, after the death of the annuitant, continue until the death of the other designated person, or legal heir.

The modalities of periodical payments, timelines for start or end of payments, and similar issues, shall be defined in the contract.

#### **Article 78**

The regulations for the implementation hereof shall be enacted by March 31, 2006.

#### **Article 79**

This law shall enter into force on the eight day following the day of its publication in the "Official Gazette of the Republic of Serbia", and shall be implemented as of April 1, 2006, with the exception of the provision of Article 76, paragraph 3, which shall be implemented as of the day of entry into force of this law.

