

THE CROATIAN PARLIAMENT

399

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE ACT ON PENSION INSURANCE COMPANIES

I hereby promulgate the Act on Pension Insurance Companies passed by the Croatian Parliament at its session on 7 February 2014.

Class: 011-01/14-01/47

Reg. No: 71-05-03/1-14-2

Zagreb, 12 February 2014

The President of
the Republic of
Croatia

Ivo Josipović, m.
p.

ACT

ON PENSION INSURANCE COMPANIES

TITLE I

GENERAL PROVISIONS

Article 1

This Act regulates:

- the establishment and operation of pension insurance companies paying out pensions under mandatory and voluntary pension insurance schemes based on individual capitalised savings and pensions based on one-time payments made by persons to a pension insurance company;
- mandatory and voluntary pension insurance schemes based on individual capitalised savings and pension schemes based on one-time payments made by persons to a pension insurance company;
- pensions and payment thereof.

Transposition of European Union legislation

Article 2

This Act transposes the following into the legal system of the Republic of Croatia:

- Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty (OJ L 178, 8.7.1988);
- Council Directive 98/49/EZ of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community (OJ L 209, 25.7.1998);
- Directive 2003/41/EZ of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (OJ L 235, 23.9.2003), as last amended by Directive 2013/14/EU of the European Parliament and of the Council of 21 May 2013 amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Funds Managers in respect of over-reliance on credit ratings (OJ L 145, 31.5.2013);
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (OJ L 204, 26.7.2006);
- Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC (OJ L 180, 15.7.2010).

Definitions

Article 3

For the purposes of this Act, the following definitions shall apply:

1. *Pension insurance company* means a joint-stock company that offers pension schemes and pays out pensions to pension beneficiaries and other persons in accordance with the provisions of this Act.
2. *Mandatory pension insurance* means mandatory pension insurance based on individual capitalised savings.
3. *Voluntary pension insurance* means voluntary pension insurance based on individual capitalised savings.
4. *Pension scheme* means all the rules, regulations or declarations governing reciprocal rights and obligations between a pension insurance company and a pension beneficiary for the

acquisition of the right to a pension under mandatory and voluntary pension insurance based on individual capitalised savings or a pension beneficiary on the basis of an one-time payment to the pension insurance company, which must contain information about the procedure for determining pension payments, the frequency and duration of payments, and other information on the pension scheme that are important for an individual's decision on the choice of the pension scheme.

5. *Pension beneficiary* means a person who receives a pension from a pension insurance company on the basis of a pension contract.

6. *Pension company* means a legal person that manages a pension fund on the basis of an authorisation issued by the Agency; a pension company may be a mandatory pension company or a voluntary pension company.

7. *Mandatory pension company* means a pension company that manages mandatory pension funds and has been established in accordance with the law governing the establishment and operation of mandatory pension funds and of pension companies managing mandatory pension funds.

8. *Voluntary pension company* means a pension company that manages voluntary pension funds and has been established in accordance with the law governing the establishment and operation of voluntary pension funds and of pension companies managing voluntary pension funds.

9. *Pension fund* means a fund that has been established in accordance with the law governing the establishment and operation of mandatory pension funds and of pension companies managing mandatory pension funds or a fund that has been established in accordance with the law governing the establishment and operation of voluntary pension funds and of pension companies managing voluntary pension funds; a pension fund may be a mandatory pension fund or a voluntary pension fund.

10. *Mandatory pension fund* means a fund established in accordance with the law governing the establishment and operation of mandatory pension funds and of pension companies managing mandatory pension funds.

11. *Voluntary pension fund* means a fund established in accordance with the law governing the establishment and operation of voluntary pension funds and of pension companies managing voluntary pension funds; a voluntary pension fund may be an open-end voluntary pension fund or a closed-end voluntary pension fund.

12. *Sponsor* means a legal or a natural person, including trade unions and employers as well as associations of self-employed persons, who participates in any way in establishing a closed-end voluntary pension fund and in paying contributions to a closed-end voluntary pension fund on behalf of fund members.

13. *Pension fund member* means a person registered with a mandatory pension fund or a person who joined a voluntary pension fund under a contract and who is entitled or will be entitled to pension rights based on his/her membership in the fund.

14. *Member of a mandatory pension fund* means a person registered with a mandatory pension fund.

15. *Member of an open-end voluntary pension fund* means a person who joined a voluntary pension fund under a contract.

16. *Member of a closed-end voluntary pension fund* means a person who joined a voluntary pension fund under a contract and whose occupational activity entitles or will entitle him/her to pension rights in accordance with the provisions of a pension scheme.

17. *Pension rights* means any payment to which a fund member or other beneficiary is entitled under the legislation governing mandatory and voluntary pension insurance or under this Act.

18. *Vested pension rights* means any entitlement to payment obtained after the fulfilment of the conditions required by the legislation governing mandatory and voluntary pension insurance or by this Act.

19. *Pension* means a monthly payment for life or for a temporary period, made by a pension insurance company to a pension beneficiary on the basis of a pension contract after the fulfilment of the conditions set out in this Act.

20. *Pension contract* means a contract for the payment of a pension concluded between a pension beneficiary and a pension insurance company.

21. *Transfer* means a transfer of an amount from the personal account of a pension fund member to the account of a pension insurance company.

22. *Designated beneficiary* means the person who is entitled to receive guarantee payments under a pension contract in the event of death of a pension beneficiary within the guarantee period.

23. *Guarantee payment* means the payment of a pension during a guarantee period, made by the company to a pension beneficiary on the basis of a pension contract.

24. *Guarantee period* means the period starting from the date of retirement and lasting for the period agreed upon between the company and a pension beneficiary, which is specified in the pension contract and may not be less than five years.

25. *Qualifying holding* means any direct or indirect holding in a pension insurance company which represents 10 % or more of the share capital or of the voting rights or a smaller percentage which makes it possible to exercise a significant influence over the management of the pension insurance company. When calculating the proportion of the voting rights, the provisions of the law governing the capital market shall apply accordingly.

26. *Related person* means, with respect to a legal or natural person pursuant to this Act:

– a person holding more than 10 % of issued stocks or shares and decision-making rights, or equity interests in another person – entity or who, although holding a smaller percentage than this, can influence, directly or indirectly, the decisions made by another person – entity, up to

the third degree of relationship based on the vertical chain of ownership of stocks, shares or decision-making rights;

- a person in which another person – entity referred to in the preceding indent holds, directly or indirectly, more than 10 % of issued stocks or shares and decision-making rights, or equity interests or who, although holding a smaller percentage than this, can influence, directly or indirectly, the decisions made by such a person, up to the third degree of relationship based on the vertical chain of ownership of stocks, shares or decision-making rights;

- any other person – entity in which a stockholder or a shareholder holds, directly or indirectly, more than 10 % of stocks or shares and decision-making rights, or equity interests, if at the same time that stockholder or shareholder also holds, directly or indirectly, more than 10 % of stocks or shares and decision-making rights, or equity interests in the first entity, up to the third degree of relationship based on the vertical chain of ownership of stocks, shares or decision-making rights;

- any natural person or persons who can influence, directly or indirectly, the decisions made by another person – entity;

- any member of the management, the supervisory board or of another body of another person – entity which makes decisions or exercises supervision;

- in relation to any person listed above, the spouse or a relative to the second degree inclusive.

27. *Relevant person* in relation to a pension insurance company means:

- a person in a managing position in the pension insurance company or a person who is a member of the pension insurance company, a member of the supervisory board or a procurator of the pension insurance company;

- a person in a managing position or a person who is a member of the company in each legal person authorised to offer pension schemes;

- an employee of the pension insurance company, an employee of the legal person to which the pension insurance company has delegated its functions or an employee of the legal person authorised to offer pension schemes, which is involved in the activities carried out by the pension insurance company;

- any other natural person whose services are placed at the disposal and under the control of the pension insurance company and who is involved in the activities carried out by the pension insurance company.

28. *Person with whom a relevant person has a family relationship* means:

- the spouse of the relevant person or any other person considered by national law as equivalent to a spouse;

- a dependent child or stepchild of the relevant person.

29. *Close links* means a situation in which two or more natural or legal persons or entities are linked by:

- participation relationship;
- control relationship.

30. *Participation* means participation of a person in another legal person if:

- the person has direct or indirect investments on the basis of which he owns 20 % or more of the capital or voting rights of that legal person, or
- the person owns less than 20% of the capital or voting rights of that legal person, which has been acquired with the intention to make it possible, through permanent links with that legal person, to exercise influence over its operation.

31. *Control* means the relationship between a parent company and a subsidiary or a similar relationship between any natural or legal person and a company.

For the purposes of this item:

- a subsidiary company of a subsidiary company is also considered a subsidiary of the parent company which is at the head of those companies;
- a situation in which two or more natural or legal persons are permanently linked to one and the same person by a control relationship shall be regarded as constituting a close link between such persons.

32. *Transferable securities* means those classes of securities which are negotiable on the capital market; they can be *transferable equity securities*, *transferable debt securities* and any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures. For the purposes of this item, instruments of payment are not deemed to be transferrable securities.

33. *Transferable equity securities* means shares and other securities equivalent to shares, which represent a share in the capital or membership rights in a company, and depositary receipts in respect of shares.

34. *Transferable debt securities* means bonds and other forms of securitised debt, including depositary receipts in respect of such securities.

35. *Money-market instruments* means financial instruments, excluding instruments of payment, which are normally dealt in on the money market, such as treasury bills, commercial papers, certificates of deposit and bankers' acceptances, which are liquid and have a value which can be accurately determined at any time.

36. *UCITS fund* (Undertakings for Collective Investment in Transferable Securities) means an investment fund defined by the law governing the establishment and management of open-end investment funds with a public offering.

37. *Alternative investment fund* means an investment fund defined by the law governing the establishment and management of alternative investment funds.

38. *Member State* means a member state of the European Union or a signatory state to the Agreement on the European Economic Area.

39. *Third country* means a country that is not a member state in terms of item 51 of this Article.

40. *Home Member State* means the Member State in which the pension insurance company has its registered office and its main administration or, if it does not have a registered office, its main administration.

41. *Host Member State* means the Member State whose social and labour law is applicable to the field of voluntary pension insurance schemes.

42. *Pension insurance company from another Member State* means an institution, irrespective of its legal form, authorised by the competent authority of that Member State to make pension payments under voluntary pension insurance in accordance with pension schemes of the pension insurance company on the basis of individual capitalised savings of a member of a closed-end voluntary pension fund.

43. *Central register of insured persons* means the institution whose responsibilities and scope of activities are prescribed by a special act.

44. *Agency* means the Croatian Financial Services Supervisory Agency, whose responsibilities and scope of activities are prescribed by the Act on the Croatian Financial Services Supervisory Agency.

45. *Supervised entity* means a legal or natural person supervised by the Agency in accordance with the provisions of this Act.

46. *Competent authority of a Member State* means the authority of a Member State which is responsible, under the laws of that Member State, for the supervision of legal persons carrying out the activities referred to in Article 9 of this Act.

47. *European Insurance and Occupational Pensions Authority – hereinafter: EIOPA*) is the European Supervisory Authority established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010).

Application of other legislation

Article 4

(1) In matters that are not regulated by this Act, the provisions of the law governing the establishment and operation of companies shall apply *mutatis mutandis* to pension insurance companies.

(2) In matters which relate to pensions under mandatory pension insurance and are not regulated by this Act, the provisions of the law governing mandatory pension insurance based on generational solidarity shall apply *mutatis mutandis*.

(3) In matters that relate to pension contracts and are not regulated by this Act, the provisions of the law governing civil obligations shall apply *mutatis mutandis*.

TITLE II

PENSION INSURANCE COMPANY

Form of the Company

Article 5

(1) A pension insurance company shall be established and shall operate as a joint-stock company and shall have its registered office in the Republic of Croatia, in accordance with the provisions of the law governing the establishment and operation of companies (hereinafter: Company).

(2) The Company may not issue preferred stocks.

(3) The Company shall treat all stockholders in an equal manner and shall not award any additional rights or privileges to certain stockholders, nor limit their rights or impose on them additional responsibilities.

Name of the Company

Article 6

(1) The name of the Company shall contain the words: “pension insurance company”.

(2) Only Companies established in accordance with the procedure prescribed by this Act shall be entitled to use in their names the words indicated in paragraph 1 of this Article.

(3) If the Company's authorisation to conduct business is withdrawn, the company must change its name by removing the words indicated in paragraph 1 of this Article.

Share capital of the Company

Article 7

(1) The share capital of the Company shall not be less than the minimum guarantee capital.

(2) The share capital shall be paid in full amount, in cash only, prior to the registration of the Company or the registration of an increase in the share capital.

(3) The share capital shall not originate from loans or credits nor be encumbered in any way.

Restrictions for shareholders

Article 8

- (1) The same legal or natural person may have a qualifying holding in only one Company.
- (2) Related persons may be holders of a qualifying holding in only one Company.
- (3) In the case of a merger or acquisition of two or more legal persons where before such merger or acquisition each legal person was a shareholder of a separate Company and where the persons which were shareholders of separate Companies have become related persons, the Agency may decide not to apply the restrictions specified in paragraph 1 or 2 of this Article for a period of up to six months to enable the legal person ensuing from such merger or acquisition, or persons which have become related persons, to bring their activities into compliance with the provisions of this Act.

Field of business

Article 9

- (1) The field of business of the Company may include:
 1. paying out pensions under mandatory pension insurance in accordance with the pension schemes of the Company on the basis of individual capitalised savings of a member of a mandatory pension fund;
 2. paying out pensions under voluntary pension insurance in accordance with the pension schemes of the Company on the basis of individual capitalised savings of a member of an open-end voluntary pension fund;
 3. paying out pensions under voluntary pension insurance in accordance with the pension schemes of the Company on the basis of individual capitalised savings of a member of a closed-end voluntary pension fund;
 4. paying out pensions on the basis of direct one-time payments made by persons to the Company;
 5. carrying out other activities relating to pension insurance, subject to the prior approval or authorisation by the Agency.
- (2) The activities referred to in paragraph 1 of this Article may be carried out in the Republic of Croatia only by:
 1. a Company holding an authorisation to conduct business granted by the Agency;
 2. a pension insurance company from another Member State that has established a branch in the Republic of Croatia in accordance with the provisions of this Act or is authorised to carry out directly the activities referred to in paragraph 1, item 3 of this Article and in Article 10 of this Act in the Republic of Croatia on the basis of an authorisation granted by the competent authority of the Member State;

3. any other legal person that has been granted authorisation by the Agency, in accordance with the law governing the establishment and operation of voluntary pension funds and of pension companies managing voluntary pension funds, to carry out the activities referred to in paragraph 1, items 2 and 3 of this Article.

(3) The provisions of this Act concerning the activities referred to in paragraph 1, item 2 of this Article shall apply *mutatis mutandis* to the activities referred to in paragraph 1, item 4 of this Article.

(4) If the Agency finds, according to the data available to it, that a natural or legal person carries out the activities referred to in paragraph 1 of this Article without being authorised by the Agency to carry out such activities, the Agency shall order the person in question to stop carrying out those activities.

(5) In the case referred to in paragraph 4 of this Article, the Agency may previously examine the business records and other documents of the person referred to in paragraph 4 of this Article and gather evidence to determine whether the person concerned carries out the activities referred to in paragraph 1 of this Article.

Expanded scope of activities

Article 10

(1) In addition to the activities referred to in Article 9 of this Act, a Company may carry out activities that are directly or indirectly related to the activities referred to in Article 9 of this Act, such as:

1. providing services to sponsors in the framework of the implementation of voluntary pension insurance referred to in Article 9 paragraph 1, item 3 of this Act (indicative calculation of pensions, drawing up draft pension schemes, preparing draft reports, developing financial plans and projections using an actuarial calculation, etc.);

2. other activities that are performed on the basis of a contract with a pension company and other persons in accordance with this Act and regulations made under this Act.

(2) A Company that fulfils the requirements for performing the activities referred to in paragraph 1 of this Article may enter those activities in its articles of association and in the court register without authorisation by the Agency.

Cross-border activities of the Company

Article 11

(1) The Company may carry out the activities referred to in Article 9 paragraph 1, item 3 of this Act in another Member State, either through a branch or directly, and in doing so shall comply with the labour and social security legislation of the host Member State.

(2) The Company shall notify its intention to carry out the activities referred to in paragraph 1 of this Article to the Agency and shall ask it to forward that notification to the competent authority of the Member State.

(3) The notification referred to in paragraph 2 of this Article shall contain the following information:

1. the host Member State;
2. the full name of the sponsor;
3. the main characteristics of the pension scheme.

(4) Within 90 days of receiving the proper notification referred to in paragraph 2 of this Article, the Agency shall forward it to the competent authority of the host Member State and inform the Company accordingly.

(5) By way of derogation from paragraph 4 of this Article, if, on the basis of the information contained in the notification referred to in paragraph 3 of this Article and/or data and information available to the Agency, there are reasonable grounds to suspect that the management structure or the financial situation of the Company or the good repute and professional qualifications or experience of the persons running the Company are incompatible with the operations proposed in the host Member State, the Agency may issue a decision refusing the application for forwarding the notification in accordance with paragraph 4 of this Article and shall inform the Company and EIOPA thereof stating the reasons for such refusal.

(6) Before the Company starts to carry out the activities referred to in paragraph 1 of this Article, the competent authority of the host Member State shall, within 60 days of receiving the Agency's communication referred to in paragraph 4 of this Article, inform the Agency of the provisions of the labour and social security legislation relevant to the field of voluntary pension insurance and pension schemes and of other legislation that applies to investment restrictions and obligations to inform pension beneficiaries.

(7) The Agency shall inform the Company of the date of receiving the information referred to in paragraph 6 of this Article from the competent authority of the host member State and shall communicate the information referred to in paragraph 6 of this Article to the Company.

(8) On receiving the information referred to in paragraph 6 of this Article or if no information is received from the Agency on expiry of the period provided for in paragraph 6 of this Article, the Company may start to carry out the activities referred to in paragraph 1 of this Article in another Member State in accordance with the provisions of the host Member State's labour and social security legislation and other legislation that applies to investment restrictions and obligations to inform pension beneficiaries.

(9) The competent authority of the host Member State shall inform the Agency of any significant change in the provisions and legislation referred to in paragraph 6 of this Article which may affect the operations of the Company.

(10) A pension insurance company from another Member State may carry out the activities referred to in Article 9 paragraph 1, item 3 of this Act in the Republic of Croatia without authorisation by the Agency, but it must comply with the provisions of the labour and social security legislation of the Republic of Croatia.

(11) The competent authority of the home Member State of a pension insurance company from another Member State shall, unless there are reasons to suspect that the management structure or the financial situation of the pension insurance company or the good repute and professional qualifications or experience of the persons running the pension insurance company are incompatible with the operations proposed in the Republic of Croatia, inform the Agency of the intention of the pension insurance company from another Member State to carry out the activities referred to in paragraph 10 of this Article.

(12) The Agency shall, within 60 days of receiving the communication referred to in paragraph 11 of this Article, inform the competent authority of the home member State of the provisions of the labour and social security legislation relevant to the field of voluntary pension insurance and pension schemes and of other legislation that applies to investment restrictions and obligations to inform pension beneficiaries.

(13) A pension insurance company from another Member State that carries out the activities referred to in paragraph 10 of this Article must provide pension beneficiaries with all the information as required by this Act.

(14) The Agency shall inform the competent authority of the home Member State of a pension insurance company from another Member State of any significant change in the provisions and legislation referred to in paragraph 12 of this Article which may affect the operations of the pension insurance company from another Member State in the Republic of Croatia.

Prohibition to grant privileges

Article 12

(1) A Company may not offer any additional payments or privileges to any person with a view to persuading such person to conclude a pension contract.

(2) A Company may not offer any additional payments to an employer or related persons of such employer for the purpose of inducing or rewarding such employer to persuade any of his employees to conclude a pension contract with the Company.

(3) A Company may not offer any additional payments to a trade union or other legal person or related person of such trade union or legal person in order to induce or reward such entity to persuade or require its members to conclude pension contracts with the Company.

(4) Privileges or additional payments shall mean any benefits such as additional compensation, compensation for early termination of a contract with another Company or other tangible and intangible benefits, other than payments resulting from the status of a pension beneficiary.

Register of Companies

Article 13

(1) Companies to which the Agency has granted an authorisation to conduct business shall be registered in the Register of Companies maintained by the Agency.

(2) Companies and all the information required by this Act and by the regulation referred to in paragraph 6 of this Article as well as any changes in that information shall be entered in the Register of Companies.

(3) The Agency shall publish on its web-site the information contained in the Register of Companies.

(4) In addition to the information required by this Act and by the regulation referred to in paragraph 6 of this Article, the Register of Companies shall also indicate the Member States in which the Company is operating.

(5) The Agency shall submit to EIOPA the information referred to in paragraph 4 of this Article.

(6) The Agency shall prescribe, by way of an ordinance, the content and the manner of keeping the Register referred to in paragraph 1 of this Article, as well as the information that is to be published on the Agency's web-site in accordance with paragraph 3 of this Article.

(7) If the Company's authorisation to conduct business is withdrawn, the Agency shall remove the Company from the Register of Companies.

Publication of a list of companies from Member States of the European Union

Article 14

The Agency shall publish on its web-site a list of all pension insurance companies from other Member States that provide their services or carry out their activities in the territory of the Republic of Croatia, and of their branches.

TITLE III

AUTHORISATION TO CONDUCT BUSINESS

General provisions

Article 15

(1) Before a Company is registered in the court register, the members of the Company must obtain from the Agency an authorisation to conduct business.

(2) The Company shall submit an application for registration in the court register within six months from the receipt of the decision granting the authorisation to conduct business.

(3) Upon registration in the court register, the Company may start operations in accordance with the provisions of this Act.

(4) A decision granting the authorisation to conduct business shall be issued for an indefinite period, may not be transferred to another entity and shall not apply to the successor in law.

(5) A Company may not be issued an authorisation decision which contains an authorisation only for ancillary activities referred to in Article 10 of this Act.

(6) A joint-stock company which has already been established may also apply for authorisation to conduct business, and in that case the application shall be submitted by the management board of the company.

(7) The company referred to in paragraph 6 of this Article must obtain an authorisation to conduct business before the change in the company's business is registered in the court register.

Application for authorisation to conduct business of a Company

Article 16

(1) An application for authorisation to conduct business shall be accompanied by the following documents:

1. the articles of association of the Company, together with a document providing the basis for the adoption of these articles of association (members' statement);

2. a list of the members who are shareholders of the Company, along with information as to whether they are related persons and as to the nature of their connections and documents confirming the legal status and the origin of the funds for paying up the Company's share capital;

3. a list of candidates for members of the management and supervisory boards of the Company, along with their declarations stating that they agree to perform these functions and that there are no circumstances which would be contrary to the provisions of the laws governing the establishment and operation of companies, the provisions of this Act and the provisions of the instrument of incorporation and which would prevent them from performing these functions;

4. documents showing the financial position of all the members that have acquired a qualifying holding in the Company in the last two years preceding the date of submission of the application, including documents confirming that they have no tax arrears and unpaid contributions;

5. the organisational structure and the business plan of the Company for the next five business years;

6. a description of the risk management system;

7. a certificate by a certified actuary as to whether the Company is capable of ensuring the capital adequacy, taking into account the type and scope of activities it will carry out.

(2) The business plan referred to in item 5 of paragraph 1 of this Article must contain:

1. the fundamental business policies;

2. a description of the pension schemes offered by the Company as part of its business;
3. forecast statements of financial position and statements of comprehensive income;
4. calculation of the amount of the capital referred to in Article 75 and of the guarantee fund referred to in Article 81 of this Act and the items constituting it;
5. the calculation of the solvency margins referred to in Article 79 of this Act;
6. estimates of the costs of setting up, organisation expenses and operating expenses, as well as the sources of financing such costs and expenses;
7. the estimated liquidity and financial resources which will be available to cover the liabilities and ensure the capital adequacy;
8. a detailed projection of expected operating results, in particular expected income, expected payments and other expenses, as well as estimated levels of technical provisions to be formed;
9. calculation bases, and principles and formulas for the calculation of pensions, such as probability tables and interest rates, together with an opinion of a certified actuary.

(3) The Agency shall assess the appropriateness, suitability and financial stability of the persons referred to in item 2 of paragraph 1 of this Article taking into account the following criteria:

1. business reputation of the members of the Company;
2. financial stability of the members of the Company;
3. whether the Company will be able to comply, on a continuing basis, with the requirements laid down in this Act, as well as other legislation where this is applicable on individual and consolidated basis, and in particular whether there is a structure which enables effective exercise of supervision, effective exchange of information among competent authorities, and whether the competences can be divided between a number of competent authorities;
4. whether there are reasonable grounds to suspect that the Company committed or attempted a criminal offence of money laundering or terrorism financing, according to the provisions regulating such criminal offences.

(4) The Agency shall, by way of an ordinance, specify in more detail other documents and information that must accompany an application for authorisation to conduct business of a Company.

Activities for which authorisation to conduct business is granted

Article 17

(1) The granting of authorisation to a Company for the activities referred to in Article 9 of this Act shall be decided upon by the Agency by way of a decision.

(2) Depending on the application submitted, the Agency may issue a decision to grant an authorisation to a Company either for all the activities referred to in paragraph 1 of Article 9 of this Act or for individual activities referred to in paragraph 1 of Article 9 of this Act.

(3) In the decision granting an authorisation, the Agency shall specify the activities to which the authorisation applies.

Expansion of the scope of activities

Article 18

(1) If a Company to which the Agency has already issued an authorisation for some of the activities referred to in paragraph 1 of Article 9 of this Act intends to expand the scope of its business to include other activities referred to in paragraph 1 of Article 9 of this Act, it must previously obtain an authorisation from the Agency for performing such activities.

(2) The provisions of Articles 15 to 23 of this Act shall apply accordingly to the obtaining of a decision granting authorisation for the expanded scope of business activities.

Taking a decision on an application for authorisation to conduct business

Article 19

(1) The Agency shall issue a decision approving an application for authorisation to conduct business if it finds, based upon the submitted documents and the information collected, that the following requirements are met:

1. the requirement concerning the payment of the share capital of the Company;
2. the requirement concerning the financial stability, appropriateness and suitability for performing the tasks by the members of the Company, the members of the management and supervisory boards and all the related persons that the Agency is aware of;
3. the requirements concerning the issuance of approval for the performance of the duties of a member of the management board of the Company, for all the members of the management board;
4. it has been demonstrated or at least made likely that the members of the Company meet, or will meet by the time they begin their activities, the organisational requirements in accordance with this Act and regulations made under this Act;
5. conditions are in place for the Company to operate in accordance with this Act and regulations made under this Act, and in accordance with other acts governing the operation of the Company and regulations made under those acts;
6. the instrument of incorporation of the Company complies with the provisions of this Act.

(2) The Agency shall, by way of a decision, decide on the application within 60 days of the date of receipt of the proper application.

Joining of procedures when deciding on an application for authorisation to conduct business

Article 20

When deciding on an application for authorisation to conduct business, the Company may at the same time decide on the following applications:

1. an application for the issuance of a decision approving the acquisition of a qualifying holding in the Company;
2. an application for the issuance of a decision approving the performance of the function of a member of the management board of the Company.

Cooperation with other bodies

Article 21

The Agency may, if it deems necessary, re-examine the facts upon which an application for authorisation to conduct business is based. In doing so it may:

- cooperate with other state administration bodies;
- gather documents and information from other sources.

Refusal of an application for authorisation to conduct business

Article 22

The Agency shall issue a decision refusing a Company's application for the issuance of an authorisation to conduct business if:

1. the requirements set out in Article 19 of this Act are not satisfied;
2. it estimates, based on the information collected and the documents submitted, that the Company's operations will not be conducted with all due skill, care and diligence and in accordance with sound business practice.

Termination of the validity of an authorisation to conduct business

Article 23

(1) The Agency shall issue a decision revoking the Company's authorisation to conduct business:

1. if bankruptcy proceedings have been opened against the Company;
2. if the Company ceases to exist.

(2) The Agency shall also notify the competent commercial court of the termination of the validity of the authorisation referred to in paragraph 1 of this Article.

Requirements for members of a Company

Article 24

(1) The following persons shall be eligible to be members of a Company:

1. persons who, in the period of three years prior to acquiring membership in the Company, did not have more than 10 % holding in the share capital of the Company, an investment company or a credit institution, a pension company, an investment fund management company, an insurance company or a reinsurance company, at the time when the authorisation of these companies was revoked;
2. persons who have full legal capacity;
3. a company, sole trader or craftsman in respect of whose assets no bankruptcy proceedings have been instituted or completed and no pre-bankruptcy settlement proceedings have been initiated;
4. persons who have not held a managing position in a company against which bankruptcy proceedings have been opened or against which pre-bankruptcy settlement proceedings have been initiated or in respect of which a decision on compulsory liquidation was taken or from which an authorisation has been withdrawn, except where the Agency establishes that the persons in question have not contributed, by their actions or failure to act, to these circumstances;
5. persons who do not hold a public service office or who do not hold an office in local and regional self-government bodies and who are not officers in state or local and regional self-government bodies or in bodies responsible to the legislative and executive authorities in the Republic of Croatia, a Member State or a third country;
6. persons from whom approval or authorisation for the performance of relevant duties has not been withdrawn as a result of non-compliance with the relevant regulations in accordance with the laws falling within the competence of the Agency, the Croatian National Bank or related supervisory bodies of the Republic of Croatia, Member States or third countries;
7. persons who have not been convicted, on the basis of a judgement with final force and effect, of misdemeanour or criminal offence which represents a gross or permanent violation of regulations falling within the competence of the Agency, the Croatian National Bank or other supervisory bodies of the Republic of Croatia, Member States or third countries, or of the following criminal offences provided for in the Criminal Code (Official Gazette 125/11 and 144/12):
 - Title IX – a criminal offence against humanity and human dignity;
 - Title XII – a criminal offence relating to labour relations and social insurance;

- Title XXIII – a criminal offence against property (other than a criminal offence involving unauthorised use of other people's movable property and a criminal offence involving damage to other people's property), for which criminal proceedings are instituted *ex officio*;
- Title XXIV – a criminal offence against the economy;
- Title XXVI – a criminal offence of forgery;
- Title XXVIII – a criminal offence against official duty;
- Title XXIX – a criminal offence against the judiciary;

a criminal offence provided for in Title II of the Companies Act or a criminal offence under the Criminal Code (Official Gazette 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03 – Decision of the Constitutional Court of the Republic of Croatia, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11 and 143/12), namely:

- Title XIII – a criminal offence against values protected by international law;
- Title XVII – a criminal offence against property (other than a criminal offence involving unauthorised use of other people's movable property and a criminal offence involving the destruction and damage of other people's property) for which criminal proceedings are instituted *ex officio*;
- Title XXI – a criminal offence against the safety of payment and business operations;
- Title XXII – a criminal offence against the judiciary;
- Title XXIII – a criminal offence against authenticity of documents;
- Title XXV – a criminal offence against official duty;
- a criminal offence involving violation of the right to work and other labour-related rights referred to in Article 114 and a criminal offence involving violation of right to health care and disability protection referred to in Article 115.

(2) The Agency shall, by way of an ordinance, specify in more detail the requirements referred to in item 7 of paragraph 1 of this Article.

Changes in the Company's status

Article 25

(1) If a Company is involved in a merger, consolidation or division of the Company, it shall obtain approval of the Agency for such merger, consolidation or division.

(2) The provisions of this Act concerning the granting of an authorisation to a Company shall apply accordingly to the making of a decision on the approval of a status change as referred to in paragraph 1 of this Article.

(3) Where due to a status change of a Company, a new Company is formed, that Company must obtain an authorisation from the Agency prior to registration of the status change in the court register.

(4) A Company may also be involved in other status changes to which paragraphs 1 to 3 of this Article shall apply accordingly.

Approval to acquire a qualifying holding

Article 26

(1) Any legal or natural person or such persons acting in concert (proposed acquirer) intending to acquire or to further increase, directly or indirectly, a holding in a Company as a result of which the proportion of the share capital or of the voting rights held would reach or exceed the threshold of 10 %, 20 %, 30 % or 50 % or so that the Company would become a subsidiary of the proposed acquirer (proposed acquisition), must first submit to the Agency an application in writing for the issuance of approval and obtain a decision from the Agency approving such acquisition.

(2) The application referred to in paragraph 1 of this Article shall contain:

1. information on the size of the intended holding;
2. documents referred to in Article 28 of this Act.

Notification of disposal of a qualifying holding

Article 27

(1) Any legal or natural person intending to dispose, directly or indirectly, of a qualifying holding in a Company shall notify the Agency thereof in writing at least 30 days prior to the disposal, indicating the size of the holding intended to be disposed of.

(2) The person referred to in paragraph 1 of this Article shall likewise notify the Agency of its intention to reduce its qualifying holding so that the proportion of the share capital or of the voting rights held would fall below the threshold of 10 %, 20 %, 30 % or 50 % or so that the Company would cease to be a subsidiary of that person.

(3) If a Company becomes aware of an acquisition or disposal of a qualifying holding in the Company that exceeds or falls below the threshold 10 %, 20 %, 30 % or 50 %, it shall inform the Agency thereof without delay.

Application for approval to acquire a qualifying holding

Article 28

(1) The documents required for the assessment, which must be submitted to the Agency together with an application for approval referred to in Article 26 of this Act, shall be proportionate and adapted to the nature of the proposed acquirer and the proposed acquisition.

(2) The Agency shall specify, by way of an ordinance, the documents referred to in paragraph 1 of this Article and the criteria for assessing the suitability and the financial soundness of the proposed acquirer of a qualifying holding.

Significant influence or control over the operations of a Company

Article 29

Where the acquisition of a qualifying holding may result in a dominant influence or control over the operations of a Company, the proposed acquirer shall, at the request of the Agency, enclose with the application the following documents in addition to those referred to in Article 28 of this Act:

1. a business plan and strategy of the Company in which the qualifying holding is acquired, including projected balance sheets and profit and loss accounts covering the first three business years;
2. planned changes in the management, organisational and personnel structure;
3. planned changes relating to the existing pension schemes of the Company or the planned introduction of new pension schemes;
4. a plan of activities in the field of information technology, if changes are planned.

Deadline for completing the acquisition of a qualifying holding

Article 30

(1) If the Agency receives two or more applications to acquire a qualifying holding, it shall provide equal treatment to all proposed acquirers.

(2) The person that has received a decision approving the acquisition of a qualifying holding must complete the approved acquisition within six months after the date of receipt of the decision approving the acquisition in question.

(3) If the person referred to in paragraph 2 of this Article fails to acquire a qualifying holding for which the Agency's approval was granted, the Agency shall issue a decision revoking the approval of the acquisition of a qualifying holding.

Deciding on an application for approval to acquire a qualifying holding

Article 31

When deciding on an application for approval to acquire a qualifying holding, the Agency shall assess the suitability and the financial soundness of the proposed acquirer of a qualifying holding in accordance with the following criteria:

1. the reputation of the proposed acquirer;

2. the reputation, experience and adequate skills of persons who will direct the business of the Company as a result of the acquisition;
3. the financial soundness of the proposed acquirer;
4. whether the Company will be able to comply, on a continuing basis, with the provisions of this Act and other laws and regulations applicable to the business of the Company;
5. whether there are reasonable grounds to suspect that, in connection with the proposed acquisition of a qualifying holding, money laundering or terrorist financing within the meaning of regulations on the prevention of money laundering and terrorist financing is being committed or attempted, or whether there are reasonable grounds to suspect that the proposed acquisition of a qualifying holding could increase the risk of money laundering or terrorist financing.

Refusal of an application for approval to acquire a qualifying holding

Article 32

The Agency shall issue a decision refusing an application for approval to acquire a qualifying holding if:

1. it assesses that the suitability or the financial soundness of the acquirer of a qualifying holding does not comply with the criteria referred to in Article 31 of this Act;
2. the legal or financial situation of the proposed acquirer of a qualifying holding, or the activities or operations performed by the proposed acquirer of a qualifying holding or by the persons related to him, or the acts performed by the proposed acquirers of a qualifying holding are such that the business of the Company could be jeopardised;
3. the activities or operations performed by the future acquirer of a qualifying holding are such that the supervision of the business of the Company could be hindered or made considerably more difficult;
4. the acquirer of a qualifying holding has supplied incorrect, incomplete or misleading information, and this information was important for issuing a decision on the granting of approval.

Additional documents necessary for making a decision on an application

Article 33

(1) In addition to the documents referred to in Articles 28 and 29 of this Act, the Agency may also request other information or documents it deems necessary for making a decision on an application for approval, including information prescribed by the law governing the prevention of money laundering and terrorist financing, which is being collected by the persons subject to that law.

(2) When deciding whether to grant approval to acquire a qualifying holding, the Agency shall examine the suitability of the sources of funds which the acquirer intends to use for the acquisition of a qualifying holding in a Company.

(3) The Agency may, for the purpose of obtaining information necessary to decide on granting approval to acquire a qualifying holding, verify the data submitted by the proposed acquirer of a qualifying holding.

Legal consequences of acquisition without approval and the revocation or annulment of approval to acquire a qualifying holding

Article 34

(1) A person who acquires or holds shares contrary to the provisions of this Act shall not have the right to vote or to participate in the management of the Company on the basis of the shares acquired without approval of the Agency.

(2) In the case referred to in paragraph 1 of this Article, the Agency shall order the sale of the shares so acquired.

(3) The Agency shall revoke or withdraw a decision granting approval to acquire a qualifying holding if:

1. the person possessing a qualifying holding has obtained the approval by providing false, incorrect or misleading information or by any other irregular means;
2. the conditions imposed by the provisions of this Act based on which the approval to acquire of a qualifying holding was granted no longer exist.

(4) In the case referred to in paragraph 3 of this Article, the person from whom approval for the acquisition of a qualifying holding has been revoked or withdrawn shall not have the right to exercise voting rights attached to the shares in respect of which the approval has been revoked or withdrawn. In that case, the Agency shall order the sale of the acquired shares in respect of which the approval for the acquisition of a qualifying holding has been revoked or withdrawn from the holder of the qualifying holding.

(5) Costs of the sale of shares referred to in paragraph 4 of this Article shall be borne by the holder of the qualifying holding.

Approval to acquire a qualifying holding in another legal person

Article 35

(1) Before a Company acquires a holding in another legal person based on which it will directly acquire or further increase its holding in that legal person as a result of which the proportion of the share capital or of the voting rights held would reach or exceed the threshold of 10 %, 20 %, 30 % or 50 % or so that the legal person concerned would become a subsidiary of the Company, the Company must submit to the Agency an application for the issuance of approval and obtain a decision from the Agency approving such acquisition.

(2) The documents that are necessary to carry out the assessment of the legal person in which a Company acquires or increases its qualifying holding and of the influence of the proposed acquisition on the operation of the Company and that must be submitted to the Agency together with an application for approval to acquire or increase a qualifying holding shall be proportionate and adapted to the nature of the legal person in which the Company acquires or increases its qualifying holding and the proposed acquisition.

(3) The Agency shall specify, by way of an ordinance, the documents referred to in paragraph 2 of this Article and the criteria for assessing the suitability and the financial soundness of the legal person in which a Company acquires or increases a qualifying holding.

(4) If a Company intends to sell or otherwise dispose of its holding in another legal person so that its holding would fall below the threshold specified in paragraph 1 of this Article, it must notify the Agency of its intention in writing.

(5) The provisions of Articles 31 to 34 of this Act shall apply *mutatis mutandis* to the procedure for the issuance of a decision granting approval to the Company to acquire a qualifying holding in another legal person.

TITLE IV

BODIES OF A COMPANY

Article 36

(1) The bodies of a Company shall be the board of directors, the supervisory board and the general meeting.

(2) All the provisions of this Act concerning the board of directors or the supervisory board of a Company shall apply *mutatis mutandis* to the management board and to executive directors of the Company.

(3) Minutes shall be kept of the meetings and sessions of the Company's bodies.

The board of directors of a Company

Article 37

(1) The board of directors of a Company shall have at least two members who direct the business of the Company and who jointly represent it.

(2) If the board of directors of a Company has several members and unless the instrument of incorporation of the Company provides otherwise, the members of the board of directors shall jointly direct the business of the Company and jointly represent it.

(3) The members of the board of directors of a Company shall direct the business of the Company from the territory of the Republic of Croatia.

(4) The board of directors of a Company may authorise a procurator to represent the Company, conclude contracts and perform legal acts in the name and for the account of the Company, which arise from the business activities of the Company.

(5) The procurator may only represent the Company jointly with at least two members of the board of directors.

Requirements for the position of a member of the board of directors

Article 38

(1) A member of the board of directors of a Company shall be a person:

1. who has adequate professional qualifications, skills and experience required to direct the business of the Company;

2. who is of good business repute;

3. who is not an individual debtor (sole trader or craftsman) in respect of whose assets bankruptcy proceedings have been instituted, are ongoing or have been completed or pre-bankruptcy settlement proceedings have been initiated or are ongoing, unless the Agency finds that the person concerned has affected the opening of the bankruptcy proceedings or the initiation of pre-bankruptcy settlement proceedings through his or her unconscientious or incompetent professional work and conduct;

4. who was not a member of the supervisory board, a member of the board of directors or a person who held another managing position in the Company or a commercial company at the time when bankruptcy proceedings or pre-bankruptcy settlement proceedings were instituted against these entities or when a decision on compulsory liquidation of these entities was taken or in the Company or a commercial company whose authorisation was withdrawn, unless the Agency finds that the person concerned has affected the opening of the bankruptcy proceedings, the initiation of pre-bankruptcy settlement proceedings, compulsory liquidation or the withdrawal of authorisation through his or her unconscientious or incompetent professional work and conduct;

5. to whom the Agency, the Croatian National Bank or other supervisory authority from the Republic of Croatia, a Member State or a third country has not refused approval for the performance of the function of a member of the board of directors, or if at least one year has passed from the date of enforceability of the decision refusing an application for approval to perform the function of a member of the board of directors;

6. whose former conduct has been such that it may be reasonably concluded that he or she will perform the duties of the member of the board of directors of the Company honestly and with due care and diligence;

7. who meets the requirements for the position of a member of the board of directors under the law governing the establishment and operation of companies;

8. who has not been convicted by a judgement with final force and effect of criminal offence or misdemeanour which represents a gross or permanent violation of regulations falling

within the competence of the Agency, the Croatian National Bank or other supervisory bodies of the Republic of Croatia, Member States or third countries, or of the following criminal offences provided for in the Criminal Code (Official Gazette 125/11 and 144/12):

- Title IX – a criminal offence against humanity and human dignity;
- Title XII – a criminal offence relating to labour relations and social insurance;
- Title XXIII – a criminal offence against property (other than a criminal offence involving unauthorised use of other people's movable property and a criminal offence involving damage to other people's property), for which criminal proceedings are instituted *ex officio*;
- Title XXIV – a criminal offence against the economy;
- Title XXVI – a criminal offence of forgery;
- Title XXVIII – a criminal offence against official duty;
- Title XXIX – a criminal offence against the judiciary;

a criminal offence provided for in Title II of the Companies Act or a criminal offence under the Criminal Code (Official Gazette 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03 – Decision of the Constitutional Court of the Republic of Croatia, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11 and 143/12), namely:

- Title XIII – a criminal offence against values protected by international law;
- Title XVII – a criminal offence against property (other than a criminal offence involving unauthorised use of other people's movable property and a criminal offence involving the destruction and damage of other people's property) for which criminal proceedings are instituted *ex officio*;
- Title XXI – a criminal offence against the safety of payment and business operations;
- Title XXII – a criminal offence against the judiciary;
- Title XXIII – a criminal offence against authenticity of documents;
- Title XXV – a criminal offence against official duty;
- a criminal offence involving violation of the right to work and other labour-related rights referred to in Article 114 and a criminal offence involving violation of right to health care and disability protection referred to in Article 115.

(2) The experience referred to in paragraph 1, item 1 of this Article shall be deemed to be experience of at least three years in managing positions in the Company, a pension company, an investment fund managing company, an insurance company or a reinsurance company, or a five-year experience in directing the business activities comparable to the activities of the Company.

(3) It shall be deemed that a natural person who is not a national of the Republic of Croatia meets the requirements for a non-conviction record referred to in paragraph 1, items 7 and 8 of this Article if he or she has not been convicted, on the basis of judgement with final force and effect, for acts which, according to their description, are equivalent to these acts.

(4) The members of the board of directors of a Company shall direct the business of the Company on a full-time basis and shall be employed with the Company.

(5) At least one member of the board of directors of a Company must have a good command of the Croatian language.

(6) A member of the board of directors of a Company may only be a person who has passed an examination for obtaining the qualification of a certified manager of a pension insurance company or an internationally recognised qualifying examination in the field of investment managing, approved by the Agency.

(7) The Agency shall organise the examination for obtaining the qualification of a certified manager of a Company, and may organise a training programme for obtaining the qualification of a certified manager of a Company and may issue an ordinance specifying the content and duration of the programme and the entry requirements for the examination.

(8) The Agency shall issue an ordinance specifying in more detail the requirements referred to in paragraphs 1, 2, 3 and 6 of this Article for membership in the board of directors, or for the procedure for issuance of approval and for the documentation that must be enclosed with an application for approval for the performance of the duties of a member of the board of directors.

Conflicts of interest

Article 39

(1) A member of the board of directors of a Company may not be a member of the board of directors or a procurator of another commercial company.

(2) A member of the board of directors or a procurator of a Company may not be a member of the board of directors, the supervisory board or a procurator of:

1. another Company;
2. an investment company;
3. an investment fund management company;
4. a credit institution;
5. a pension company;
6. an insurance company;
7. a reinsurance company;

8. other legal persons operating on the basis of approval granted by the Agency.

(3) Members of the board of directors, procurators and employees of a Company shall not engage in any activities or provide services which are in competition with the operations of the Company or which may give rise to conflicts of interest in relation to the operations of the Company.

Liability of members of the board of directors

Article 40

Members of the board of directors of a Company shall be jointly liable to the Company for any damage occurred as a result of any action, failure to act or failure to fulfil their obligations and duties, unless they can prove that in the discharge of their obligations and duties they exercised all due skill, care and diligence.

Approval to perform the function of a member of the board of directors

Article 41

(1) Only a person who has obtained approval from the Agency to perform the function of a member of the board of directors of a Company may be appointed as member of the board of directors of the Company.

(2) An application for the issuance of a decision granting approval for the performance of the function of a member of the board of directors of a Company shall be submitted to the Agency by the candidate member of the board of directors for a term of office not exceeding five years. The application shall be accompanied by a written approval of the supervisory board of the Company.

(3) A decision granting or refusing to grant an approval shall be submitted by the Agency to the Company whose candidate is involved. The Agency may grant approval for a period shorter than requested.

(4) By way of exception, if a member of the board of directors of a Company is appointed by the competent court in accordance with the provisions of the legislation governing the establishment and operation of companies, his term of office may not exceed six months, but in that case the person appointed must also meet the requirements set out in Article 38 of this Act, except for the requirements set out in paragraph 6 of that Article.

(5) A Company shall ensure that an application for the issuance of a decision granting approval for the performance of the function of a member of the board of directors of the Company and the programme for managing the operations of the Company for the term of office are submitted to the Agency at least three months prior to the expiry of the term of office of an individual member of the board of directors.

(6) A Company shall ensure that a new application for the issuance of approval referred to in paragraph 2 of this Article and the programme for managing the operations of the Company are submitted to the Agency within 45 days of the date of enforceability of the decision revoking the authorisation or the decision refusing to grant approval to perform the function

of a member of the board of directors of the Company, in the case when the Company does not meet the requirement relating to the minimum number of members of the board of directors in accordance with the provisions of this Act.

(7) An applicant submitting an application for the issuance of approval referred to in paragraph 1 of this Article shall enclose evidence of fulfilment of the requirements set out in Article 38 of this Act and in the ordinance referred to in paragraph 10 of this Article.

(8) When deciding whether to grant approval for the performance of the function of a member of the board of directors of a Company, the Agency may require the candidate for the position of a member of the board of directors of the Company to present his programme for managing the operations of the Company for his term of office.

(9) A person to whom the Agency has granted approval to perform the function of a member of the board of directors of a Company shall, before being appointed to the same position for a new term of office or to the same position with another Company, obtain a new approval from the Agency.

(10) The Agency shall issue an ordinance specifying the contents of the programme for managing the operations of a Company and the criteria for assessing the programme and the candidate presenting it.

Refusal of an application for approval to perform the function of a member of the board of directors

Article 42

The Agency shall issue a decision refusing an application for approval to perform the function of a member of the board of directors if:

1. the applicant does not meet the requirements laid down by the provisions of Article 38 of this Act and by the provisions of the ordinance referred to in Article 41, paragraph 10 of this Act;
2. the Agency has objective and justified reasons to assume that the business or duties in which the person is or was engaged would represent threat to the management of the Company in accordance with the organisational requirements laid down in Title V of this Act;
3. the information given in the application for approval is incorrect, false or misleading or if the information that is important for deciding on the application for approval has been withheld;
4. the programme referred to in Article 41, paragraph 8 of this Act and its presentation are assessed as unsatisfactory.

Withdrawal or revocation of the decision granting approval to perform the function of a member of the board of directors

Article 43

(1) The Agency shall, by way of a decision, withdraw the decision granting approval to perform the function of a member of the board of directors of a Company:

1. if the person concerned is not appointed to office or does not assume the office to which the approval relates within six months of the approval, on the date of expiry of that period;
2. if the person's membership in the board of directors expires, on the date of expiry of membership;
3. if the person concerned ceases to be employed by the Company, on the date when employment ended;
4. if the member of the board of directors no longer fulfils the conditions under which approval was granted;
5. if the approval was obtained because material information was withheld, or on the basis of false, incorrect or misleading information, or in any other fraudulent manner;
6. if the member of the board of directors has violated the provisions on prohibition of trading or effecting transactions, i.e. giving trading orders on the basis of insider information or in the manner that would constitute a market manipulation in accordance with the provisions of the legislation governing the capital market;
7. if the Company and/or the member of the board of directors have seriously or systematically violated the provisions of this Act, the regulations made under this Act or other legislation relating to the business activities of the Company, in particular if this has jeopardised the interests of pension beneficiaries, the liquidity or capital maintenance of the Company or if they have committed recurring violations of the same regulations twice in three years;
8. if, due to failure to act or negligence on the part of the member of the board of directors, the Company has failed to implement supervisory measures ordered by the Agency;
9. if the member of the board of directors has not ensured appropriate organisational conditions referred to in Title V of this Act;
10. if it establishes that the member of the board of directors is in a conflict of interests because of which he or she can no longer fulfil his or her obligations and duties with due skill, care and diligence;
11. if the member of the board of directors fails to regularly fulfil the obligation to establish and review effectiveness of the policies, measures or internal procedures put in place in order for the Company to comply with this Act and regulations made under to this Act or the obligation to take appropriate measures with the aim of rectifying the situation, i.e. irregularities in the operations of the Company, or if he or she fails to fulfil these obligations with due care and diligence.

(2) By way of derogation, in the cases referred to in items 8 to 11 of paragraph 1 of this Article, the Agency may, instead of withdrawing the decision, issue a decision on the temporary prohibition of performing the function of a member of the board of directors of the

Company until the illegalities or irregularities are corrected, but only for a period not exceeding six months. If the Company fails to remedy the illegalities or irregularities within the specified time, the Agency shall issue a decision revoking the approval to perform the function of a member of the Company's board of directors granted to the member concerned.

Action to be taken by the supervisory board

Article 44

If the Agency issues a decision withdrawing the approval to perform the function of a member of the board of directors, the supervisory board of the Company shall without delay take a decision to revoke the appointment of that member of the board of directors.

Requirements for the position of a member of the supervisory board

Article 45

(1) To be eligible to be elected or appointed as a member of the supervisory board of a Company, a person must be of good repute and have the appropriate qualifications and experience to supervise the conduct of the business of the Company.

(2) The requirement set out in paragraph 1 of this Article shall be deemed to be fulfilled if the person has at least five years of experience in managing or supervising operations of a company of comparable size and activities as that of the Company.

(3) The Agency may require the Company to convene the general meeting and propose to revoke the appointment of a member of the supervisory board of the Company if:

1. the member of the supervisory board violates his or her duties defined by this Act and other acts and the rules and regulations made thereunder;

2. the Company does not have a sufficient number of members of the supervisory board in accordance with the provisions of the legislation governing the establishment and operation of commercial companies;

3. the member of the supervisory board does not meet the requirements for the position of a member of the supervisory board of the Company.

(4) The Agency shall issue an ordinance specifying in more detail the requirements that must be met by the members of the supervisory board of the Company.

Duties of supervisory board members

Article 46

(1) In addition to the powers conferred on the supervisory board by the provisions of the law governing the establishment and operation of commercial companies, the supervisory board of the Company shall be responsible for deciding on granting approval to the board of directors for the following:

1. the establishment of the business policy of the Company;
 2. the financial plan of the Company;
 3. the organisation of the internal control system of the Company and of the risk management system;
 4. for decision-making concerning other matters stipulated by this Act.
- (2) The supervisory board shall be responsible for monitoring the implementation of internal by-laws of the Company.

Activities of the supervisory board

Article 47

(1) The supervisory board of the Company shall:

1. oversee the adequacy of procedures and effectiveness of internal audit activities;
2. oversee the actions taken by the Company in accordance with the orders and decisions issued by the Agency and the findings made during supervision;
3. submit a report to the general meeting on orders issued by the Agency and on the actions referred to in the preceding item of this paragraph;
4. decide whether to approve financial statements of the Company and inform in writing the general meeting of the Company about those financial statements;
5. explain to the general meeting of the Company its opinions on annual internal audit reports and on annual reports of the board of directors.

(2) Members of the supervisory board of the Company shall be jointly liable to the Company for damages arising from a breach of their obligations and duties, unless they demonstrate that in performing their obligations and duties they exercised all due skill, care and diligence.

Business principles

Article 48

(1) A Company, i.e. members of its board of directors and supervisory board, procurators and employees shall:

1. in performing their activities and duties, act honestly and fairly and in accordance with the rules of the profession and in the best interests of pension beneficiaries, as well as protect the integrity of the capital market;
2. in discharging their obligations, exercise all due skill, care and diligence;

3. have and employ effectively the resources and procedures that are necessary for the proper performance of the activities of the Company;

4. take all reasonable measures to avoid conflicts of interest and, where such conflicts cannot be avoided, identify, manage and, where applicable, disclose them in order to prevent them from adversely affecting the interests of pension beneficiaries and to ensure that pension beneficiaries are fairly treated;

5. comply with the provisions of this Act and regulations made under this Act so as to promote the best interests of pension beneficiaries and the integrity of the capital market.

(2) The Company, members of the board of directors and supervisory board, procurators and employees of the Company shall always give priority to the interests of pension beneficiaries and shall never put their interests or the interests of related persons before the interests of pension beneficiaries and the integrity of the capital market.

TITLE V

ORGANISATIONAL REQUIREMENTS FOR COMPANIES, PROMOTION AND RELATIONS WITH BENEFICIARIES

PART I

ORGANISATIONAL REQUIREMENTS FOR COMPANIES

General organisational requirements

Article 49

(1) A Company shall establish, implement and regularly update, assess and monitor, taking into account the nature, scale and complexity of its business, effective and adequate:

1. decision-making procedures and an organisational structure which clearly and in documented manner specifies reporting lines and allocates functions and responsibilities;

2. measures and procedures to ensure that the relevant persons of the Company are aware of the procedures which must be followed for the proper discharge of their duties and responsibilities;

3. internal control mechanisms designed to secure compliance with this Act and regulations made under this Act and with other relevant legislation, internal decisions, arrangements and procedures at all levels of the Company;

4. internal reporting and communication of information at all relevant levels of the Company, as well as the effective flow of information with all third parties involved;

5. records of its business and internal organisation;

6. records of its internal acts and changes thereof;

7. policies and procedures for continuing professional training of employees, appropriate to the job of an employee;

8. administrative and accounting procedures and the system of maintaining business books and drawing up financial statements, as well as procedures for keeping and maintaining business documents which reflect a true and fair view of the financial position of the Company and which comply with all applicable accounting rules;

9. measures and procedures for the control and protection of the information system and electronic data processing system;

10. measures and procedures to safeguard the security, integrity and confidentiality of information;

11. policies, measures and procedures to ensure the business continuity.

(2) A Company shall set up, within the internal control mechanism, taking into account the nature, scale and complexity of its business, the following functions:

1. the risk management function;

2. the compliance function;

3. the internal audit function, and

4. the actuarial function.

Risk management system

Article 50

(1) Risk management is a comprehensive process or a set of procedures, methods and techniques used to identify, measure, monitor, manage and report, on a continuous basis the risks to which a Company is or could be exposed in its operation.

(2) The Company shall establish a comprehensive and effective risk management system in accordance with the nature, scale and complexity of its business, which shall include at least:

1. risk management strategies, policies, procedures and measures;

2. risk measurement techniques;

3. allocation of responsibilities pertaining to the risk management.

(3) The Company shall prescribe, implement, document and regularly update adequate, effective and comprehensive risk management strategies and policies for the purpose of identifying the risks associated with the activities, business processes and systems of the Company, the contributions of these individual risks to the overall risk profile and setting a tolerable level of risk.

- (4) In the risk management process, the Company shall determine the risk propensity level and the risk profile of the Company.
- (5) The Company shall set up, within the risk management process, and taking into account the nature, scale and complexity of its business, a comprehensive and efficient process of assessing the creditworthiness of issuers in which it intends to invest or is investing its assets.
- (6) The Company shall, on the basis of the adopted risk management strategies and policies and the tolerable level of risk that has been set, adopt effective risk management procedures and measures and risk measurement techniques.
- (7) The Company shall monitor, evaluate, review and update the adequacy, comprehensiveness and effectiveness of the adopted risk management strategies, policies and procedures and risk measurement techniques, as well as the adequacy and effectiveness of the foreseen measures with a view to rectifying possible deficiencies in the risk management strategies, policies and procedures, including failures on the part of the relevant persons.
- (8) At the request of the Agency, the Company shall without delay submit to the Agency the adopted risk management strategy and policies.
- (9) The Company's board of directors shall be responsible for the risk management process and all employees of the Company must participate in the implementation of that process.
- (10) The Company shall inform the Agency regularly in regard to the types of derivative instruments, the underlying risks, the quantitative limits on the investments and the methods which are chosen in order to estimate the risks associated with transactions in derivative instruments.

Internal audit

Article 51

- (1) The Company shall establish internal audit which makes an independent and objective assessment of the internal control system, provides an independent and objective professional opinion and advice on the improvement of business operations with a view to improving the activity of the Company, by introducing a systemic, disciplined approach to assessing and improving the efficiency of risk management, control and corporate governance.
- (2) For the performance of internal audits, the Company may employ a person having the professional qualification of auditor or internal auditor acquired in accordance with the law governing auditing or in accordance with the rules and programme of the competent professional organisation in charge of professional training of internal auditors.
- (3) The Company may entrust the performance of internal audits to an audit company or to one or more persons not employed by the Company, provided that at least one of these persons meets the requirement referred to in paragraph 2 of this Article.
- (4) Persons performing internal audit tasks may not perform any other tasks in the Company.

(5) Internal audit tasks may not be performed by members of the Company's board of directors.

Monitoring of compliance with the relevant legislation

Article 52

(1) The Company shall establish, implement and regularly update, assess and monitor adequate policies and procedures designed to detect any risk of failure to comply with the relevant legal provisions, as well as the associated risks, and put in place adequate measures and procedures designed to minimise such risks.

(2) The Company shall establish, implement and regularly update, assess and monitor the policies and procedures to ensure that it operates in accordance with this Act and regulations made under this Act and with other relevant legislation and it shall ensure that members of the board of directors and other relevant persons act in accordance with this Act and regulations made under this Act and with internal by-laws of the Company.

Actuarial function

Article 53

(1) The Company shall establish a permanent and effective actuarial function that is independent of other activities of the Company.

(2) The actuarial function shall undertake at least the following tasks:

1. coordinating the calculation of technical provisions;
2. ensuring the appropriateness of the methodologies and underlying models used as well as the assumptions made in the calculation of technical provisions;
3. assessing the sufficiency and quality of the data used in the calculation of technical provisions;
4. comparing best estimates against experience;
5. informing the Company's board of directors and the supervisory board and the Agency of the reliability and adequacy of the calculation of technical provisions;
6. overseeing the calculation of technical provisions in the cases when there is insufficient data to apply a reliable actuarial method.

Appointment and dismissal of a certified actuary

Article 54

(1) The Company must appoint a certified actuary and enable him/her to carry out the duties referred to in paragraph 2 of Article 53 of this Act.

(2) The appointed certified actuary shall not be a person holding in the Company the position of a member of the board of directors, member of the supervisory board or procurator, or the person who has a direct or indirect holding in the Company in excess of one per thousand.

(3) The Company shall notify the Agency of the appointment or dismissal of a certified actuary within eight days of the date of appointment or dismissal.

(4) If the Agency issues a decision withdrawing authorisation of a certified actuary, the Company must appoint another certified actuary.

(5) If the Company fails to appoint another certified actuary within two months or appoints a person who is not a certified actuary to perform the duties of an appointed certified actuary, the Agency shall issue a decision ordering the Company to remedy the illegality found and to appoint a certified actuary within the specified time. If the Company fails to act in accordance with the Agency's decision, the certified actuary shall be appointed by the Agency.

Requirements for performing the duties of a certified actuary

Article 55

(1) A certified actuary is a person to whom the Agency has issued a decision authorising him/her to perform the duties of a certified actuary.

(2) The Agency shall issue authorisation to perform the duties of a certified actuary to a person who meets the following requirements:

1. he/she has a good command of the Croatian language;

2. he/she has successfully passed exams for technical knowledge required for the performance of the duties of a certified actuary in accordance with the training programme of international or European actuarial associations;

3. he/she has not been convicted, on the basis of a judgement with final force and effect, of a criminal offence provided for in the Criminal Code (Official Gazette 125/11 and 144/12), namely:

– Title XXIII – a criminal offence against property (other than a criminal offence involving unauthorised use of other people's movable property and a criminal offence involving damage to other people's property), for which criminal proceedings are instituted *ex officio*;

– Title XXIV – a criminal offence against the economy;

– Title XXVI – a criminal offence of forgery;

a criminal offence provided for in the Criminal Code (Official Gazette 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03 – Decision of the Constitutional Court of the Republic of Croatia, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11 and 143/12), namely:

– Title XVII – a criminal offence against property (other than a criminal offence involving unauthorised use of other people's movable property and a criminal offence involving the

destruction and damage of other people's property) for which criminal proceedings are instituted *ex officio*;

– Title XXI – a criminal offence against the safety of payment and business operations;

– Title XXIII – a criminal offence against authenticity of documents.

4. he/she has no past record of a revoked authorisation to perform the duties of a certified actuary.

(3) The Agency shall oversee the work of certified actuaries. The provisions of this Act governing the supervision carried out by the Agency shall apply accordingly to the overseeing of certified actuaries.

(4) The Agency shall issue an ordinance specifying the requirements for professional training and examination for technical knowledge needed for the performance of the duties of a certified actuary.

Responsibilities of an appointed certified actuary

Article 56

(1) The appointed certified actuary shall be responsible for the performance of the tasks referred to in paragraph 2 of Article 53 of this Act.

(2) The certified actuary shall also be responsible for the creation of pensions and pension schemes in accordance with the actuarial profession and the applicable legislation so as to enable the Company to continuously fulfil its obligations.

(3) The appointed certified actuary must present to the supervisory board and the board of directors of the Company, together with his/her opinion and report referred to in Article 99 of this Act enclosed with the annual report, a report on the control of the correct calculation of technical provision and on the creation of pensions and pension schemes in the business year to which the annual report relates. The report of the appointed certified actuary must primarily cover the reasons for issue of a favourable opinion, an opinion with a reservation or an unfavourable opinion that is enclosed with the annual report.

(4) If, in the course of the duties which an appointed certified actuary is empowered to perform by this Act and regulations made under this Act, the appointed certified actuary finds irregularities, he/she must without delay inform thereof the board of directors of the Company.

(5) The board of directors of the Company shall take measures to bring the business operations into line with the report of the appointed certified actuary.

(6) If the board of directors of the Company fails to take measures in accordance with the report referred to in paragraph 3 of this Article, the appointed certified actuary shall without delay inform thereof the supervisory board of the Company and the Agency.

(7) If the appointed certified actuary ceases to perform that function at the Company, he/she must inform the Agency within eight days of the day on which he/she ceases to perform that function.

Withdrawal or revocation of the decision granting authorisation to perform the duties of a certified actuary

Article 57

(1) The Agency shall withdraw or revoke the decision granting authorisation to perform the duties of a certified actuary:

1. if the authorisation was obtained by providing false information;
2. if the certified actuary commits a serious violation of the rules of the actuarial profession;
3. if the certified actuary no longer fulfils the requirements set out in Article 55, paragraph 2, item 3 of this Act.

(2) The Company in which the duties of an appointed certified actuary are performed by the person whose authorisation to perform the duties of a certified actuary has been withdrawn shall be informed by the Agency about the withdrawal or revocation referred to in paragraph 1 of this Article.

(3) If a certified actuary commits a serious violation of the rules of actuarial profession the Agency shall prohibit him/her from performing the duties of a certified actuary for one to three years.

Transfer of portfolio

Article 58

(1) A Company may, by virtue of a contract, transfer to another Company in the Republic of Croatia (hereinafter: accepting Company) pension contracts (hereinafter: portfolio of contracts) at the same time when it transfers assets used to cover technical provisions at the value of technical provisions formed in respect of the portfolio of contracts which is being transferred.

(2) A portfolio of contracts may be transferred to an accepting Company when the accepting Company receives approval from the Agency to accept the portfolio of contracts.

(3) Transfer of pension contracts shall not be conditional upon approval of the pension beneficiaries.

(4) The accepting Company shall inform the pension beneficiaries about the transfer of portfolio through public means of communication.

(5) The Company shall transfer the portfolio of contracts to the accepting Company within three months of the date of enforceability of the Agency's decision granting approval for the transfer of the portfolio of contracts.

(6) The decision granting approval for the transfer of portfolio of contracts shall cease to be valid on expiry of the period referred to in paragraph 5 of this Article.

(7) The Company shall, within 30 days of the date of transfer of the portfolio of contracts, submit to the Agency evidence that the portfolio of contracts has been transferred to an accepting company.

(8) If the Company does not comply with paragraph 7 of this Article or if it is not evident from the submitted evidence that the portfolio of contracts has been transferred, the Agency shall withdraw the decision granting approval for the transfer of the portfolio of contracts.

Application for approval to accept a portfolio of contracts

Article 59

An application for approval to accept a portfolio of contracts shall contain:

1. a list of pension contracts that are to be transferred and information about the pension scheme to which the contracts relate, as well as calculations of technical provisions for the portfolio of contracts;
2. a list of assets covering technical provisions, indicating their values and the data which can be used to verify the calculation of these values;
3. modification of the business plan of the accepting Company which is necessary for the purpose of accepting the portfolio of contracts;
4. the contract concerning the transfer of the portfolio of contracts.

Taking a decision on an application for approval to accept a portfolio of contracts

Article 60

The Agency shall issue a decision refusing an application for approval to accept a portfolio of contracts in the following cases:

1. if the value of the assets used to cover technical provisions is lower than the level of the provisions which must be formed in respect of the portfolio of contracts which is being transferred or if there are other reasons due to which the interests of pension beneficiaries could be threatened;
2. if the accepting Company does not have authorisation to carry out the activities that are the subject of the transfer, or if the acceptance of the portfolio would be detrimental to the operations of the accepting Company according to the risk management rules.

Conflicts of interest

Article 61

- (1) The Company shall, taking into account the nature, scale and complexity of its business, organise the business in such manner as to minimise the risk of a conflict of interest.
- (2) The Company shall take all reasonable steps to ensure that, in the course of performance of its business activities, the interests of the pension beneficiaries are not jeopardised.
- (3) The Company shall take all reasonable steps to identify, detect and prevent or manage conflicts of interest, and to establish appropriate criteria for determining the types of conflict of interest whose existence may damage the interests of the pension beneficiaries.
- (4) The Company shall, taking into account the nature, scale and complexity of its business, establish, implement and regularly update and monitor effective conflicts of interest management policies.
- (5) The Company shall establish, implement and regularly update the policies on transactions of the relevant persons and of persons related to them, involving financial instruments in which the Company invests, with a view to preventing conflicts of interest.
- (6) The relevant persons of the Company shall not be entitled to receive any remuneration or compensation for their membership in the supervisory board of another company by virtue of the ownership by the Company of shares or holdings in that another company, except for the entitlement to reimbursement of travel expenses and other justified costs.

Business continuity measures

Article 62

- (1) The Company shall take all appropriate measures necessary to ensure continuity and regularity in the performance of its activities.
- (2) In order to achieve the purpose referred to in paragraph 1 of this Article, the Company shall employ appropriate systems, resources and procedures that are proportionate to the nature, scope and complexity of its activities.

Outsourcing

Article 63

- (1) An outsourcing contract is a contract between the Company and a service provider by which the Company transfers to the service provider, for indefinite or longer period of time, performance of all or a considerable proportion of the activities which would otherwise be performed by the Company itself.
- (2) An outsourcing contract must contain a provision stipulating that the Company is fully responsible for the activities outsourced to a service provider.
- (3) An outsourcing contract must stipulate that the service provider is obliged to provide the Company with the data referred to paragraph 2 of Article 65 of this Act, which the Company may only use for that purpose.

Issuance and withdrawal of approval for outsourcing

Article 64

(1) The Agency shall issue a decision approving the outsourcing of activities of the Company if it considers that the following requirements are met:

1. the outsourcing is not detrimental to the interests of the pension beneficiaries;
2. the outsourcing will not make it impossible or considerably difficult to adequately implement the internal control system or to supervise the activities of the Company in accordance with this Act.

(2) The Agency may make the issuance or validity of the approval conditional upon the fulfilment of certain requirements where this is necessary for the purpose of safeguarding the interests of the pension beneficiaries.

(3) If the Agency fails to take a decision on an application for approval for outsourcing within three months of the date of receipt of a proper application, the approval shall be deemed to have been granted.

(4) The Agency shall issue a decision refusing to grant approval for outsourcing if the requirements set out in paragraph 1 of this Article are not met.

(5) The Agency shall issue a decision withdrawing the approval for outsourcing if:

1. the Company no longer meets the requirements set out in paragraph 1 of this Article;
2. the Company does not meet the requirements referred to in paragraph 2 of this Article;
3. the Company fails to outsource the activities to a service provider within six months of the issuance of approval;
4. the contract referred to in paragraph 1 of Article 63 of this Act terminates.

Supervision of outsourced activities

Article 65

(1) The provisions of this Act concerning supervision shall apply accordingly to the supervision of a service provider.

(2) The Company shall, at the request of the Agency, submit to the latter all data on the legal status, financial position and operations of the service provider.

Remuneration policies

Article 66

(1) In order to prevent taking unsuitable risks in its business, the Company shall prescribe and implement clear remuneration policies and practices for its staff, the members of the board of directors and the members of the supervisory board, whose professional activities can have a material impact on the risk profile of the Company.

(2) The remuneration policies and procedures of the Company shall consistently promote effective risk management and shall not encourage risk-taking which is inconsistent with the risk profile of the Company.

(3) The Company's remuneration policy shall be in line with the business strategy, objectives and size of the Company, as well as with the interests of the Company and pension beneficiaries, and it shall include measures to avoid conflicts of interest.

(4) The board of directors of the Company shall adopt and, at least annually, review the general principles of the remuneration policies and shall be responsible for their implementation.

(5) The implementation of the remuneration policies and procedures shall be, at least annually, for the purpose of supervising the operation of the Company, subject to internal review for compliance with remuneration policies and procedures adopted by the board of directors of the Company.

(6) Where remuneration is performance-related, the total amount of remuneration shall be based on the performance of the individual and of the business unit concerned and of the overall results of the Company and when assessing performance of an individual, financial and non-financial criteria are taken into account.

(7) The Company may pay the remuneration to its employees and the members of the board of directors and of the supervisory board only if it is sustainable according to the financial situation of the Company as a whole, and justified on the basis of the performance of the Company or its employees. The total remuneration shall not limit the ability of the Company to strengthen its capital base.

(8) In the case of subdued or negative business performance of the Company, such performance shall be taken into account by the Company when considering the payment of remuneration to the members of the board of directors and of the supervisory board and employees.

(9) Annual financial statements of the Company shall disclose:

- the total amount of bonuses and awards, split into fixed and variable components, paid by the Company to its employees, including the number of beneficiaries of such bonuses and awards;

- the total amount of bonuses and awards, broken down by members of the board of directors, members of the supervisory board, procurator, and employees of the Company whose actions may have a material impact on the risk profile of the Company.

(10) The provisions of this Article concerning members of the board of directors shall apply accordingly to procurators.

Document handling procedures, keeping of records and business documents of the Company

Article 67

- (1) The Company shall have clear and transparent procedures for handling documents that relate to the business of the Company.
- (2) The Company shall keep and retain the records and business documents about all the activities and transactions it has carried out, in a manner that enables supervision of the operations in accordance with the provisions of this Act and regulations made under this Act, in particular of the fulfilment of the obligations towards the pension beneficiaries and potential pension beneficiaries.
- (3) The Company shall organise the business and keep up-to-date business documents and other administrative or business records in a manner that makes it possible at any time to check the course of a transaction it has made.
- (4) The Company shall protect all business documents from unauthorised access and possible record losses and shall retain them in a durable medium.

Confidential information

Article 68

- (1) For the purposes of this Act, confidential information means any information the disclosure of which might harm the interests of the Company or the interests of pension beneficiaries.
- (2) Members of the Company's board of directors or supervisory board, shareholders of the Company, employees of the Company, legal or natural persons working for the Company as contract staff and their employees may not disclose this information to third parties, use it against the interests of the Company or against the interests of the pension beneficiaries or enable third parties to use it.
- (3) The information referred to in paragraph 1 of this Article shall not constitute confidential information if the Agency, judicial and administrative authorities require this information in the exercise of their supervisory and other public authority in accordance with this Act or other legislation, or if a pension beneficiary gives consent to the disclosure of this information.

PART II

PROMOTIONAL ACTIVITIES AND RELATIONS WITH BENEFICIARIES

Promotional activities of the Company

Article 69

(1) Promotional activities and information about the Company and pension schemes it offers on the market shall contain clear, true and complete information based on authentic data.

(2) Promotional information include all information communicated to the pension beneficiaries or potential pension beneficiaries through advertisements in the press, on the radio and on television, through personal visits, by telephone calls and through electronic media, and in any other way in which there is an intention to advertise.

(3) The Company shall not carry out promotional activities or provide information that may mislead the pension beneficiaries or potential pension beneficiaries.

(4) The Company shall be responsible for the completeness and accuracy of the information published for the purpose of its promotion.

Company's website

Article 70

The Company shall have, regularly update and maintain a website which shall contain at least the following information:

1. general information about the Company (the name, legal form, registered office and head office if it is not the same as the registered office, the reference number of the authorisation granted by the Agency, as well as the date of establishment and registration in the court register, the amount of the share capital, the members);
2. basic information about the members of the board of directors, supervisory board and procurators of the Company (the names, short resumes);
3. semi-annual and audited annual financial statements of the Company;
4. the statement of investment principles;
5. a list of outsourced activities indicating the third parties to which these activities have been outsourced;
6. all notices related to the Company and other information that is to be published pursuant to this Act and regulations made under this Act;
7. information about complaint possibilities and out-of-court settlement of disputes between the Company and the pension beneficiaries.

Information to be given to the pension beneficiaries

Article 71

The Company shall provide to the pension beneficiaries:

1. any relevant information regarding changes to the pension scheme rules, within 30 days of making a change;

2. appropriate information on the benefits which are due and the corresponding payment options, when exercising the right to the payment of a pension.

Handling complaints from pension beneficiaries

Article 72

The Company shall:

1. establish and implement adequate procedures ensuring that complaints received from pension beneficiaries are handled in a proper manner and that there are no restrictions for the exercise of the pension beneficiaries' right to lodge a complaint;
2. make it possible for pension beneficiaries to lodge their complaints in the official language of the country in which a pension scheme under voluntary pension insurance referred to in Article 9, paragraph 1, item 3 of this Act is offered;
3. establish and implement adequate procedures ensuring that the information in connection with the handling of complaints received from pension beneficiaries is made available to the beneficiaries and to the Agency;
4. keep records and retain the documents on all complaints received from pension beneficiaries and on measures taken following such complaints, for at least five years from the date the matter is resolved.

Settlement of disputes between the Company and pension beneficiaries

Article 73

- (1) The Company shall put in place a procedure for the out-of-court settlement of disputes between the Company and pension beneficiaries.
- (2) The Company shall set out the procedure for the out-of-court settlement of disputes referred to in paragraph 1 of this Article in the provisions of the pension contract.

Adoption of ordinance

Article 74

(1) The Agency shall issue an ordinance laying down in more detail organisational requirements as regards:

1. general organisational requirements;
2. risk management system;
3. internal audit;
4. monitoring compliance with relevant legislation;

5. actuarial function;
6. conflicts of interest;
7. business continuity measures;
8. outsourcing;
9. remuneration policies;
10. keeping and maintaining the Company's business documents;
11. adequate management of the information system.

(2) The Agency shall issue an ordinance to lay down the rules for promotional activities of the Company and additional data and information that must be contained on the Company's website.

TITLE VI

CAPITAL ADEQUACY

Calculation of capital

Article 75

(1) In calculating the capital of a Company, account shall be taken of the items of core capital referred to in Article 76 of this Act and the items of supplementary capital referred to in Article 77 of this Act, as well as the deduction items referred to in Article 78 of this Act.

(2) The Agency shall issue an ordinance to specify the characteristics of the categories of capital referred to in paragraph 1 of this Article and the characteristics of the items comprising them.

Core capital

Article 76

(1) In calculating the core capital of a Company, the following items shall be taken into account:

1. the share capital of the Company paid up on the basis of ordinary shares;
2. capital reserves not relating to liabilities under pension contracts;
3. profit brought forward after deduction of dividends to be paid;
4. profit reserves appearing in the balance sheet that may be used to cover losses, if not already earmarked for distribution to pension beneficiaries.

(2) In calculating the core capital of a Company, the following items shall be taken into account as deduction items:

1. repurchased own shares;
2. intangible assets;
3. loss brought forward from preceding periods and loss of the current accounting period.

Supplementary capital

Article 77

(1) In calculating the supplementary capital of a Company, the following items shall be taken into account:

1. subordinated financial instruments, provided that there are binding agreements providing that in the case of bankruptcy or winding-up of the Company these subordinated financial instruments are ranked below the claims of other creditors and are paid only after all other liabilities due at that moment are met;

2. other items.

(2) The total amount referred to in item 1 of paragraph 1 of this Article must not exceed 50 % of the amount of the core capital or the solvency margin, whichever is lower, in which case certain subordinated financial instruments with a specified maturity date must not exceed 25 % of the amount of the core capital or the solvency margin, whichever is lower.

(3) Other items referred to in item 2 of paragraph 1 of this Article are as follows:

1. the value of technical provisions whose calculation does not take into account the actual insurance acquisition cost or a portion of the actual insurance acquisition cost, reduced by the value of technical provisions whose calculation takes into account actual insurance acquisition cost. When calculating the technical provisions, actual insurance acquisition costs shall not exceed 3.5 % of the sum assured;

2. reserves arising out of the valuation of assets which are not of an exceptional nature.

(4) Other items referred to in item 2 of paragraph 1 of this Article may be included as the items of supplementary capital only on the basis of the prior approval by the Agency.

Deduction items in calculation of capital

Article 78

In calculating the capital of a Company, the sum of the core and supplementary capital shall be reduced by the following items:

1. holdings in other Companies, insurance companies, credit institutions, investment companies, management companies and other financial institutions pursuant to paragraph 3 of

Article 43 of this Act, provided they calculate capital adequacy in accordance with similar regulations;

2. investments in subordinated debt instruments and other investments in the entities referred to item 1 of this paragraph, which, for the purpose of compliance with capital adequacy requirements of these entities, are taken into account in calculating their capital, the holding of the Company in such entities being consistent with item 43 of Article 3 of this Act;

3. illiquid assets.

Solvency margin

Article 79

(1) The solvency margin of a Company shall be calculated separately for pensions under mandatory pension insurance and pensions under voluntary pension insurance.

(2) The solvency margin of the Company shall be equal to the sum of the first and second result.

1. The first result shall be calculated in the following manner:

– gross amount of technical provisions calculated as at the last day of the preceding business year shall be multiplied by 0.04.

2. The second result shall only be calculated for pensions on which the capital at risk is not a negative figure in the following manner:

– the capital at risk as at the last day of the preceding business year, including the capital at risk for pensions, shall be multiplied by 0.003.

3. By way of derogation from the provision of item 2 of this paragraph, the total amount of capital at risk for pensions, covering assurance on death for a specified term, shall be multiplied by 0.001 for such assurance of a maximum term of three years, or by 0.0015 for such assurance of a term of more than three years but not more than five years.

(3) Capital at risk referred to in item 2 of paragraph 2 of this Article shall be the difference between the amount payable on death and the calculated technical provisions.

(4) The Agency shall issue an ordinance to prescribe in more detail the method of calculating the solvency margin and the method and deadlines for reporting on capital adequacy.

Capital

Article 80

The capital of a Company shall be at least equal to the solvency margin calculated in the manner prescribed by Article 79 of this Act.

Guarantee fund

Article 81

(1) The guarantee fund shall consist of the items of the core capital referred to in Article 76 of this Act and the items of the supplementary capital referred in Article 77 of this Act.

(2) The guarantee fund may not be less than one third of the solvency margin specified in Article 79 of this Act.

(3) Pursuant to the European Union legislation referred to in Article 2 of this Act, the Government of the Republic of Croatia shall adopt, at the proposal of the responsible ministry, a decision setting the minimum guarantee fund of a Company and shall publish it in the Official Gazette.

(4) The Government of the Republic of Croatia shall, by way of a decision to be published in the Official Gazette, change the amount referred to in paragraph 3 of this Article on the basis of a notification of the European Commission to the European Parliament and to the Council about the review and adapted amounts of the guarantee fund according to the index of consumer prices published by Eurostat or if, due to a change in the exchange rate, the amount of the minimum guarantee fund does not correspond to the applicable amount expressed in euros that has been set by the applicable legislation of European Union. The responsible ministry shall submit to the Government of the Republic of Croatia a proposal for this decision.

Measures to be taken by the board of directors in order to secure the required solvency margin

Article 82

(1) If the capital of a Company is not adequate, due to an increased solvency margin or other reasons, the Company's board of directors shall without delay take measures that are in its competence to reach the required level of capital, or it shall prepare a proposal for measures that shall be the responsibility of other bodies of the Company.

(2) The board of directors shall notify the Agency of the measures or proposed measures referred to in paragraph 1 of this Article within eight days of the date of their adoption.

TITLE VII

TECHNICAL PROVISIONS AND INVESTMENT OF ASSETS USED TO COVER TECHNICAL PROVISIONS

PART I

TECHNICAL PROVISIONS

Article 83

A Company shall set up technical provisions for mandatory pension insurance and voluntary pension insurance and shall establish emergency reserves in accordance with the Agency's regulations.

Technical provisions funds

Article 84

- (1) Technical provisions shall be formed from transfers and one-time payments made by persons to a pension insurance company.
- (2) Technical provisions shall be kept separately for mandatory pension insurance and voluntary pension insurance. Technical provisions for pensions based on one-time payments by natural persons shall be kept together with technical provisions of voluntary pension insurance.
- (3) Technical provisions shall be used to cover the current and future liabilities arising out of pension contracts.
- (4) The assets covering technical provisions shall be increased by return on the investment of these assets.
- (5) By way of derogation from paragraph 4 of this Article, if the return on the investment of the assets covering technical provisions achieved by the Company in a business year is higher than the aggregate return calculated on the basis of pension contracts, the Company shall be entitled to withhold not more than 25 % of the difference between these returns as a performance fee. This remuneration shall be allocated on the basis of a certificate by the appointed certified actuary of the Company.
- (6) The aggregate return and performance fee referred to in paragraph 5 of this Article shall be calculated separately for mandatory and voluntary pension insurance.
- (7) The Agency shall issue an ordinance prescribing the method of calculating the aggregate return referred to in paragraph 5 of this Article.

Formation of technical provisions

Article 85

- (1) A Company shall establish adequate technical provisions in respect of its entire business to cover the current and future liabilities under pension contracts concluded by the Company, and any losses due to risks arising from the activities it performs.
- (2) The Agency shall issue an ordinance prescribing the types of technical provisions and the criteria and method for the calculation of technical provisions.

Certificate of the appointed certified actuary concerning the assets covering technical provisions

Article 86

It shall be considered that there is a shortfall in assets covering technical provisions if a certificate by the appointed certified actuary of the Company states that the assets covering technical provisions are lower than the amount of the technical provisions.

Shortfall in assets covering technical provisions

Article 87

If there is a shortfall in assets covering technical provisions, the Company must inform the Agency thereof within 15 days and must adopt a plan for the immediate coverage of the shortfall using Company's own funds.

Distribution of surplus funds resulting from the investment of assets covering technical provisions

Article 88

(1) If the Company's appointed certified actuary certifies in the annual financial statement that the value of the assets covering technical provisions in mandatory pension insurance exceeds 110 % of the value of all the current and future liabilities under pension contracts concluded by the Company, the amount exceeding that value may be distributed by the Company in accordance with paragraphs 3 and 4 of this Article.

(2) If the assets covering technical provisions in mandatory pension insurance exceed 115 % of the value of all the current and future liabilities under pension contracts concluded by the Company, the surplus assets covering technical provisions in pension insurance which exceed 110 % of the value of all the current and future liabilities under pension contracts concluded by the Company must be distributed by the Company in accordance with paragraphs 3 and 4 of this Article.

(3) The Company shall distribute the surplus funds specified in paragraphs 1 and 2 of this Article in such a way that one fourth of that surplus shall be used to increase the emergency reserve and the remaining amount shall be distributed to pension beneficiaries in accordance with paragraph 4 of this Article.

(4) The part of the surplus allocated for payments shall be distributed to pension beneficiaries in proportion to the amount of the pension, the duration of pension payments, the type of the pension or the pension scheme and the amount of technical provision funds required for individual pension contracts.

(5) The Company shall pay the surplus to the pension beneficiaries within 60 days from the date of approval of the annual financial statement by the Company's general meeting.

Payment of surplus funds resulting from the investment of assets covering technical provisions

Article 89

(1) The Company shall pay to the pension beneficiaries, on a one-time basis, a part of the annual surplus amount resulting from the investment of assets covering technical provisions

of mandatory pension insurance, if such surplus can be distributed in accordance with paragraphs 1 and 2 of Article 88 of this Act.

(2) The Company may pay to the pension beneficiaries, on a one-time basis, a part of the annual surplus amount resulting from the investment of assets covering technical provisions of voluntary pension insurance, if such surplus can be distributed in accordance with paragraphs 1 and 2 of Article 88 of this Act.

PART II

INVESTMENTS OF ASSETS COVERING TECHNICAL PROVISIONS

Principles for the investment of assets covering technical provisions

Article 90

(1) The Company shall invest the assets covering technical provisions in the best interests of the pension beneficiaries, in a manner appropriate to the nature and duration of the expected future pensions and in compliance with the principles of security, quality, liquidity and profitability of investments and the principles of risk reduction through diversification and dispersion of investments.

(2) The value of the assets covering technical provisions must be at all times at least equal to the amount of the required coverage.

Statement of investment principles

Article 91

(1) The Company shall prepare a statement of investment principles, which shall contain at least the following:

1. the strategic allocation of the assets covering technical provisions with respect to the nature and duration of liabilities arising from pension contracts;
2. investment risk measurement methods/techniques;
3. risk tolerance;
4. the implemented risk management strategies, processes, procedures and measures.

(2) The Company shall revise the statement referred to in paragraph 1 of this Article after any significant change in the investment policy, and at least every three years.

(3) The Company shall make the statement referred to in paragraph 1 of this Article available to all pension beneficiaries and the Agency.

Permitted investments of assets covering technical provisions

Article 92

(1) The assets covering technical provisions may only include:

1. transferable debt securities and money market instruments issued by the Republic of Croatia, another Member State or a member state of the Organisation for Economic Co-operation and Development (hereinafter: "the OECD"), the Croatian National Bank or a central bank of another Member State or of an OECD member state;
2. transferable debt securities and money market instruments guaranteed by the Republic of Croatia, another Member State, an OECD member state, the Croatian National Bank or a central bank of another Member State or of an OECD member state, or issued by a public international body of which one or more Member States or one or more OECD member states are members;
3. transferable debt securities and money market instruments admitted to trading on a regulated market within the meaning of the provisions of the law governing the capital market and issued by a local and regional self-government unit in the Republic of Croatia, another Member State or an OECD member state;
4. transferable debt securities and money market instruments admitted to trading on a regulated market within the meaning of the provisions of the law governing the capital market, and the issuer of which has its head office in the Republic of Croatia, another Member State or an OECD member state;
5. transferrable equity securities admitted to trading on a regulated market within the meaning of the provisions of the law governing the capital market, and the issuer of which is a joint-stock company established in the Republic of Croatia, another Member State or an OECD member state;
6. units of UCITS funds authorised to operate in the Republic of Croatia or another Member State or units of corresponding funds authorised to operate in an OECD member state, provided that the supervision of these funds and the level of investor protection are equivalent to those prescribed by the law governing the establishment and management of open-end investment funds with a public offering;
7. holdings or shares in open-end alternative investment funds, or shares or holdings in closed-end alternative investment funds authorised to operate in the Republic of Croatia or another Member State, or in corresponding funds authorised to operate in an OECD member state, provided that the supervision of these funds and the level of investor protection are equivalent to those prescribed by the law governing the establishment and management of alternative investment funds;
8. deposits with credit institutions which are repayable on demand, provided that the credit institution has its head office in the Republic of Croatia or another Member State or an OECD member state, provided that the supervision of the credit institution and the level of protection for depositors are equivalent to those prescribed by the law governing the operation of credit institutions;

9. financial derivative instruments traded in on a regulated market within the meaning of the provisions of the law governing the capital market or financial derivative instruments traded in outside a regulated market (OTC derivatives), provided that:

a) the financial derivative instruments contribute to reducing investment risk or facilitate efficient portfolio management;

b) the underlying assets of the financial derivative instruments consist of financial instruments covered by items 1 to 5 of this paragraph, financial indices, interest rates, foreign exchange rates or currencies, in which the Company may invest in accordance with the provisions of this Act and regulations made under this Act;

c) the counterparties to OTC derivative transactions are institutions subject to prudential supervision, and belonging to the categories that may be additionally prescribed by the Agency, and

d) the OTC derivatives are subject to reliable and verifiable valuation on a daily basis and can be sold, liquidated or closed by an offsetting transaction at any time at their fair value at the Company's request;

10. ownership of a real estate property and other rights *in rem* in respect of the real estate property (construction right, right of servitude), provided that:

– the ownership or other right *in rem* in respect of the real estate property is registered in a land register in the Republic of Croatia, another Member State or an OECD member state;

– they are yielding a return;

– the purchase price was determined by an expert court appraiser's appraisal;

– they are free of any encumbrance;

11. cash in the Company's business account with a credit institution referred to in item 8 of this paragraph;

12. other types of assets arising from the assets referred to in items 1 to 11 of this paragraph.

(2) The issuer or guarantor referred to in items 1 and 2 of paragraph 1 of this Article must have a credit rating for foreign currency long-term debt that is at least equivalent to the rating of the Republic of Croatia from at least two globally recognised credit rating agencies.

(3) By way of derogation from the provisions of paragraph 1 of this Article, transferable debt securities and money market instruments referred to in items 3 and 4 of paragraph 1 of this Article and transferable equity securities referred to in item 5 of paragraph 1 of this Article need not be admitted to trading on a regulated market at the time of acquisition, provided they meet the following requirements:

a) the conditions for their issue include the obligation for the issuer to apply for admission to trading on a regulated market;

b) admission will be carried out within one year from their issue.

Otherwise, these transferable securities and money market instruments shall be considered as not being admitted to trading.

(4) By way of derogation from the provisions of paragraph 1 of this Article, assets covering technical provisions for voluntary pension insurance may be invested in transferable securities and money market instruments that are not admitted to trading on a regulated market.

(5) The Agency shall issue an ordinance laying down additional requirements that the assets referred to in this Article must satisfy.

Limitations on investments of assets covering technical provisions

Article 93

(1) Investments of assets covering technical provisions for mandatory pension insurance shall be subject to the following limitations:

1. at least 70 % of the assets covering technical provisions must be invested in the assets referred to in Article 92, paragraph 1, item 1 of this Act;

2. not more than 10 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 2 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 6 and 9 of this Act;

3. not more than 10 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 3 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 6 and 9 of this Act;

4. not more than 10 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 4 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 6 and 9 of this Act;

5. not more than 10 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 5 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 6 and 9 of this Act;

6. not more than 20 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 6 of this Act;

7. not more than 10 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 7 of this Act;

8. not more than 20 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 8 of this Act;

9. not more than 10 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 10 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 7 and 9 of this Act;

10. not more than 5 % of the assets covering technical provisions may be held in the business accounts referred to in Article 92, paragraph 1, item 11 of this Act;

11. by way of derogation from the provisions of item 10 of this paragraph, more than 5 % but less than 10 % of the assets covering technical provisions may be held in the business accounts, but for a maximum period of 14 days.

(2) Investments of assets covering technical provisions for voluntary pension insurance shall be subject to the following limitations:

1. not more than 20 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 2 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 6 and 9 of this Act;

2. not more than 20 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 3 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 6 and 9 of this Act;

3. not more than 20 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 4 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 6 and 9 of this Act;

4. not more than 20 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 5 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 6 and 9 of this Act;

5. not more than 30 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 6 of this Act;

6. not more than 20 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 7 of this Act;

7. not more than 20 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 8 of this Act;

8. not more than 20 % of the assets covering technical provisions may be invested in the assets referred to in Article 92, paragraph 1, item 10 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 92, paragraph 1, items 7 and 9 of this Act;

9. not more than 10 % of the assets covering technical provisions may be held in the business accounts referred to in Article 92, paragraph 1, item 11 of this Act;

10. by way of derogation from the provisions of item 10 of this paragraph, more than 10 % but less than 20 % of the assets covering technical provisions may be held in the business accounts, but for a maximum period of 14 days;

11. not more than 5 % of the assets covering technical provisions may be invested in transferable securities and money market instruments which are not admitted to trading on a regulated market.

(3) Investments of assets covering technical provisions shall also be subject to the following limitations:

1. not more than 5 % of the assets covering technical provisions may be invested in transferable securities, money market instruments and holdings or shares in investment funds issued by the same issuer, and not more than 10 % in transferable securities, money market instruments and holdings or shares in investment funds issued by different issuers who are related persons;

2. not more than 5 % of the assets covering technical provisions may be invested in a deposit with a single credit institution, and not more than 10 % in deposits with different credit institutions which are related persons;

3. not more than 10 % of the assets covering technical provisions may be invested in a single real estate property, or in several real estate properties which are related;

4. the exposure of assets covering technical provisions to a counterparty risk in transactions in OTC derivatives may not exceed 5 % of the assets covering technical provisions, or 10 % of the assets covering technical provisions if counterparties are related persons.

(4) The limitations specified in paragraph 3 of this Article shall not apply to transferable debt securities and money market instruments referred to in Article 92, paragraph 1, item 1 of this Act.

(5) The Agency shall issue an ordinance to lay down additional limitations on investment of assets covering technical provisions and the method for calculating exposure.

Currency matching

Article 94

The assets covering technical provisions shall be invested in such a way as to be currency matched to liabilities, i.e. at least:

- 90 % of the assets covering technical provisions for mandatory pension insurance
- 70 % of the assets covering technical provisions for voluntary pension insurance

must be invested in assets that are traded or settled in the currency in which pensions are paid out.

Borrowing/lending and a limitation on investment of assets covering technical provisions with regard to Company's shareholders

Article 95

(1) The Company may borrow money from third persons up to an amount totalling 5 % of the assets covering technical provisions, only for liquidity purposes and for a period not exceeding three months.

(2) The Company may not lend its assets or pledge them as a security to third persons.

(3) The assets covering technical provisions may not be invested in the securities of a shareholder of the Company or any person who is a related person of a shareholder of the Company. This limitation shall not apply to the securities referred to in Article 92, paragraph 1, item 1 of this Act.

(4) If a transaction is entered into with a shareholder of the Company or with any person who is related to a shareholder of the Company, the Company shall keep records thereof and shall submit without delay these records to the Agency on its request. The Agency may, when it considers it necessary, in particular to safeguard the economic interests of pension beneficiaries, prohibit the Company from entering into transactions with, or through the intermediary of, a related person on a temporary or permanent basis.

Procedure to be followed in cases where investment limits are exceeded

Article 96

(1) The Company may exceed the investment limits referred to in Articles 93 to 95 of this Act when exercising pre-emptive subscription rights or subscription rights attaching to transferable securities or money market instruments which form part of its assets.

(2) If the limits referred to in Articles 93 to 95 of this Act are exceeded as a result of:

- a) circumstances beyond the control of the Company;
- b) the exercise of the subscription rights referred to in paragraph 1 of this Article or
- c) the acquisition of assets referred to in Article 92, paragraph 1, item 12 of this Act,

the Company must, except where bankruptcy proceedings have been opened or winding-up proceedings instituted in respect of the credit institution or the issuer of the financial instruments, bring investments of assets covering technical provisions into compliance within a reasonable period not exceeding six months and shall enter into transactions primarily to bring investments of assets covering technical provisions into compliance, trying to minimise any loss that might occur.

(3) Exceptionally, at the request of the Company, the Agency may extend the period referred to in paragraph 2 of this Article by additional six months, when this is in the interest of pension beneficiaries.

(4) The investment limits referred to in Articles 93 to 95 of this Act may be exceeded in the first six months following the establishment the Company, with due observance of the principles of risk spreading and protection of interests of pension beneficiaries.

Valuation of assets

Article 97

(1) The Company shall adopt accounting policies, i.e. asset valuation methodologies, which are in accordance with this Act, regulations made under this Act, other regulations and the articles of association of the Company.

(2) The Company shall perform the valuation of the assets at least once a month. The Company shall be responsible for the accuracy of calculations.

(3) The Agency shall issue an ordinance prescribing the method for the valuation of assets.

TITLE VIII

BUSINESS BOOKS AND REPORTING TO THE AGENCY

Financial statements

Article 98

(1) The legislation regulating accounting and the International Financial Reporting Standards shall apply to financial reporting by the Company, unless the Agency provides otherwise.

(2) Annual financial statements shall include an opinion of the appointed certified actuary.

(3) The provisions of this Article shall apply accordingly to a pension insurance company from another Member State which pursues its activities in the Republic of Croatia through a branch.

(4) The Agency shall issue an ordinance laying down:

1. the structure and the contents of annual financial statements of the Company, their publication and the method and deadlines for their submission;

2. the structure, the contents and the method and deadlines for submission of other reports of the Company that the Company is required to prepare for the Agency's purposes;

3. the Company's chart of accounts;

4. minimum standards for an opinion of the appointed certified actuary on the creation of pensions and technical provisions.

Opinion and report of the appointed certified actuary

Article 99

Within 14 days of the date of submission of the annual report, the Company shall also submit to the Agency a report by the appointed certified actuary along with the opinion of the appointed certified actuary on the creation of pensions and establishment of technical provisions pursuant to the provisions of this Act and regulations made under this Act.

Audit of reports of the Company

Article 100

(1) Annual financial statements of the Company shall be audited by an auditor in the manner and under the conditions laid down in the legislation governing accounting and auditing activities and in the rules of the auditing profession, unless otherwise provided for in this Act and regulations made under to this Act.

(2) The Company shall submit to the Agency audited annual financial statements referred to in Article 98, paragraph 2 of this Act within 15 days of the date of issue of the auditors' report, but not later than four months following the end of the business year in respect of which the statements are drawn up.

(3) The same audit firm may conduct a maximum of four consecutive audits of financial statements of the Company.

(4) The Agency shall issue ordinance to specify in more detail the scope and content of the audit, auditing procedures and auditor's report on an audit of annual financial statements of the Company or other reports of the Company.

(5) The Agency may require the auditor to provide additional explanations with regard to the audited annual financial statements or other audited reports of the Company.

(6) If the Agency establishes that an audit of the Company's reports has not been carried out or that the auditor's report has not been drawn up in accordance with this Act, the regulations made under this Act, the legislation governing accounting and auditing activities and the rules of the auditing profession, or if it establishes, on the basis of a supervision of the operations of the Company or otherwise that the auditor's report on the Company's reports is not based on true and objective facts, it may reject the auditor's reports and require the Company to have the audit carried out by certified auditors from another audit firm at the expense of the Company.

(7) An audit firm may not conduct an audit of financial statements of a Company if in the year to which the Company's financial statements relate the audit firm concerned provided to the Company in question its services in the field of finance, accounting, internal audit, estimating the value of the Company, its assets and liabilities, as well as tax and other business consultancy services and services of a court expert witness.

(8) An audit firm may not engage in conducting, or be engaged by a Company to conduct, an audit of financial statements of the Company if in the previous year the audit firm concerned generated more than a half of its total income from auditing the financial statements of the Company in question.

(9) When auditing annual financial statements of the Company, the auditor shall audit the implementation of the method of valuation of the assets of the Company provided for in this Act, regulations made under this Act and other applicable legislation in order to ascertain that the values determined by applying the specified principles are accurate and that the remuneration amounts provided for in this Act do not exceed the allowed amounts.

Consolidated financial statements

Article 101

(1) For supervision purposes, the Agency may require the Company to prepare consolidated financial statements if:

1. one or more companies are considered to be the associates of the Company pursuant to the International Financial Reporting Standards;
2. the Company and another company registered in the Republic of Croatia are subsidiaries of the same parent company registered outside the Republic of Croatia;
3. the Company has entered into an agreement with another company, based on which both companies are jointly managed;
4. the management or supervisory boards of the Company and of one or more companies to which the Company is not related in terms of capital consist in the majority of the same persons in office during the period for which the consolidated financial statements are drawn up.

(2) In the cases referred to in paragraph 1 of this Article, the Agency shall issue a decision to specify the scope of consolidation, in particular the companies that are to be included in the consolidation, and the manner and frequency of drawing up consolidated financial statements and supervision reports.

Regular reporting and reporting at the request of the Agency

Article 102

(1) The Company shall report to the Agency especially on the following facts and circumstances:

1. registration of and changes to the information registered in the court register;
2. convening of the general meeting and all the decisions adopted by the general meeting;
3. shareholders of the Company and acquisition of or changes in the qualifying holdings;

4. planned opening, relocation, closing or temporary cessation of operations of a branch or representative office, or other organisational changes;
5. investments based on which the Company has acquired, directly or indirectly, a qualifying holding in another legal person, and on any further investment in that legal person;
6. changes in the capital structure;
7. discontinuation of certain activities of the Company.

(2) The Company shall submit, at the request of the Agency, reports and information on all issues relevant to the exercise of supervision or performance of other activities by the Agency.

(3) The Agency shall prescribe a more detailed content of the reports referred to in paragraphs 1 and 2 of this Article, as well as the reporting format and deadlines.

TITLE IX

PENSION SCHEMES, PENSIONS AND THEIR PAYMENT

PART I

GENERAL PROVISIONS

Article 103

A pension payable under the provisions of this Act shall be determined and paid out on the basis of a pension contract and in accordance with the total capitalised contributions paid by a member of a mandatory fund into the mandatory pension fund, or total capitalised contributions paid by a member of a voluntary fund into the voluntary pension fund, before this fund member qualified for a pension, or on the basis of direct one-time payments referred to in Article 9, paragraph 1, item 4 of this Act.

Payment of pensions in Member States and other third countries

Article 104

(1) The Company shall pay out pension within the meaning of this Act to pension beneficiaries in Member States without any limitations, and to beneficiaries in other countries – under the terms of agreements entered into with these countries or on the basis of reciprocity.

(2) The costs of payment of pensions obtained under this Act shall be borne by the Company.

Gender equality

Article 105

(1) When calculating a pension payable in accordance with the provisions of this Act, no inequality in rights or exclusion from rights based on sex shall be established or implemented, either directly or indirectly.

(2) Inequality in rights or exclusion from rights, as referred to in paragraph 1 of this Article, shall in particular relate to:

- different conditions for calculating periods of insurance required to acquire a right;
- different conditions as regards the qualifying age for a right, unless it is prescribed by another legislation;
- setting different levels of pensions due to different conditions applicable only to pension beneficiaries of the same sex, when determining pensions.

Unit amounts of pensions

Article 106

(1) The Company shall report to the Agency information regarding the proposed unit amounts of pensions and guaranteed benefits for designated beneficiaries not later than 60 days prior to their introduction. This information must be explained in detail, taking into account economic and actuarial parameters on which the proposed unit amounts are based, and must be supported by an opinion of the certified actuary.

(2) The provision of paragraph 1 of this Article shall apply to any changes in the unit amounts of pensions or guaranteed benefits.

(3) The Agency shall issue an ordinance to prescribe in more detail the contents of the report referred to in paragraph 1 of this Article, as well as the format and deadlines for reporting to the Agency.

Article 107

Unit amounts of pensions and guaranteed payments may vary only by type and form of pension, method of adjustment, age group and duration of guarantee period. Such unit amounts shall equally apply to all persons wishing to conclude pension contracts.

Article 108

(1) The Company may change unit amounts of pensions and guaranteed payments provided that such change affects, in the same manner, all persons wishing to conclude pension contracts.

(2) Information on the proposed unit amounts of pensions and guaranteed payments contained in a notification delivered to a person wishing to conclude a pension contract may not be changed within eight days of delivery of the notification.

Obligation to notify the Company

Article 109

A pension beneficiary shall notify the Company, within 15 days, of any change in material or subjective circumstances that have an effect on the payment of the pension (change of address, change of a current account, change of authorised person, etc.)

Execution against pensions

Article 110

A pension payable in accordance with this Act may be subject to execution up to a maximum of one-half of the average net wage in the Republic of Croatia if the execution is carried out in order to recover a statutory maintenance claim, or up to a maximum of one-third of the average net wage in the Republic of Croatia if the execution is carried out in order to recover other claims.

PART II

PENSION SCHEMES UNDER MANDATORY AND VOLUNTARY PENSIONS INSURANCE

General provision

Article 111

The amount of a pension payable to pension beneficiaries in accordance with this Act shall be determined on the basis of the total capitalised contributions paid by a fund member and taking into account the pension beneficiary's age on the day of becoming entitled to a pension, the type and form of the pension to be paid out and other elements of actuarial calculation.

Types of pensions under mandatory pension insurance

Article 112

(1) A Company paying pensions to pension beneficiaries under mandatory pension insurance shall offer the following types of pensions:

1. a lifetime monthly old-age pension, or an early retirement pension;
2. a lifetime monthly disability pension;
3. a monthly survivors' pension.

(2) The Company must offer to a pension beneficiary the pensions referred to in items 2 and 3 of paragraph 1 of this Article when required to do so by the provisions of the law governing the establishment and operation of mandatory pension funds and of pension companies managing mandatory pension funds.

(3) The survivors' pension referred to in item 3 of paragraph 1 of this Article shall be determined as a single pension for family members and shall be subject to the provisions of the law governing mandatory pension insurance based on generational solidarity.

(4) For the purpose of calculating the survivors' pension referred to in item 3 of paragraph 1 of this Article, the family members of a pension beneficiary shall be those specified in the law governing mandatory pension insurance based on generational solidarity.

(5) The pensions referred to in paragraph 1 of this Article may be paid out after the entitlement to a pension has arisen pursuant to the law governing mandatory pension insurance based on generational solidarity.

Forms of pensions under mandatory pension insurance

Article 113

(1) The Company shall pay out pensions under mandatory pension insurance in one of the following forms:

1. a single pension;
2. a joint pension payable to a pension beneficiary or to his/her surviving spouse for life;
3. a single pension with a guarantee period that is payable to a pension beneficiary and that continues, if the pension beneficiary dies before the guarantee period expires, to be payable to a designated beneficiary for the remainder of the guarantee period;
4. a joint pension with a guarantee period that is payable to a pension beneficiary or to his/her surviving spouse for life, and, should both spouses die within the guarantee period, to the designated beneficiary for the remainder of the guarantee period. The nomination of a designated beneficiary shall only be valid if both spouses have consented to it.

(2) If at the time of concluding a pension contract a person chooses to receive a pension in a form referred to in items 3 or 4 of paragraph 1 of this Article, the Company shall instruct such person to designate a beneficiary or beneficiaries in writing.

(3) In the case of a joint pension referred to in items 2 or 4 of paragraph 1 of this Article, the amount of the pension payable to the surviving spouse of a pension beneficiary shall not be less than 60 % of the pension that was paid to the pension beneficiary.

(4) In cases where a pension is paid to a designated beneficiary referred to in items 3 or 4 of paragraph 1 of this Article, the amount of the pension payable until the end of the guarantee period shall not be less than 50 % of the pension that was paid to the pension beneficiary.

(5) In cases referred to in paragraphs 3 and 4 of this Article, the Company that paid a pension to a pension beneficiary shall, upon request of the spouse or designated beneficiary, make pension payments to the bank account of the spouse or designated beneficiary.

(6) Pensions shall be paid to pension beneficiaries on a monthly basis, in advance, no later than on the day stipulated in the pension contract. If the amount of a monthly payment is

lower than 10 % of the average net wage in the Republic of Croatia in the previous year, payments may be made quarterly. The Company may switch from a monthly to a quarterly mode of payment only with prior approval from the pension beneficiary.

(7) A pension shall be payable to a pension beneficiary also for the month in which the pension beneficiary died, and the guarantee payment shall be payable to a designated beneficiary for the last month of the guarantee period.

Limitations under mandatory pension insurance

Article 114

(1) If, at the time of retirement, a pension beneficiary has no spouse, he/she must elect for a pension under mandatory pension insurance to be paid in the form specified in Article 113, paragraph 1, items 1 or 3 of this Act.

(2) If on the day of entering into a pension contract the pension beneficiary's spouse is under the age of 50, the contract may not provide for the pension payment to be done in accordance with Article 113, paragraph 1, items 2 and 4 of this Act.

(3) In the cases referred to in paragraph 2 of this Article, the pension beneficiary shall choose a single pension with a guarantee period referred to in Article 113, paragraph 1, item 3 of this Act and shall nominate his or her spouse to be the designated beneficiary, if the pension beneficiary's spouse is unemployed and receives no other regular income. If the spouse is employed or receives other regular income, the pension beneficiary may choose to receive pension payments in the form referred to in Article 113, paragraph 1, item 1 of this Act only with the spouse's consent.

(4) If, at the time of retirement, a pension beneficiary has a spouse over the age of 50 who is not employed and receives no other regular income, the pension beneficiary must choose to receive pension payments in the form referred to in Article 113, paragraph 1, items 2 or 4 of this Act. If the spouse is employed or receives other regular income, the pension beneficiary may choose to receive pension payments in the form referred to in Article 113, paragraph 1, items 1 or 3 of this Act only with the spouse's consent.

Types of pensions under voluntary pension insurance

Article 115

(1) A Company paying out pensions under voluntary pension insurance must offer lifetime old-age pensions and may also offer temporary old-age pensions, fluctuating pensions, partial lump sum payments and other types of pensions in accordance with its pension scheme.

(2) A lifetime old-age pension and a temporary old-age pension under the scheme referred to in paragraph 1 of this Article shall be available at the age of 50 at the earliest.

(3) A temporary old-age pension shall be a periodical payment provided by the Company to a pension beneficiary under voluntary pension insurance on the basis of a pension contract, which may not be written for a period of less than five years.

(4) A fluctuating pension shall be a lifetime or temporary monthly payment provided by the Company to a pension beneficiary under voluntary pension insurance on the basis of a pension contract, which changes depending on fluctuations in the value of the technical provisions earmarked for the payment of these pensions.

(5) A partial lump sum payment shall be a payment provided by the Company to a pension beneficiary under voluntary pension insurance on the basis of a pension contract, the level of which shall not exceed 30 % of the amount of the transfer before the Company's fee is deducted.

Indexation of pensions under mandatory pensions insurance

Article 116

A Company paying pensions under mandatory pensions insurance shall index the level of pensions in the same manner and according to the same time schedule as provided for in the law governing mandatory pension insurance based on generational solidarity.

Nomination and revocation of designated beneficiaries

Article 117

(1) A pension beneficiary may at any time, in writing, revoke the nomination of a designated beneficiary or nominate another designated beneficiary. In the case of pensions referred to in Article 113, paragraph 1, items 2 and 4 of this Act, this can be done only with the consent of the spouse.

(2) If, at the time of concluding a pension contract, a pension beneficiary has minor children (born in or out of wedlock or adopted children or maintained step-children) he or she must nominate them as beneficiaries until they reach the age of 18.

(3) The provision of paragraph 2 of this Article shall not apply to pensions under voluntary pension insurance.

(4) If a designated beneficiary receiving a guarantee payment dies before the guarantee period expires, the amount due that beneficiary shall form part of his or her estate.

(5) If no designated beneficiary has been nominated by a pension beneficiary in accordance with the provisions of this Act, the guarantee payment to which the pension beneficiary would be entitled shall be paid in accordance with the provisions of the law governing inheritance.

(6) If a pension beneficiary elected for a pension to be paid in the form specified in Article 113, paragraph 1, item 4 of this Act and has subsequently died, the surviving spouse may revoke any nomination of a designated beneficiary, except in the case when the designated beneficiaries are children of the deceased beneficiary under 18 years of age.

Collection of data

Article 118

(1) The Central Registry of Insured Persons shall have access to state registries for the purpose of obtaining information about pension beneficiaries, members of their families and designated beneficiaries.

(2) The Central Registry of Insured Persons shall notify the Company, at the Company's request, of the information referred to in paragraph 1 of this Article within eight days of becoming aware of a certain fact.

(3) When the Company is liable to pay out a pension or guarantee payments and the person entitled to receive these payments cannot be located at the address on file with the Company, or when the Company has no details of the person's bank account, the Company shall obtain this information from legal persons or other bodies maintaining the relevant registries.

Article 119

(1) When the provisions of paragraph 2 of Article 112 are applied, the Central Registry of Insured Persons shall, at the request of the Croatian Pension Insurance Institute, obtain from the Company data on the pension that would have been granted under mandatory pension insurance. The Company shall provide this data to the Central Registry of Insured Persons within eight days of the request.

(2) The Croatian Pension Insurance Institute shall inform the Central Registry of Insured Persons that a decision was issued granting the right to a basic pension to a member of the mandatory pension fund or his or her family member, within eight days of the day when this decision was issued.

PART III

OFFERING OF PENSIONS SCHEMES

Persons authorised to offer pensions schemes

Article 120

(1) Pension schemes may be offered not only by the Company, but also by other legal persons in the Republic of Croatia on the basis of a business cooperation agreement, when they are allowed to do so by the provisions of this Act or another law.

(2) The provisions of this Part of the Act shall apply accordingly to pension insurance companies from another Member State when they offer pension schemes in the Republic of Croatia.

Status of persons authorised to offer pensions schemes

Article 121

(1) When offering pension schemes, persons referred to in Article 120 of this Act shall act as sales representatives of the Company on the basis of a written contract concluded with the Company.

(2) The Company shall notify the Agency of any contract concluded in accordance with paragraph 1 of this Article.

(3) The Agency shall issue an ordinance laying down the method and deadlines for submitting the notification referred to in paragraph 2 of this Article.

Prohibition to offer pension schemes

Article 122

(1) The persons referred to in Article 120 of this Act may not offer pensions schemes during the time when their authorisation is revoked by the Agency, the Croatian National Bank or other competent authority in accordance with special regulations.

(2) Any revocation of an authorisation shall be notified without delay to the Company with which a contract concerning the offering of pension schemes has been concluded.

(3) The Agency shall issue an ordinance laying down the requirements that must be met by the persons referred to in Article 120 of this Act and by natural persons offering pensions schemes in these legal persons, the requirements pertaining to the way they conduct business and the requirements related to reporting on the offering of pension schemes.

Duties of persons authorised to offer pension schemes

Article 123

The persons referred to in Article 120 of this Act who are authorised to offer pension schemes shall:

1. make available to potential pension beneficiaries all relevant documents and information;
2. promptly forward to the Company pension contracts concluded;
3. when advertising the Company, make use only of the promotional materials approved by the Company;
4. not provide false information or information that may mislead the pension beneficiaries as to the state of affairs of the Company, withhold material information or make false statements about the Company, its investment objectives, associated risks, returns on investments or any other issues or matters related to the Company and shall not give any other statements that are not in compliance with financial statements of the Company;
5. be liable to the Company for errors or failures made by their employees and for any non-compliance with this Act and other regulations;
6. inform a potential pension beneficiary about the amount of the fee paid on the basis of pension contracts;
7. make known to a potential investor which Company they represent and whether they offer the schemes of that specific Company only or products of several Companies;

8. at any time act in accordance with this Act and applicable legal provisions.

Compensation granted to persons authorised to offer pension schemes

Article 124

The persons referred to in Article 120 of this Act shall receive compensation for their work exclusively from the Company.

TITLE X

PENSION CONTRACT

Standard form

Article 125

A Company shall have a standard pension contract for each type of pension payable by it.

Obligation to conclude a pension contract

Article 126

(1) A Company paying out pensions within the mandatory pension insurance shall enter into a pension contract with each member of the mandatory pension fund who has chosen that Company, and with a family member of a deceased member of the mandatory pension fund who is entitled to a survivors' pension pursuant to the provisions of the law governing mandatory pension insurance on the basis of the pay-as-you-go system. A Company paying out pensions within the voluntary pension insurance shall enter into a pension contract with each member of the voluntary pension fund who has chosen that Company.

(2) A member of a mandatory fund may conclude a pension contract with only one Company.

(3) Family members entitled to a survivors' pension after the death of a pension beneficiary under mandatory pension insurance may conclude a pension contract under the conditions specified in paragraph 2 of this Article.

The form and content of a pension contract

Article 127

(1) A pension contract shall be in writing and shall contain at least the following information:

1. the name and registered office address of the Company and the names of the persons representing the Company;
2. the name, address and personal identification number (OIB) of the pension beneficiary;

3. the name, address and personal identification number (OIB) of the spouse and of the designated beneficiary, when required pursuant to the provisions of this Act;
4. the name and address of the legal guardian of the designated beneficiary of a survivors' pension referred to in Article 112, paragraph 3 of this Act;
5. the amount of the pension and guarantee payments, the duration of the guarantee period and, when necessary pursuant to the provisions of this Act, the amount payable to the spouse or designated beneficiary upon the death of the pension beneficiary;
6. the method for indexing the pension, when required pursuant to the provisions of this Act;
7. the pension beneficiary's, spouse's and designated beneficiary's bank account numbers;
8. the method of payment of the pension;
9. the level of the Company's fee referred to in Article 135 of this Act;
10. the procedure for the out-of-court settlement of disputes;
11. other information relevant to the payment of the pension.

(2) A pension contract within the mandatory pension insurance must contain the provision that the contractual obligation is in the currency that is officially used in the Republic of Croatia.

(3) The Company's written rules relating to pension contracts shall form an integral part of such contracts.

(4) A pension contract must contain the provision that the pension beneficiary has received the Company's written rules relating to the contract concerned.

(5) A person who has entered into a pension contract may not terminate such contract, nor enter into a pension contract with another Company, unless otherwise provided for in this Act.

(6) A person who has entered into a pension contract within the voluntary pension insurance may select, with the consent of the Company, another form of payment by amending the pension contract.

(7) A person who has entered into a pension contract within the mandatory pension insurance may select another form of payment of the pension if the conditions laid down in this Act and in Company's rules are fulfilled.

Prior verification of the standard contract form

Article 128

(1) The Company shall submit to the Agency a copy of its standard pension contract form, together with the Company's written rules relating to that contract, at least 60 days before it starts using that standard contract form.

(2) Not later than 30 days after the receipt of the standard pension contract form, the Agency may submit to the Company written objections, if the contract form concerned is misleading for potential pension beneficiaries or does not comply with the requirements laid down in this Act and with the Company's written rules relating to such contracts.

(3) In the case referred to in paragraph 2 of this Article, the Agency shall require the Company in writing to modify or amend the contract form.

(4) The Company may not use the pension contract form in respect of which the Agency has raised objections. The Company shall act in accordance with the objections made by the Agency.

(5) If the Company acts contrary to paragraph 4 of this Article, the contract shall be null and void.

(6) If the Agency does not raise objections to the pension contract form within the period referred to in paragraph 2 of this Article, the Company may use such contract form.

Notification of changes in the standard contract form

Article 129

The Company shall notify the Agency of any changes in its standard pension contract form. If the Agency raises no objections to such changes within 30 days upon the receipt thereof, the Company may conclude pension contracts on the amended form.

The procedure for choosing a Company within the mandatory pension insurance scheme

Article 130

(1) A Company within the mandatory pension insurance scheme shall be chosen by registering the choice with the Central Registry of Insured Persons after the entitlement to a basic pension arises.

(2) The choice of a Company may be changed by registering the change in accordance with paragraph 1 of this Article within 15 days of the day of the first registration.

(3) After the expiry of the period referred to in paragraph 2 of this Article, the choice of a Company may not be changed or withdrawn and shall be considered to be final.

(4) The chosen Company shall conclude a pension contract with the member of a mandatory fund or pension beneficiary concerned after receiving information from the Central Registry of Insured Persons about the registration and the total amount of capitalised funds in the person's personal account on the day of the closure of the personal account.

(5) A general act of the Central Registry of Insured Persons shall specify, with the consent of the Agency, the following:

– the form and the content of the registration of the choice of a Company;

– the procedure and deadlines for providing information to the chosen Company.

The procedure for closing the personal account of a member of a mandatory fund

Article 131

- (1) The procedure for closing the personal account of a member of a mandatory pension fund shall be initiated by the Central Registry of Insured Persons on the first day after the expiry of the period referred to in paragraph 2 of Article 130 of this Act, by issuing an order to the mandatory pension company to make the transfer of funds to the chosen company.
- (2) The mandatory pension company shall, by making the transfer through the Central Registry of Insured Persons, make a payment to the chosen Company not later than the fifth day after receiving the order from the Central Registry of Insured Persons.
- (3) The transfer made by the mandatory pension company shall comprise all the funds accumulated in the personal account of the member of the mandatory fund and shall not be subject to any claims by the fund, in accordance with the law governing the establishment and operation of mandatory pension funds and of pension companies managing mandatory pension funds.
- (4) The Central Registry of Insured Persons shall, with the consent of the Agency, issue an ordinance specifying the procedure for closing personal accounts, the contents of the order issued by the Central Registry of Insured Persons to the mandatory pension company and the procedure for making the transfer of funds to the chosen Company.
- (5) If the mandatory pension company fails to make the transfer within the time specified in paragraph 2 of this Article, interest of arrears at a rate set by a special regulation shall be added to the amount of the transfer.

The procedure concerning payments after the conclusion of a pension contract under mandatory pension insurance

Article 132

- (1) If the outstanding contributions have not been paid into the personal account of a member of a mandatory fund in due time or if the contributions have been paid subsequent to the entry into a pension contract, the party liable to pay these contributions shall fulfil its obligation by paying the outstanding amount, together with any accrued interest, to the Central Registry of Insured Persons, which shall forward this payment to the Company with which the pension beneficiary has entered into a pension contract.
- (2) In the case referred to in paragraph 1 of this Article, the Company shall conclude an annex to the pension contract with the pension beneficiary concerned to determine a new amount in accordance with pension unit amounts applicable on the date of conclusion of the annex and applying *mutatis mutandis* Article 135 of this Act.

Prohibition to enter into a pension contract

Article 133

(1) A Company may not enter into a pension contract if the financial situation of the Company indicates that there is a shortfall in the assets covering technical provisions or if the Company's appointed certified actuary informs the Company that such shortfall is likely to occur, or if legal grounds exist for the cessation of the business operation of the Company.

(2) Should a pension contract be concluded in spite of the existence of the circumstances referred to in paragraph 1 of this Article, such contract shall be deemed null and void.

Taxes

Article 134

Taxes and other charges on funds transferred to a Company and serving as the basis for determining the pension under this Act, which are payable when these funds are transferred or paid to the Company, shall be regulated by a special regulation.

Fees to be paid to the Company

Article 135

(1) A pension company may not withhold more than 5 % of the transfer received from the mandatory pension fund, as a fee to cover the costs of the Company.

(2) The Agency shall adopt a decision on the maximum fee referred to in paragraph 1 of this Article for each year.

(3) The Company shall not charge a fee for a lump sum payment referred to in paragraph 5 of Article 115 of this Act.

(4) The Company shall use the transfer and lump sum payment as assets covering technical provisions and for making payments under the pension contract.

(5) The Company may not charge pension beneficiaries or designated beneficiaries under mandatory pension insurance any other fees apart from those specified in this Article.

(6) By way of derogation from the provisions of this Article, the Company shall be entitled to a performance fee if the requirements laid down in paragraph 5 of Article 84 of this Act are satisfied.

TITLE XI

SUPERVISION OF BUSINESS OPERATIONS

PART I

GENERAL PROVISIONS

Supervision

Article 136

(1) For the purposes of this Act, supervision means verification of whether the supervised entity operates in accordance with the provisions of this Act and regulations made under this Act, in accordance with other regulations and regulations governing risk management, and in accordance with its own rules and standards and the standards of the profession, and, in general, in the manner allowing for the proper functioning of the supervised entity and for the implementation of measures and activities aimed at remedying the identified illegalities and irregularities.

(2) The main objectives of supervision shall be to check the legality and assess the security and stability of the supervised entity's operations, with a view to protecting the interests of pension beneficiaries and the public interest, contributing to the stability of the financial system, and promoting and maintaining confidence in the capital market.

(3) Pursuant to the provisions of this Act, supervision shall be conducted *ex officio*.

Scope of supervision

Article 137

(1) In the course of supervision, the Agency shall in particular:

1. verify the organisational conditions, strategies, policies and procedures that the supervised entity has established to ensure compliance of its business operations with the provisions of this Act and regulations made under this Act;

2. examine and assess the financial stability and standing of the supervised entity and the risks to which the supervised entity is exposed or could be exposed in its operation.

(2) In examining and assessing the financial stability and position and in assessing the risks to which the supervised entity is exposed or could be exposed, the Agency shall take into account the nature, scale and complexity of the supervised entity's business.

(3) For the purposes of item 1 of paragraph 1 of this Article, the Agency shall monitor the adequacy of the Company's credit assessment processes established in accordance with paragraph 5 of Article 50 of this Act, assess the use of references to credit ratings issued by credit rating agencies as defined in item (b) of paragraph 1 of Article 3 of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009), in risk management policies relating to investments of the Company and, where appropriate, encourage mitigation of the impact of such references, with a view to reducing sole and mechanistic reliance on such credit ratings.

(4) On the basis of the supervision, examination and assessment referred to in paragraph 1 of this Article, the Agency shall determine whether the supervised entity operates in accordance with the laws, whether the supervised entity has put in place an adequate organisational structure and a stable system of management in the Company and has the capital to ensure an adequate management and coverage of risks to which the supervised entity is or could be exposed in its operation.

(5) When establishing the frequency and intensity of supervision of an entity subject to supervision, the Agency shall take into account the size and importance of the Company, the scale and complexity of its activities and the performance indicators for those activities.

Entities subject to supervisions

Article 138

(1) Entities subject to supervision shall be supervised by the Agency in accordance with the law governing the establishment and operation of the Agency, this Act, regulations made under this Act, and other laws and regulations made under those laws.

(2) The provisions of this Part of the Act shall apply to the procedures performed by the Agency within the scope of its competence, unless stipulated otherwise.

(3) The provisions of the General Administrative Procedure Act shall apply to the procedures referred to in paragraph 1 of this Article. In the procedures it conducts, the Agency shall as a rule make a decision without an oral hearing.

(4) The Agency shall, for the purposes of supervision, have the right of access to all information and documentation kept by the supervised entities.

(5) The following entities shall be subject to supervision by the Agency in accordance with this Act:

1. Companies and their branches outside the Republic of Croatia;
2. branches of pension insurance companies from other Member States operating in the Republic of Croatia;
3. pension insurance companies from another Member State, in respect of their activities performed directly within the territory of the Republic of Croatia;
4. persons who offer pension schemes in the name and for the account of pension insurance companies.

PART II

SUPERVISION PROCEDURE

Method of conducting supervision

Article 139

(1) The Agency shall conduct supervision:

1. through on-site supervision at the premises of the supervised entity or a legal person to which the supervised entity is related, directly or indirectly, in terms of business, management or capital, by examining the original documents, examining and assessing of the overall

operation, conducting interviews with members of the board of directors and supervisory board and with other relevant persons, and at the Agency's premises;

2. through off-site supervision at the Agency's premises, on the basis of an analysis of the reports that the supervised entities are required to submit to the Agency within the prescribed time limits, and by collecting and examining the documents, information and data obtained at a specific request of the Agency, as well as by collecting and inspecting data and information from other sources, and by the examination and assessment of the operations on the basis of the submitted reports and collected information, by conducting interviews with members of the board of directors and supervisory board and with other relevant persons.

(2) The on-site inspection referred to in item 1 of paragraph 1 of this Article may be regular or special.

Persons authorised to perform supervision

Article 140

(1) Supervision shall be performed by the Agency's employees (hereinafter: authorised persons of the Agency).

(2) By way of derogation from paragraph 1 of this Article, the Agency may request professional services of an auditor, an audit firm or other professionally qualified persons for the performance of tasks related to supervision.

(3) Legislation concerning the disqualification of an official and the confidentiality of data applicable to the Agency's employees shall apply *mutatis mutandis* to persons referred to in paragraph 2 of this Article.

Providing information at the request of the Agency

Article 141

(1) At the request of the Agency, the supervised entity shall provide or make available the documents, reports and information about all the circumstances that are relevant to the purposes of supervision or for the purpose of exercising other powers and implementing other measures conferred upon the Agency under this Act, the law governing the establishment and operation of the Agency and regulations made under these laws.

(2) The documents, reports and information referred to in paragraph 1 of this Article shall be provided to the Agency by the members of the board of directors, supervisory board members, procurators and other relevant persons of the supervised entity.

(3) The Agency shall be authorised to request the persons referred to in paragraph 2 of this Article to submit a written statement on the circumstances referred to in paragraph 1 of this Article or may invite them to make an oral statement on these circumstances.

Notification of an on-site supervision

Article 142

(1) Before the beginning of an on-site supervision, the supervised entity shall be delivered a written notification of the on-site supervision containing at least the following information:

1. the subject matter of supervision;
2. information about the persons authorised to perform the supervision;
3. an indication of the place where the supervision will be carried out;
4. the date of the beginning of the supervision;
5. the period that will be covered by supervision.

(2) The notification referred to in paragraph 1 of this Article may also specify which information the supervised entity is required to prepare for authorised persons of the Agency for the purpose of carrying out the on-site supervision.

(3) During the on-site supervision, the Agency may supplement the notification of an on-site supervision. The provisions of paragraph 1 of this Article shall apply *mutatis mutandis* to the supplement to the notification of an on-site inspection.

(4) The notification of an on-site supervision shall be delivered to the supervised entity at least three days before the beginning of supervision.

(5) By way of derogation from the provision of paragraph 4 of this Article, an authorised person of the Agency may deliver the notification of an on-site supervision on the very day of beginning the on-site supervision, if supervision needs to be urgently carried out or if the purpose of supervision cannot be otherwise achieved.

On-site supervision of business operations

Article 143

(1) Following the receipt of a notification of an on-site supervision, the supervised entity shall enable an authorised person of the Agency to carry out the on-site supervision at the head office of the supervised entity and at other premises where the supervised entity itself, or any other entity authorised by it, performs activities and operations subject to supervision by the Agency.

(2) The supervised entity shall allow the authorised person of the Agency performing supervision to carry out an inspection of business books, business documents and administrative or business records and of the IT system and its supporting technologies, to the extent necessary to carry out the supervision.

(3) The supervised entity shall produce to the authorised person of the Agency performing supervision all the requested business documents, computer print-outs, copies of business books, phone call records and recordings, fax records, administrative or business records, in a paper form or in the form of an electronic record in the medium and format required by the authorised person. The supervised entity shall provide the authorised person with a standard

interface allowing access to the database management system it uses, for the purpose of conducting computer-aided supervision.

(4) The authorised persons of the Agency may, on giving a receipt, temporarily seize from the supervised entity the documents, print-outs, records and recordings referred to in paragraph 3 of this Article, financial instruments, cash or objects which can be used as evidence in criminal or minor offence proceedings, but only until the initiation of these proceedings, when they shall deliver them to the authority responsible for conducting these proceedings.

(5) The relevant persons of the supervised entity shall cooperate with the authorised person of the Agency, attend an interview with that person at his or her request and give him or her any information that is important for the performance of the supervision and for the fulfilling of the objectives of the supervision.

Conditions for carrying out an on-site supervision

Article 144

(1) The supervised entity shall provide an authorised person of the Agency with adequate premises where he or she can carry out an on-site supervision without disturbance and without the presence of other persons.

(2) At the request of an authorised person of the Agency, the supervised entity shall provide professional and technical support, give necessary clarifications and provide other conditions that are needed to carry out the supervision.

(3) The supervision of business operations referred to in paragraphs 1 and 2 of this Article shall be conducted by an authorised person of the Agency during the supervised entity's business hours. If it is necessary due to the extent or nature of operations, the supervised entity shall enable the authorised person of the Agency to carry out supervision also outside the business hours.

Inspection of an IT system

Article 145

(1) The supervised entity which uses an IT system in its operations shall, at the request of an authorised person of the Agency, provide conditions for the inspection of the IT system and make it possible to check whether the data processed using information technology are processed in an appropriate manner.

(2) The supervised entity shall, at the request of an authorised person of the Agency, submit documentation that provides a complete description of the functioning of the IT system. The documentation must provide a clear view of the components of the IT system. The documentation must enable the authorised person to gain an insight into:

1. software solutions;
2. procedures for data processing using IT technology;

3. controls ensuring appropriate data processing; and
4. controls ensuring data confidentiality, integrity and availability.

Completion of an on-site supervision

Article 146

- (1) After an on-site supervision is completed, a supervision report containing a detailed description of the established facts shall be prepared and delivered to the supervised entity. The board of directors of the supervised entity shall, without delay, submit the supervision report to the supervisory board or other appropriate supervision body of the pension insurance company.
- (2) The supervised entity is entitled to file a complaint against the received report within a period which shall not be shorter than 15 days from the day of receipt of the report.
- (3) By way of derogation from the provision of paragraph 2 of this Article, the Agency may set a period shorter than 15 days, where it is necessary in order to prevent potential material negative consequences for the Company, pension beneficiaries or third parties.
- (4) If supervision reveals no illegalities or irregularities that would require the imposition of an appropriate supervisory measure, or if they have been identified but corrected by the time the report is prepared, these findings shall be entered in the report.
- (5) In the cases referred to in paragraph 4 of this Article, the Agency shall issue a decision declaring that the supervision procedure has been completed.

Addendum to a report

Article 147

If a report identifies illegalities or irregularities which would require the imposition of an appropriate supervisory measure, but which are corrected after the report has been prepared and submitted to the supervised entity and before a decision imposing an appropriate supervisory measure has been issued, the Agency shall include this information in an addendum to the report and, if all the illegalities and irregularities have been corrected shall issue, after the expiration of the deadline for submission of observations, a decision confirming that the illegalities and irregularities identified in the report and its addendum have been corrected and that the supervision has been completed.

Content of observations on a report

Article 148

An objection to a report must include a statement of the circumstances from which it follows that the report is wrong in concluding that there are certain deficiencies, illegalities or irregularities. An objection to a report must be accompanied by appropriate evidence, if such evidence is available to the party concerned.

Off-site supervision of business operations

Article 149

(1) During an off-site supervision, an authorised person of the Agency shall:

1. verify whether the prescribed reports and other information have been submitted within the prescribed period and in the prescribed format;
2. verify whether the information contained in those reports and in other required documents is true, accurate and correct;
3. verify whether the supervised entity operates in accordance with the risk management legislation and in accordance with other regulations stipulated by this Act and regulations made under this Act, and other laws governing business operations of the supervised entity and regulations made under these laws;
4. examine and assess the financial stability and standing of the supervised entity and the risks to which the supervised entity is exposed or could be exposed in its operation.

(2) In examining and assessing the financial stability and position and in assessing the risks to which the supervised entity is exposed or could be exposed, the Agency shall take into account the nature, scale and complexity of the supervised entity's business.

Off-site supervision report

Article 150

(1) If deficiencies, illegalities and irregularities are identified in the operations of the supervised entity during an off-site supervision, an authorised person of the Agency shall prepare a report to that effect.

(2) The supervision report, containing a detailed description of the facts established during the supervision, shall be delivered to the supervised entity.

(3) The provisions of Articles 146 to 148 of this Act shall apply *mutatis mutandis* to off-site supervision reports.

(4) On the basis of the findings set out in the report referred to in this Article, the Agency shall be authorised to take all the supervisory measures as in the case of on-site supervision.

Supervisory measures

Article 151

(1) On the basis of the performed on-site or off-site supervision, the Agency may impose on the supervised entity the supervisory measures provided for in this Act.

(2) For the purposes of this Act, illegalities shall mean situations and procedures that are contrary to this Act, regulations made under this Act, other legislation and subordinate legislation and international acts and regulations.

(3) For the purposes of this Act, irregularities shall mean situations and procedures that are contrary to the supervised entity's own business policies and internal by-laws and the standards and rules of the profession, or these are not applied consistently, thus threatening business operations, especially as regards organisational requirements and risk management.

(4) When the Agency establishes that there are reasonable grounds to suspect that a criminal offence or misdemeanour has been committed, it shall report it, as appropriate, to the competent authority if it considers that it is justified and meaningful to do so.

Inappropriate influence by a member of the Company

Article 152

(1) Where the inappropriate influence exercised by a member of a Company is likely to operate against the sound and prudent management of the Company, the Agency is authorised to take appropriate measures to prevent such influence.

(2) The measures referred to in paragraph 1 of this Article shall include, in addition to appropriate supervisory measures, submission of a request to the competent court for imposition of interim measures related to the acquisition of voting rights attaching to the shares held by the members of the Company referred to in paragraph 1 of this Article.

Types of supervisory measures

Article 153

The Agency may impose on the Company the following supervisory measures, under the conditions prescribed by this Act:

1. recommendations to the board of directors of the Company;
2. a warning;
3. instruction to remedy illegalities and irregularities;
4. special supervisory measures;
5. revocation or withdrawal of authorisation for all or certain types of activities.

Recommendations to the board of directors of the Company

Article 154

(1) If during supervision and the examination and assessment of the financial stability and standing of the Company and the examination and assessment of risks to which the Company is or could be exposed in its operation, the Agency establishes weaknesses, deficiencies, faults

and irregularities which do not constitute a breach of this Act or regulations made under this Act and other laws governing the operations of the Company and regulations made under those laws, or if the Agency considers it necessary that the Company takes measures and actions to improve its operation, financial stability and standing and to reduce risks to which it is or could be exposed in its operation, the Agency shall give recommendations to the board of directors of the Company.

(2) The recommendations shall specify the identified and assessed material risks and problems to which the Company is or could be exposed, i.e. the identified weaknesses, deficiencies, faults and irregularities which do not constitute a breach of the provisions of this Act, and shall contain the guidelines for the Company's board of directors to follow in order to remedy them and to improve the Company's operation, financial stability and standing, and to reduce the risks to which the Company is or could be exposed in its business operations.

(3) The Company's board of directors shall submit to the Agency the plan, time limits and schedule for acting on the Agency's recommendations.

(4) In order to verify whether the operation, financial stability and standing have been improved and whether the risks to which the Company is or could be exposed in its operation have been reduced, the Agency may perform another supervision of the Company.

Warning

Article 155

(1) Where, in the course of supervision, the Agency identifies illegalities or irregularities, and the nature and scope of the identified illegalities or irregularities do not have a material impact and consequences on business operations of the Company, on the market or on pension beneficiaries, the Agency may issue a warning to the Company.

(2) The Agency may publicly disclose the warning.

(3) The Agency's warning may also contain an order to the Company to remedy the identified illegalities or irregularities, the time limits within which the Company is required to comply, and the frequency of reporting to the Agency on the actions and activities carried out.

(4) If the Company fails to comply with the Agency's order referred to in paragraph 3 of this Article within the time limit set in paragraph 3 of this Article, the Agency shall issue a decision to remedy the identified illegalities and irregularities.

(5) The Agency shall be authorised to perform another supervision of the Company to the extent necessary to determine whether the Company has acted in accordance with the Agency's order referred to in paragraph 3 of this Article and whether the identified illegalities and irregularities have been corrected in the appropriate manner and to the appropriate extent.

Correction of identified illegalities and irregularities

Article 156

(1) Where, in the course of supervision, the Agency identifies illegalities or irregularities, it shall issue a decision ordering the Company to take measures to correct the identified illegalities or irregularities or to stop acting in a way that constitutes a breach of the provisions of this Act or regulations made under this Act and of other laws governing the operation of supervised entities and regulations adopted under those laws.

(2) In the decision referred to in paragraph 1 of this Article, the Agency shall specify the time limits within which the Company must correct the identified illegalities or irregularities.

Company's report with an opinion of a certified auditor

Article 157

Where, in the course of supervision, the Agency identifies illegalities or irregularities relating to the keeping of business books and other business documents that the Company is required to keep pursuant to the provisions of this Act, regulations made under to this Act or other laws governing the operations of the Company and regulations made under those laws, or where it finds other major illegalities, it may order the Company to submit a report on the correction of the illegalities or irregularities, which must be accompanied by an auditor's opinion clearly indicating whether the illegalities and irregularities have been corrected.

Report on the correction of illegalities and irregularities

Article 158

(1) The Company shall correct the identified illegalities or irregularities and shall submit a report to the Agency on the measures taken for their correction, within the time limit set by the Agency.

(2) The Company shall enclose with the report referred to in paragraph 1 of this Article the documents and other evidence showing whether the identified illegalities or irregularities have been eliminated.

(3) Where the report referred to in paragraph 1 of this Article is not complete or the enclosed documents do not show that the illegalities have been corrected, the Agency shall order that the report be supplemented and shall specify the time limit within which the report must be supplemented.

(4) If, within 60 days of submission of the report, the Agency does not order that the report referred to in paragraph 3 of this Article be supplemented, it shall be considered that the illegalities or irregularities have been corrected.

Decision confirming that illegalities or irregularities have been corrected

Article 159

(1) If the Agency concludes, based on the report referred to in Article 158 of this Act, the enclosed documents and other evidence, that the identified illegalities or irregularities have been corrected, it shall issue a decision confirming that the illegalities or irregularities have been corrected.

(2) Before issuing the decision referred to in paragraph 1 of this Article, the Agency may perform another supervision of the Company or the supervised entity to the extent necessary to determine whether the identified illegalities or irregularities have been corrected in the appropriate manner and to the appropriate extent.

Special supervisory measures

Article 160

(1) The Agency is authorised to impose on a Company special supervisory measures referred to in paragraph 2 of this Article in the following cases:

1. if the Company has failed to act in accordance with the Agency's decision referred to in Article 156 of this Act ordering the measures to correct illegalities and irregularities;
2. if the Company has not set up, does not implement or fails to regularly maintain the organisational, technical, human resource or other operating conditions prescribed by the provisions of Title V of this Act or by ordinances specifying these conditions in more detail;
3. if the Company's capital is less than the required minimum set forth in Article 80 or Article 81 of this Act;
4. if the Company does not comply with the provisions of this Act relating to the financial management of the Company and risk management;
5. in all other cases where deemed necessary by the Agency.

(2) If circumstances referred to in paragraph 1 of this Article arise, the Agency may impose the following special supervisory measures:

1. order the Company to increase its capital to the level provided for in Article 80 or Article 81 of this Act;
2. order the Company's supervisory board or another supervisory body of a pension insurance company to dismiss a member of the board of directors and/or to appoint a new member of the board of directors;
3. order the Company to convene the general meeting and propose appropriate solutions, such as increase of capital, dismissal of a member of the supervisory board and/or appointment of a new member of the supervisory board;
4. temporarily prohibit the Company from entering into transactions with individual shareholders, members of the board of directors, members of the supervisory board, procurators and companies that are linked to the Company by close links;
5. order the Company to put in place, implement and improve the organisational, technical, human resource and other conditions for the operation of the Company prescribed by the provisions of Title V of this Act or by ordinances specifying these conditions in more detail;
6. order the Company to improve its risk management strategies, policies and processes;

7. order the Company to reduce in its future operations the risks inherent in the business of the Company;

8. order the Company to reduce its operating costs, including restrictions on salaries and other remuneration of the members of the board of directors, members of the supervisory board, procurators and employees of the Company;

9. order the supervisory board of the Company to appoint appropriate committees for specific areas of business falling within the competence of the supervisory board;

10. order the Company to change, reduce or stop performing a certain activity for which the Agency establishes that it has caused significant losses or that poses a major risk for the Company;

11. order the Company other proportionate measures that are necessary in order for the Company to operate in accordance with the provisions of this Act and other laws governing the operations of the Company and regulations made under those laws;

(3) In the decision referred to in paragraph 2 of this Article, the Agency shall set an appropriate deadline for taking the measures referred to in paragraph 2 of this Article.

(4) The Company shall submit to the Agency a report on the implementation of the ordered measures referred to in paragraph 2 of this Article, to which the provisions of Article 157 and paragraphs 1 to 3 of Article 158 shall apply *mutatis mutandis*.

Article 161

If the adoption of the measures referred to in Article 160 of this Act is necessary to protect pension beneficiaries or the public interests, and these measures cannot be postponed and the facts on which the measure is based have been ascertained or at least made probable, the Agency may decide on them directly pursuant to the provisions of the General Administrative Procedure Act.

Withdrawal or revocation of authorisation to conduct business

Article 162

(1) The Agency may issue a decision withdrawing or revoking an authorisation to conduct business granted to the Company:

1. if the authorisation was obtained on the basis of false, incorrect, withheld or misleading information or in any other fraudulent manner;

2. if the Company no longer fulfils the conditions on the basis of which the authorisation was granted;

3. if the Agency assesses that the Company's operations are not be conducted with due skill, care and diligence and in accordance with sound business practice;

4. if the Company has seriously or systematically violated the provisions of this Act or the regulations made under this Act;
5. if the Company does not maintain the capital referred to in Article 80 of this Act;
6. if the Company has failed to act in accordance with the Agency's decision ordering measures to correct illegalities or irregularities referred to in Article 156 of this Act or special supervisory measures referred to in Article 160 of this Act;
7. if the Company violates the provisions concerning timely and accurate reporting to the Agency on more than two occasions in the period of three years, or in some other way prevents the Agency from exercising supervision of its operations;
8. if the Company carries out its activities in a manner which may worsen or jeopardise its liquidity or solvency;
9. if the Company has not organised its operation or does not keep business books or administrative and other business documentation in such a manner that it is at all times possible to verify whether the Company carries out its activities in accordance with risk management regulations and rules, or in accordance with the provisions of this Act and regulations made under this Act and other legislation it must comply with;
10. if the Company systematically and/or seriously violates the organisational, technical, human resource or other operating conditions laid down in Articles 49 to 58 of this Act or in an Agency's ordinance specifying these conditions in more detail;
11. if a reason to revoke the authorisation pursuant to other provisions of this Act arises;
12. if the Company does not commence its activities within one year of the issue of authorisation, on the date of expiry of that period;
13. if the Company fails to apply for registration in the court register within the time limit set in paragraph 2 of Article 15 of this Act, on the date of expiry of that time limit.

(2) The Agency shall, without delay, notify the Company and the competent commercial court of the withdrawal or revocation of the Company's authorisation, stating the reasons for the withdrawal or revocation of the authorisation, and if the Company carries out the activities referred to in item 3 of paragraph 1 of Article 9 of this Act the Agency shall also notify EIOPA within 15 days.

(3) The founders of the Company or the Company itself may re-apply for authorisation in accordance with the provisions of this Act only after a period of one year has passed from the date of enforceability of the decision on the withdrawal or revocation of the authorisation.

Responsibility of the Agency to supervise the operation of a pension insurance company from another Member State and its branch in the Republic of Croatia

(1) The Agency shall be responsible for supervising a pension insurance company from another Member State with respect to activities it directly provides or carries out in the Republic of Croatia and a branch of a pension insurance company from another Member State, to the extent provided for in this Act and regulations made under this Act.

(2) The Agency shall be responsible for supervising a pension insurance company from another Member State which operates in the Republic of Croatia through a branch, with respect to compliance with the requirements referred to in Article 48 of this Act.

Powers of the competent authority in supervising the operation of a branch of a pension insurance company from another Member State

Article 164

(1) If a pension insurance company from another Member State operates through a branch within the territory of the Republic of Croatia, the competent authority of the Member State may do the following on the territory of the Republic of Croatia:

1. carry out an on-site supervision on its own or through a person it authorised, after submitting a prior notification to the Agency, or

2. request the Agency to carry out an on-site supervision of the operation of the branch of the pension insurance company from another Member State within the territory of the Republic of Croatia.

(2) By way of derogation from paragraph 1 of this Article, the Agency is authorised to carry out an on-site supervision of a branch of a pension insurance company from another Member State for the purpose of protecting the interests of pension beneficiaries and for the purpose of protecting public interest.

(3) The competent authority of the Member State is authorised to participate in on-site supervision referred to in paragraphs 1 and 2 of this Article, irrespective of who performs the on-site supervision of the operation of the branch.

Powers of the Agency in supervising a pension insurance company from another Member State

Article 165

(1) If the Agency finds that a pension insurance company from another Member State that directly provides services in the Republic of Croatia acts contrary to the provisions of this Act, regulations made under this Act, other laws governing the operation of the supervised entity and regulations made under those laws, or if a pension insurance company from another Member State operating through a branch in the Republic of Croatia acts contrary to the provisions of this Act, ordinances issued pursuant to this Act, other laws governing the operation of the supervised entity and regulations made under those laws, on account of which the supervisory measures referred to in Article 153 of this Act could be imposed, the Agency shall require the pension insurance company to correct the identified illegalities or irregularities and to provide to the Agency proof to that effect within a specified time limit.

(2) If the pension insurance company from another Member State referred to in paragraph 1 of this Article fails to correct the identified illegalities or irregularities and provide proof to that effect to the Agency within the time limit specified by the Agency, the Agency shall notify thereof the competent authority of the Member State.

(3) If, within 60 days from the receipt of the notification referred to in paragraph 2 of this Article, the competent authority of the Member State fails to take any measures or if such measures are inadequate so that the pension insurance company from another Member State persists in breaching the provisions of this Act, the Agency shall notify the competent authority of the Member State of the measures the Agency will take in order to prevent the pension insurance company from another Member State from further breaching the provisions of this Act.

(4) Following the submission of the notification referred to in paragraph 3 of this Article to the competent authority of the Member State, the Agency shall impose supervisory measures, within the scope of its authority, on the pension insurance company from another Member State referred to in paragraph 1 of this Article.

(5) If despite the measures referred to in paragraph 4 of this Article, the pension insurance company from another Member State continues to breach the provisions of this Act, the Agency shall issue a decision prohibiting the pension insurance company from another Member State from operating in the territory of the Republic of Croatia and, if the pension insurance company from another Member State carries out the activities referred to in item 3 of paragraph 1 of Article 9 of this Act, the Agency shall notify thereof the competent authority of the Member State and EIOPA.

(6) For statistical purposes, the Agency may require all the pension insurance companies from other Member States that have established a branch in the territory of the Republic of Croatia to present periodic reports on the activities of these branches.

(7) For the purpose of exercising its duties, the Agency may require a pension insurance company from another Member State to submit the data necessary for supervision.

(8) Before following the procedure laid down in paragraphs 1 to 4 of this Article, the Agency may, in emergency situations, impose measures necessary to protect the interests of pension beneficiaries or the public interest. In that case, the Agency shall, at the earliest opportunity, notify EIOPA and the competent authorities of the Member States concerned of the measures imposed.

Actions to be taken by the Agency when the authorisation of the competent authority of another Member State has been revoked

Article 166

When the competent authority of a Member State notifies the Agency that the authorisation granted to a pension insurance company from another Member State that carries out the activities referred to in item 3 of paragraph 1 of Article 9 of this Act in the territory of the Republic of Croatia has been revoked, in total or in relation to certain activities, the Agency may take appropriate measures to protect the interests of pension beneficiaries, including,

among other things, a prohibition to enter into transactions or a prohibition to offer pension schemes in the territory of the Republic of Croatia.

Powers of the Agency in supervising legal persons offering pension schemes and other persons

Article 167

(1) The Agency shall be responsible for supervising legal persons offering pension schemes referred to in Articles 120 to 124 of this Act, to the same extent as in the case of a Company.

(2) When the Agency performs supervision of legal persons offering pension schemes, the Company which has concluded an agreement referred to in Article 120 of this Act with those persons shall provide to the Agency all the information necessary for supervision.

(3) The Agency shall perform the supervision referred to in paragraph 1 of this Article by examining business documents and other documentation, print-outs, records and recordings referred to in paragraph 3 of Article 143 of this Act, and is authorised to temporarily seize them in accordance with paragraph 4 of Article 143 of this Act to the extent they relate to the offering of pension schemes, as well as by taking statements from members of the board of directors and other relevant persons of the supervised entity and from the supervisory board members and procurators, where applicable.

(4) The Agency may order a legal person offering pension schemes to take measures for correcting the identified illegalities and irregularities, in which case the provisions of Articles 156, 158 and 159 of this Act shall apply *mutatis mutandis*.

(5) The Agency may order the Company to terminate or cancel the business cooperation agreement concluded with a legal person offering pension schemes.

(6) The Agency shall be responsible for supervising legal persons offering pensions schemes of Companies referred to in Article 138, paragraph 5, item 1 of this Act or branches of Companies referred to in Article 138, paragraph 5, item 2 of this Act, to the same extent as in the case of Companies and in accordance with paragraphs 2 to 5 of this Article.

(7) The Agency is authorised to supervise other persons who carry out the activities of a Company in the Republic of Croatia without an authorisation provided for by the provisions of Article 15 of this Act, and to supervise persons who offer pension schemes in the Republic of Croatia without having a business cooperation agreement provided for in Article 120, paragraph 1 of this Act.

PART III

SPECIAL ADMINISTRATION

Decision on a special administration

Article 168

(1) The Agency may issue a decision on a special administration in the following cases:

1. if the Company has been ordered to implement special supervisory measures referred to in Article 160 of this Act, and the Company has neither begun implementing nor has implemented these measures within the time limits set for their implementation;

2. if the Company, despite the implementation of special supervisory measures, has not reached the solvency margin referred to in Article 80 of this Act;

3. if the Company's continued operation could jeopardise its liquidity or solvency or the security of pension beneficiaries.

(2) In its decision appointing a special administration, the Agency shall determine the term of office of the special administration.

Members of a special administration

Article 169

In its decision appointing a special administration, the Agency shall appoint two or more special administrators, who shall be members of the special administration of the Company, and shall define the type and scope of duties to be performed by each special administrator.

Registration in the court register

Article 170

(1) The Agency shall issue a decision appointing a special administration, which shall be registered in the court register.

(2) A proposal for the registration of the data referred to in paragraph 1 of this Article shall be submitted by the special administration within three days of the receipt of the decision. The Agency's decision appointing the special administration shall be enclosed with the proposal.

Legal consequences of a special administration

Article 171

(1) During the term of office of the special administration, the competences of the supervisory board shall be transferred to the Agency.

(2) By way of derogation from the provisions of paragraph 1 of this Article, the Agency shall be entitled to give binding instructions to the special administrator on the reorganisation and management of the Company's business. The Agency shall revoke the appointment of the special administrator if he or she fails to act in accordance with these instructions and with the provisions of this Act.

(3) The special administrator shall assume the responsibilities of a member of the Company's board of directors, unless otherwise specified by the Agency in the instructions referred to in paragraph 2 of this Article.

(4) As of the date of issue of the decision appointing the special administration, all the responsibilities and competences of the members of the board of directors and of the supervisory board of the Company, as well as the competences of the general meeting, shall terminate, except for the competences referred to in Article 174 and Article 175, paragraph 4 of this Act.

(5) The decision appointing the special administration shall repeal the decisions granting approval for the performance of the function of a member of the board of directors in respect of persons serving as members of the Company's board of directors until the appointment of the special administration.

Powers of the special administration during its term of office

Article 172

(1) Persons who performed the function of a member of the Company's board of directors until the appointment of the special administration shall immediately allow the special administration access to all business records and other documents of the Company and prepare a report on the handover of duties.

(2) The persons referred to in paragraph 1 of this Article shall, upon request by the special administration or an individual special administrator, provide all the explanations and additional reports on the operations of the Company.

(3) The special administrators shall be entitled to dismiss a person who obstructs their work and, as appropriate, ask for the assistance of the competent authorities in charge of internal affairs.

Reports of the special administration

Article 173

(1) The special administration shall, at least every three months, prepare and submit to the Agency a report on the financial position and operating conditions of the Company placed under special administration.

(2) Within nine months of the appointment of the special administration, the special administration shall submit to the Agency a report on the financial position and operating conditions of the Company placed under special administration, together with an evaluation of the Company's stability and of the prospects for further operation, which shall include:

1. an evaluation and the consequences of the takeover of the losses of the Company by its shareholders;
2. the possibilities of allocation and spread of other losses of the Company;
3. any contingent expenditure which may have impact on the liabilities of the Company;

4. an evaluation of possible measures for eliminating financial difficulties of the Company, including the transfer of pension contracts along with an assessment of costs arising from the implementation of these measures;
5. an assessment of the conditions for initiating the compulsory winding-up or bankruptcy of the Company.

Increasing the share capital for the purpose of ensuring the financial stability of a Company

Article 174

- (1) If the Agency assesses, on the basis of the report of the special administration referred to in Article 173 of this Act, that, for the purpose of ensuring the minimum capital of the Company or for the purpose of eliminating the causes of illiquidity or insolvency of the Company, the share capital of the Company should be increased by means of new capital contributions, it shall order the special administration to convene a general meeting of the Company and propose adoption of a decision on such an increase in the share capital.
- (2) The special administration shall call the general meeting for the purpose of deciding on the increase in the share capital in accordance with paragraph 1 of this Article not later than eight days following the receipt of the Agency's order referred to in paragraph 1 of this Article.
- (3) In the invitation to the general meeting, the attention of shareholders must be drawn to the legal consequences referred to in Article 181, paragraph 1, item 2 of this Act.

Evaluation of the results of the special administration

Article 175

- (1) The Agency shall, at least once in three months, evaluate the results of the special administration.
- (2) The Agency shall adopt the final evaluation of the special administration's results not later than three months following the receipt of the report referred to in Article 173, paragraph 2 of this Act.
- (3) If the Agency assesses that the financial position of the Company has improved during the term of office of the special administration to such an extent that the Company has reached the solvency margin referred to in Article 80 of this Act and that it is capable of meeting its commitments on time, the Agency shall issue a decision ordering the special administration to call, within eight days of delivery of the decision, a general meeting of the Company, which must be held not later than two months after the delivery of the decision.
- (4) In the case referred to in paragraph 3 of this Article, the general meeting shall elect a supervisory board, whereby the powers of the Agency referred to in Article 171 of this Article shall terminate. After obtaining the approval referred to in Article 41 of this Act, the supervisory board shall appoint the board of directors of the Company. The powers of the special administration shall terminate on the date of the appointment of the Company's board of directors.

(5) If the Agency assesses that during the term of office of the special administration the financial position of the Company has not improved enough for the Company to reach the solvency margin referred to in Article 80 of this Act and to be capable of meeting its commitments, the Agency shall issue a decision extending the term of office of the special administration by a maximum period of six months if the reasons for filing a proposal for the opening of bankruptcy proceedings against the Company do not exist and if the Agency assesses that the Company will be able to reach, within the next six months, the solvency margin referred to in Article 80 of this Act. If the Agency does not issue such a decision, it shall issue a decision revoking the authorisation, and if there are grounds for bankruptcy it shall file a proposal for the opening of bankruptcy proceedings.

TITLE XII

WINDING-UP OF A COMPANY

PART I

VOLUNTARY WINDING-UP OF A COMPANY

Decision of the general meeting to initiate winding-up proceedings

Article 176

- (1) A general meeting may be convened and a decision on the dissolution of the Company, or a decision on a change of activities in such a way that the Company no longer carries out the activities referred to in Article 9 of this Act, may be adopted at the meeting only subject to the prior approval of the Agency.
- (2) Before convening a general meeting, the board of directors and the supervisory board of the Company shall apply to the Agency for the approval referred to in paragraph 1 of this Article.
- (3) The Agency shall take a decision on the application referred to in paragraph 1 of this Article within 30 days of the date of receipt of the application.
- (4) If the Agency refuses to give its approval within the time limit specified in paragraph 3 of this Article, the general meeting may not adopt a decision on the dissolution of the Company or a decision on the changing of activities in such a way that the Company no longer carries out the activities referred to in Article 9 of this Act.
- (5) If the Agency does not take a decision on the application within the time limit specified in paragraph 3 of this Article, it shall be deemed that approval has been granted.
- (6) If the general meeting adopts a decision contrary to paragraph 1 and paragraph 5 of this Article, such decision shall not produce legal effects and shall not be entered in the court register.
- (7) The Agency shall notify EIOPA of the granting of approval for the decision referred to in paragraph 1 of this Article.

Liquidator of a Company

Article 177

- (1) Only a natural person meeting the requirements for the appointment of a member of the board of directors of a Company, as laid down to in Article 38 of this Act, may be appointed as a liquidator of a Company.
- (2) A Company shall have at least two liquidators who jointly represent it.

Restrictions applicable to the authorisation

Article 178

- (1) The board of directors or liquidators of a Company shall notify the Agency of the decision referred to in Article 176, paragraph 1 of this Act the following business day after the date the decision was adopted.
- (2) On the basis of the notification referred to in paragraph 1 of this Article, the Agency shall issue a decision to:
 1. restrict the validity of the authorisation to the activities required for the conduct of winding-up proceedings concerning the Company;
 2. determine to what extent the risk mitigation rules shall apply to the Company undergoing winding-up proceedings.
- (3) After the winding-up proceedings have been opened, the Company may continue to carry out only the activities specified in the decision referred to in paragraph 2 of this Article and activities that are necessary for the transfer of portfolio to another entity.
- (4) If the decision referred to in paragraph 2 of this Article relates to a Company that has a branch in a Member State, the Agency shall, prior to the issue of the decision, notify the competent authority of the Member State of the European Economic Area.
- (5) The notification referred to in paragraph 4 above must include legal consequences and actual effects of the adopted decision.
- (6) Where, for the purpose of safeguarding the interests of pension beneficiaries or the public interest, it is not possible to delay the adoption of the decision referred to in paragraph 4 of this Article, the Agency shall notify the competent authority immediately after the decision is adopted.

Obligations of the liquidators of a Company

Article 179

If liquidators have established the existence of reasons for bankruptcy, they shall without delay file a proposal for the opening of bankruptcy proceedings and shall forthwith notify the Agency thereof.

Renewal of authorisation to conduct business

Article 180

- (1) If the general meeting of a Company decides that the Company shall continue its operations, the Company may resume the activities referred to in Article 9 of this Act only if it regains the authorisation to conduct business granted by the Agency.
- (2) The application for the entry into the court register of the decision referred to in paragraph 1 of this Article shall be accompanied by the new authorisation to conduct business issued by the Agency.

PART II

COMPULSORY WINDING-UP OF A COMPANY

Reasons for the opening of compulsory winding-up proceedings

Article 181

(1) In addition to the cases specified in Article 162 of this Act, the Agency shall also issue a decision revoking the Company's authorisation to conduct business in the following cases:

1. if, on the basis of the report referred to in Article 173, paragraph 2 of this Act, it assesses that, during the term of office of the special administration, the financial position did not improve to the extent that the Company reaches the solvency margin specified in Article 80 of this Act and that there are no reasons for the submission of a proposal for the opening of bankruptcy proceedings;
2. if the general meeting of the Company convened under Article 174 of this Act refuses to adopt a decision on increase in the share capital of the Company or if it adopts it, but the first sale of shares is not successful.

(2) The Agency shall issue a decision revoking the Company's authorisation to conduct business within a period of eight days, which shall run:

1. in the case referred to in paragraph 1, item 1 of this Article, from the date of expiry of the time limit for the acceptance of the final report on the evaluation of the special administration's results, as referred to in Article 175, paragraph 2 of this Act;
2. in the case referred to in paragraph 1, item 2 of this Article, from the day when the general meeting rejected the proposed decision referred to in Article 174, paragraph 1 of this Act or from the date of expiry of the time limit for the subscription and payment of shares on the basis of the unsuccessful first sale.

Compulsory winding-up of a branch of a foreign Company

Article 182

(1) Prior to issuing a decision to revoke an authorisation to conduct business granted to a branch of a foreign Company, the Agency shall notify all competent authorities of the Member States in which the Company whose branch is subject to winding-up proceedings has branches.

(2) The notification referred to in paragraph 1 of this Article shall include information on legal consequences and actual effects of such proceedings.

(3) By way of derogation from the provisions of paragraph 1 of this Article, where, for the purpose of safeguarding the interests of pension beneficiaries, it is not possible to postpone the opening of the compulsory winding-up proceedings, the Agency shall notify the competent authority of the Member State concerned immediately after the decision is adopted.

(4) In the course of the compulsory winding-up proceedings referred to in paragraph 1 of this Article, the Agency shall co-operate with the competent authorities of other Member States.

(5) In the course of the compulsory winding-up proceedings referred to in paragraph 1 of this Article, the liquidators shall cooperate and shall provide each other with all legally permitted notifications that may be of relevance in conducting winding-up proceedings.

Notification to be sent to the competent authorities of Member States concerning the opening of compulsory winding-up proceedings

Article 183

(1) Compulsory winding-up proceedings in respect of a Company with a head office in the Republic of Croatia which has a branch in another Member State of the European Economic Area shall fall within exclusive competence of the Agency.

(2) When the Agency issues a decision revoking an authorisation granted to a Company, it shall without delay notify thereof the competent authority of the Member State in which the Company has a branch.

(3) Compulsory winding-up proceedings in respect of a Company with a head office in the Republic of Croatia which has a branch in another Member State shall be governed by legal provisions of the Republic of Croatia.

Effectiveness of a decision on dissolution of a Company

Article 184

A decision withdrawing the authorisation to conduct business granted to a pension insurance company from another Member State having a branch in the Republic of Croatia, which is issued by the competent authority of the Member State, shall have the same legal effect as a decision revoking a Company's authorisation pursuant to this Act, and shall have a direct effect in the territory of the Republic of Croatia and the Member State without any special procedure being required for its recognition and enforcement.

Publication of an extract from the decision to open compulsory winding-up proceedings in the Official Journal of the European Union and the European Economic Area

Article 185

The Agency shall publish in the Official Gazette of the Republic of Croatia a decision revoking an authorisation to conduct business granted to a Company which has a head office in the Republic of Croatia and a branch in another Member State, and shall publish an extract from that decision in the Official Journal of the European Union and the European Economic Area. The same procedure shall be followed by the competent authority of a Member State in the case of withdrawal of an authorisation to conduct business granted to a pension insurance company which has a head office in the Member State concerned and a branch in the Republic of Croatia.

Information to known creditors on the opening of compulsory winding-up proceedings

Article 186

(1) When compulsory winding-up proceedings are opened in respect of a Company which has its head office in the Republic of Croatia and a branch in a Member State, the liquidators shall give notice thereof to all known creditors of the Company who have their head office or address in the territory of the Member States.

(2) The notice referred to in paragraph 1 of this Article must indicate:

- the name and address of the authority which will conduct the compulsory winding-up proceedings and of the authority to which claims are to be lodged;
- the time limit for lodging claims and legal consequences of a failure on the part of the creditor to lodge claims;
- the rights and duties of creditors in the course of compulsory winding-up proceedings, in particular, the indication as to whether creditors whose claims are preferential or secured *in rem* need to lodge their claims;
- the effects of the opening of compulsory winding-up proceedings on the pension contracts, in particular, the date on which the pension contracts will cease to produce effects and the rights and duties of pension beneficiaries and the Company.

(3) Liquidators of a Company that has a head office in a Member State and a branch in the Republic of Croatia shall comply with the provisions of paragraphs 1 and 2 of this Article.

Lodging of claims by creditors

Article 187

A creditor shall lodge his claims against the liquidation estate in the official language of the Member State in which the creditor has his residence or head office.

Provisions applicable to bankruptcy proceedings

Article 188

(1) In the case of opening bankruptcy proceedings in respect of a Company which has a branch in a Member State, the provisions of Articles 182, 184, 185 and 187 of this Act shall apply *mutatis mutandis*.

(2) An extract from the decision to open bankruptcy proceedings shall be published in the Official Journal of the European Union and the European Economic Area.

Liquidator

Article 189

By virtue of a decision to revoke authorisation to conduct business of a Company, the Agency shall appoint two or more liquidators and define the type and scope of tasks to be performed by each liquidator.

Legal consequences of compulsory winding-up

Article 190

(1) As of the date of enforceability of the decision revoking the authorisation to conduct business, all the powers and responsibilities of the members of the board of directors and of the members of the supervisory board of the Company, as well as the powers of the general meeting shall terminate, except for the power to bring an action before the competent administrative court against the decision of the Agency referred to in Article 181 of this Act.

(2) In the course of compulsory winding-up proceedings, the competences of the supervisory board of the Company and those of the general meeting, except for the competences referred to in paragraph 1 of this Article, shall be transferred to the Agency.

Compulsory winding-up proceedings

Article 191

Unless otherwise provided for by the provisions of this Act, the provisions governing the winding-up of companies that are contained in the law governing the establishment and operation of companies shall apply *mutatis mutandis* to compulsory winding-up proceedings.

Prohibition of making new business deals

Article 192

In the course of compulsory winding-up proceedings, the Company may not make any new business deals except for those which are necessary for the realisation of assets in liquidation and those necessary for the transfer of the portfolio of pension contracts to another entity.

Occurrence of the reasons for bankruptcy

Article 193

If liquidators have established the existence of reasons for bankruptcy, they shall without delay file a proposal for the opening of bankruptcy proceedings and shall forthwith notify the Agency thereof.

TITLE XIII

BANKRUPTCY

Provisions applicable to bankruptcy proceedings

Article 194

Unless otherwise provided for in this Act, the provisions of the law governing bankruptcy of companies shall apply to the bankruptcy proceedings in respect of a Company.

Reasons for bankruptcy

Article 195

The Agency shall submit a proposal for the opening of bankruptcy proceedings in the following cases:

1. if, on the basis of the report referred to in Article 173, paragraph 2 of this Act, it assesses that during the term of office of the special administration the financial position of the Company has not improved and that the Company is unable to meet its due current liabilities;
2. if, in exercising supervision of the Company, it establishes any of the reasons for bankruptcy defined by law.

Information to the Agency

Article 196

A decision on the suspension of bankruptcy proceedings, as well as a decision on the closure of bankruptcy proceedings against a Company shall be submitted to the Agency by the competent court.

Exclusion from the bankruptcy estate and claims of higher payment priority

Article 197

(1) Assets covering technical provisions in respect of pension contracts shall be excluded from the bankruptcy estate.

(2) Claims of the first higher payment rank shall include, in addition to the claims specified in the law governing bankruptcy proceedings, claims under pension contracts, which could not be paid out of the assets covering technical provisions.

TITLE XIV

COOPERATION WITH OTHER COMPETENT AUTHORITIES

Cooperation with other supervisory authorities of the Republic of Croatia

Article 198

(1) The Agency and other supervisory authorities of the Republic of Croatia responsible for the supervision and monitoring of supervised entities as provided for in this Act shall, at the request of a supervisory authority, submit to that authority all information on supervised entities necessary to conduct supervision and monitoring.

(2) Supervisory authorities shall inform each other on irregularities and other circumstances established by them, where such findings are relevant to the work of other supervisory authorities.

Cooperation with the competent authorities of Member States and reporting to EIOPA

Article 199

(1) The Agency shall cooperate with the competent authorities of Member States with a view to exchanging information and developing best practices in the sphere of labour and social legislation in order to prevent distortions of competition and create the conditions required for the unhindered pursuit of activities referred to in Article 11 of this Act in Member States.

(2) The Agency shall notify EIOPA of the provisions of legislation of prudential nature relevant to the field of pension schemes, which are not covered by the legislation referred to in paragraph 1 of this Article.

(3) The Agency shall update the information referred to in paragraph 2 of this Article on a regular basis and at least every two years, and shall notify EIOPA of any change that occurs.

(4) The Agency shall cooperate with EIOPA for the purposes of implementing Directive 2003/41/EC, in accordance with Commission Regulation (EU) No 1094/2010.

(5) The Agency shall cooperate with the European Commission and the competent authorities of Member States with a view to facilitating supervision of pension insurance companies.

(6) The Agency shall without delay provide EIOPA with all information necessary to carry out its duties under Directive 2003/41/EC and under Commission Regulation (EU) No 1094/2010, in accordance with Article 35 of that Regulation.

(7) The Agency shall inform the European Commission and EIOPA of any major difficulties that arise in relation to the implementation of Directive 2003/41/EC and shall, in cooperation

with the European Commission and EIOPA, examine such difficulties as quickly as possible in order to find an appropriate solution.

The deadline for revoking a decision and the right to legal remedy

Article 200

(1) The Agency may always, without a time limit, issue a decision revoking, in accordance with the provisions of this Act, a decision that it has previously issued.

(2) No appeal is allowed against decisions adopted by the Agency in respect of administrative matters falling within its competence, but an administrative dispute may be initiated against such decisions.

TITLE XV

PENAL PROVISIONS

Serious misdemeanours committed by a pension insurance company

Article 201

(1) A pension insurance company shall be guilty of a misdemeanour and shall be fined a sum between HRK 200 000.00 and HRK 500 000.00 if:

1. it acts contrary to the provision of Article 5, paragraph 2 or paragraph 3 of this Act;
2. with regard to the share capital, it fails to act in accordance with the provisions of Article 7 of this Act;
3. it carries out its activities contrary to the provisions of Article 18 of this Act;
4. with regard to changes in its status, it fails to act in accordance with the provisions of Article 25 of this Act;
5. with regard to the actuarial function, it fails to act in accordance with the provisions of Article 53 of this Act;
6. with regard to the appointment and/or dismissal of a certified actuary, it fails to act in accordance with the provisions of Article 54 of this Act;
7. with regard to the adjustment of business, it fails to take measures in accordance with the provision of Article 56, paragraph 5 of this Act;
8. when calculating capital, it acts contrary to the provision of Article 75, paragraph 1 of this Act;
9. when calculating the core capital, it acts contrary to the provisions of Article 76 of this Act;

10. when calculating the supplementary capital, it acts contrary to the provisions of Article 77 of this Act;

11. with regard to deduction items in the calculation of capital, it acts contrary to the provisions of Article 78 of this Act;

12. with regard to the solvency margin, it acts contrary to the provisions of Article 79 of this Act;

13. it fails to maintain its capital in accordance with the provision of Article 80 of this Act;

14. with regard to the guarantee fund, it acts contrary to the provisions of Article 81 of this Act;

15. with regard to securing the required solvency margin, it fails to take measures in accordance with the provisions of Article 82 of this Act;

16. with regard to technical provisions, it fails to act in accordance with the provisions of Article 84 of this Act;

17. with regard to technical provisions, it fails to act in accordance with the provisions of Article 85 of this Act;

18. with regard to a shortfall in assets covering technical provisions, it fails to act in accordance with the provision of Article 87 of this Act;

19. it fails to make distribution in accordance with the provision of Article 88 of this Act;

20. it fails to make an one-time payment in accordance with the provision of Article 89, paragraph 1 of this Act;

21. with regard to investment principles, it fails to act in accordance with the provisions of Article 90 of this Act;

22. with regard to the investment of assets covering technical provisions, it acts contrary to the provisions of Article 92 of this Act;

23. it fails to observe the limitations on investments in accordance with the provisions of Article 93 of this Act;

24. with regard to borrowing, it acts contrary to the provision of Article 95, paragraph 1 of this Act;

25. with regard to the lending of assets or pledging them as a security, it acts contrary to the provision of Article 95, paragraph 2 of this Act;

26. it fails to observe the limitations on investments in accordance with the provision of Article 95, paragraph 3 of this Act;

27. when entering into a transaction with a shareholder of the pension insurance company or with any person who is related to a shareholder of the pension insurance company, it acts contrary to the provision of Article 95, paragraph 4 of this Act;
28. with regard to the valuation of assets, it acts contrary to the provisions of Article 97 of this Act;
29. with regard to determining a pension to be paid, it acts contrary to the provisions of Article 103 of this Act;
30. with regard to the payment of a pension, it acts contrary to the provisions of Article 104 of this Act;
31. with regard to gender equality when calculating a pension, it fails to act in accordance with the provisions of Article 105 of this Act;
32. with regard to pension unit amounts and/or guaranteed payments, it acts contrary to the provision of Article 107 of this Act;
33. with regard to pension unit amounts and/or guaranteed payments, it acts contrary to the provisions of Article 108 of this Act;
34. with regard to the types of pensions under mandatory pension insurance, it fails to act in accordance with the provisions of Article 112 of this Act;
35. it fails to pay out pensions under mandatory pension insurance in accordance with the provisions of Article 113 of this Act;
36. when paying out pensions under voluntary pension insurance, it fails to act in accordance with the provisions of Article 115 of this Act;
37. with regard to adjusting the level of pensions, it fails to act in accordance with the provision of Article 116 of this Act;
38. it enters into a pension contract contrary to the provision of Article 133, paragraph 1 of this Act;
39. with regard to fees, it acts contrary to the provisions of Article 135 of this Act;
40. it fails to provide and/or make available to the Agency the documents and/or reports and/or information in accordance with the provision of Article 141, paragraph 1 of this Act;
41. when carrying out supervision, it fails to act in accordance with the provisions of Article 143, paragraphs 1, 2 or 3 of this Act;
42. when carrying out supervision, it fails to act in accordance with the provisions of Article 144 of this Act;
43. when carrying out supervision, it fails to act in accordance with the provisions of Article 145 of this Act;

44. it fails to correct the identified illegalities or report to the Agency on the measures taken in accordance with the provisions of Article 158, paragraphs 1 and 2 of this Act;

45. it fails to report to the Agency on the measures taken in accordance with the provision of Article 160, paragraph 4 of this Act;

46. it resumes its activities contrary to the provisions of Article 180 of this Act.

(2) The responsible person of the pension insurance company shall also be fined from HRK 20 000.00 to HRK 50 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

Minor misdemeanours committed by a pension insurance company

Article 202

(1) A pension insurance company shall be guilty of a misdemeanour and shall be fined a sum between HRK 50 000.00 and HRK 100 000.00 if:

1. with regard to a prohibition of granting privileges, it acts contrary to the provisions of Article 12 of this Act;

2. it fails to inform the Agency of an acquisition and/or disposal of a qualifying holding in accordance with the provision of Article 27, paragraph 3 of this Act;

3. with regard to an approval to acquire a qualifying holding in another legal person, it fails to act in accordance with the provision of Article 35, paragraph 1 of this Act;

4. it fails to notify the Agency of its intention to sell or dispose of its holding in another legal person in accordance with the provision of Article 35, paragraph 4 of this Act;

5. with regard to an application for approval to perform the function of a member of the board of directors and/or the programme for managing the operations, it fails to act in accordance with the provision of Article 41, paragraph 5 of this Act;

6. with regard to a new application for the issuance of approval to perform the function of a member of the board of directors and/or the programme for managing the operations, it fails to act in accordance with the provision of Article 41, paragraph 6 of this Act;

7. it acts contrary to the provisions of Article 48, paragraph 1 or paragraph 2 of this Act;

8. with regard to a risk management system, it fails to act in accordance with the provisions of Article 50 of this Act;

9. with regard to internal audit, it fails to act in accordance with the provisions of Article 51 of this Act;

10. with regard to the monitoring of compliance with the relevant legislation, it fails to act in accordance with the provisions of Article 52 of this Act;

11. with regard to the transfer of portfolio, it acts contrary to the provisions of Article 58, paragraph 2 of this Act;
12. with regard to the transfer of portfolio, the accepting Company acts contrary to the provisions of Article 58, paragraph 4 of this Act;
13. with regard to outsourcing, it fails to act in accordance with the provisions of Article 63 of this Act;
14. with regard to the remuneration policy, it fails to act in accordance with the provisions of Article 66, paragraph 1 or paragraph 9 of this Act;
15. with regard to information to be given to the pension beneficiaries, it fails to act in accordance with the provisions of Article 71 of this Act;
16. with regard to investment principles, it fails to act in accordance with the provisions of Article 91 of this Act;
17. with regard to currency matching, it fails to act in accordance with the provisions of Article 94 of this Act;
18. with regard to financial reporting, it fails to act in accordance with the provisions of Article 98 of this Act;
19. with regard to reports, it fails to act in accordance with the provision of Article 99 of this Act;
20. with regard to the auditing of Company's financial statements, it fails to act in accordance with the provisions of Article 100, paragraph 2 or paragraph 3 of this Act;
21. it fails to report to the Agency in accordance with the provisions of Article 102 of this Act;
22. it fails to submit information in accordance with the provisions of Article 106 of this Act;
23. it fails to notify the Agency about the concluded contracts in accordance with the provisions of Article 121 of this Act;
24. it fails to enter into a pension contract in accordance with the provisions of Article 126, paragraph 1 of this Act;
25. it fails to enter into a pension contract in accordance with the provisions of Article 127, paragraphs 1, 2 and 4 of this Act;
26. with regard to a standard pension contract form, it fails to act in accordance with the provisions of Article 128, paragraph 1 of this Act;
27. with regard to a standard pension contract form, it fails to act in accordance with the provisions of Article 129 of this Act;

28. it fails to conclude a pension contract in accordance with the provision of Article 130, paragraph 4 of this Act;

29. it fails to conclude an annex to a pension contract in accordance with the provision of Article 132, paragraph 2 of this Act;

(2) The responsible person of the pension insurance company shall also be fined from HRK 10 000.00 to HRK 20 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

Misdemeanours committed by certain natural persons related to a pension insurance company

Article 203

The following persons shall be guilty of a misdemeanour and shall be fined a sum between HRK 20 000.00 and HRK 50 000.00:

1. a certified actuary who fails to act in accordance with the provisions of Article 56, paragraphs 2, 3 or 6 of this Act;

2. a member of the board of directors of a pension insurance company who, with regard to the obligation to enable the special administration to perform its duties, fails to act in accordance with the provisions of Article 172, paragraph 1 or paragraph 2 of this Act;

3. a member of the special administration of a pension insurance company who, with regard to reports and/or operating conditions, fails to act in accordance with the provisions of Article 173 of this Act;

Misdemeanours committed by the liquidator of a pension insurance company

Article 204

(1) A legal person acting as the liquidator of a pension insurance company shall be guilty of a misdemeanour and shall be fined a sum between HRK 50 000.00 and HRK 100 000.00 if:

1. it fails to notify the Agency in accordance with the provision of Article 178, paragraph 1 of this Act;

2. it fails to file a proposal for the opening of bankruptcy proceedings and/or fails to notify the Agency thereof in accordance with the provision of Article 179 of this Act;

3. it fails to give notice of the opening of winding-up proceedings to creditors in accordance with the provisions of Article 186 of this Act;

4. it fails to file a proposal for the opening of bankruptcy proceedings and/or fails to notify the Agency thereof in accordance with the provision of Article 193 of this Act;

(2) The responsible person of the legal person acting as the liquidator shall also be fined from HRK 10 000.00 to HRK 20 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

(3) A natural person acting as the liquidator shall also be fined from HRK 10 000.00 to HRK 20 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

Misdemeanours committed by auditors and audit firms

Article 205

(1) An audit firm auditing a pension insurance company shall be guilty of a misdemeanour and shall be fined a sum between HRK 50 000.00 and HRK 100 000.00 if, with regard to an audit of annual financial statements, it fails to act in accordance with the provisions of Article 100, paragraphs 1 and 9 of this Act;

(2) The responsible persons of the audit firm shall also be fined from HRK 10 000.00 to HRK 20 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

(3) An auditor operating as a sole practitioner shall also be fined from HRK 10 000.00 to HRK 20 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

Misdemeanours committed by other persons

Article 206

(1) A legal person shall be guilty of a misdemeanour and shall be fined a sum between HRK 100 000.00 and HRK 300 000.00 if:

1. in contravention of the provisions of Article 9 of this Act, it pursues the business of a pension insurance company in the Republic of Croatia without an Agency's authorisation to conduct such business;

2. as a proposed acquirer, it fails to act in accordance with the provisions of Article 26 of this Act;

3. with regard to notification of disposal of a qualifying holding, it fails to act in accordance with the provision of Article 27, paragraph 1 of this Act;

4. with regard to notification of intention to reduce a qualifying holding, it fails to act in accordance with the provision of Article 27, paragraph 2 of this Act;

5. with regard to the offering of pension schemes, it acts contrary to the provisions of Article 122 of this Act;

6. with regard to the offering of pension schemes, it fails to act in accordance with the provisions of Article 123 of this Act;

(2) The responsible person of the legal person shall also be fined from HRK 20 000.00 to HRK 50 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

(3) A natural person shall be guilty of a misdemeanour and shall be fined a sum between HRK 20 000.00 and HRK 50 000.00 if:

1. as a proposed acquirer, he or she fails to act in accordance with the provisions of Article 26 of this Act;
2. with regard to notification of disposal of a qualifying holding, he or she fails to act in accordance with the provision of Article 27, paragraph 1 of this Act;
3. with regard to notification of intention to reduce a qualifying holding, he or she fails to act in accordance with the provision of Article 27, paragraph 2 of this Act.

Misdemeanours committed by the Central Registry of Insured Persons

Article 207

(1) The Central Registry of Insured Persons shall be fined a sum between HRK 50 000.00 and HRK 100 000.00 for committing a misdemeanour if:

1. it fails to notify a pension insurance company in accordance with the provision of Article 118, paragraph 2 of this Act;
2. with regard to the closing of a personal account, it fails to act in accordance with the provision of Article 131, paragraph 1 of this Act.

(2) The responsible persons of the Central Registry of Insured Persons shall also be fined from HRK 10 000.00 to HRK 20 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

TITLE XVI

TRANSITIONAL AND FINAL PROVISIONS

Article 208

(1) A Company that has been granted authorisation to conduct business pursuant to the provisions of the Act on Pension Insurance Companies and Payment of Pension Annuities Based on Individual Capitalised Savings (Official Gazette 106/99, 63/00, 140/05, 107/07 and 114/11) and is registered in the court register shall continue to operate as a Company pursuant to this Act, and is required to bring its business into compliance with the provisions of this Act within one year from the date of entry into force of this Act.

(2) The Company referred to in paragraph 1 of this Article shall submit to the Agency, within 30 days of the expiry of the period specified in paragraph 1 of this Article:

- a report on bringing its business into compliance with the provisions of this Act, together with proof of compliance, and
- an application for issue of authorisation to conduct business in accordance with this Act.

(3) On the basis of the properly submitted application referred to in paragraph 2 of this Article, accompanied by proof of compliance of the business with the provisions of this Act, the Agency shall grant authorisation to conduct business not later than 90 days from the date of receipt of the application.

(4) If the Company referred to in paragraph 1 of this Article fails to act in accordance with the provisions of this Article, the Agency may issue a decision revoking the Company's authorisation to conduct business.

The status of licences issued pursuant to previous regulations

Article 209

A licence to manage a pension insurance company issued by the Agency in accordance with the provision of Article 10, paragraph 4 of the Act on Pension Insurance Companies and Payment of Pension Annuities Based on Individual Capitalised Savings (Official Gazette 106/99, 63/00, 140/05, 107/07 and 114/11), or the last renewal of such licence in accordance with the provision of Article 10, paragraph 5 of the same Act, shall be considered to mean that examination for obtaining the qualification of a certified manager of a pension insurance company referred to in Article 38, paragraph 6 of this Act has been passed, and upon the entry into force of this Act such licence need not be renewed.

Adoption of regulations

Article 210

(1) Within six months from the date of entry into force of this Act, the Agency shall issue the ordinances the issuance of which is required by this Act.

(2) Until the entry into force of the ordinances issued under this Act, the ordinances issued pursuant to the Act on Pension Insurance Companies and Payment of Pension Annuities Based on Individual Capitalised Savings (Official Gazette 106/99, 63/00, 140/05, 107/07 and 114/11) shall apply accordingly.

(3) The Government of the Republic of Croatia shall adopt a decision referred to in Article 81, paragraph 3 of this Act within 30 days of the entry into force of this Act and shall publish it in the Official Gazette.

(4) Until the entry into force of the decision referred to in paragraph 3 of this Article, the minimum guarantee fund shall be equal to the minimum guarantee fund as set in the Act on Pension Insurance Companies and Payment of Pension Annuities Based on Individual Capitalised Savings (Official Gazette 106/99, 63/00, 140/05, 107/07 and 114/11).

Procedures

Article 211

All proceedings initiated before the Agency in accordance with the provisions of the Act on Pension Insurance Companies and Payment of Pension Annuities Based on Individual

Capitalised Savings (Official Gazette 106/99, 63/00, 140/05, 107/07 and 114/11) shall be completed in accordance with the provisions of that Act.

Legislation that shall cease to have effect

Article 212

On the date of the entry into force of this Act, the Act on Pension Insurance Companies and Payment of Pension Annuities Based on Individual Capitalised Savings (Official Gazette 106/99, 63/00, 140/05, 107/07 and 114/11) shall cease to have effect.

Entry into force

Article 213

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette.

Class: 022-03/13-01/272

Zagreb, 7 February 2014

THE CROATIAN PARLIAMENT

The President of
the Croatian
Parliament

Josip Leko, m. p.