

THE CROATIAN PARLIAMENT

361

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

DECISION

PROMULGATING THE ACT ON MANDATORY PENSION FUNDS

I hereby promulgate the Act on Mandatory Pension Funds passed by the Croatian Parliament at its session on 31 January 2014.

Class: 011-01/14-01/35

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

Zagreb, 5 February 2014

The President of
the Republic of
Croatia

Ivo Josipović, m.
p.

ACT

ON MANDATORY PENSION FUNDS

Part One

COMMON PROVISIONS

General provisions

Article 1

This Act regulates the establishment and operation of mandatory pension funds under mandatory pension insurance based on individual capitalised savings; the establishment and operation of pension companies managing mandatory pension funds; the activities of a depositary of a mandatory pension fund and the activities of the Central Registry of Insured Persons, as well as supervision of the operations of mandatory pension funds, pension companies managing mandatory pension funds, a depositary of a mandatory pension fund, and the Central Register of Insured Persons.

Definitions

Article 2

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

1. *Pension company* means a joint-stock company or a limited liability company that manages mandatory pension funds.
2. *Pension fund* means a mandatory pension fund that is established by a pension company on the basis of an authorisation by the Agency and that the pension company manages in its own name for the account of all the members of the pension fund in accordance with the provisions of this Act. A pension fund may be a Category A, B or C pension fund.
3. *Pension funds of category A, B or C* means the categories of pension funds managed by the same pension company. Pension funds of different categories have different investment strategies. The undertaken risk should be the lowest in a Category C fund, and the highest in a Category A pension fund.
4. *Voluntary pension fund* means a fund established in accordance with the act governing the establishment and operation of voluntary pension funds under voluntary pension insurance on the basis of individual capitalised savings.
5. *Pension fund member* means an insured person registered with a pension fund.
6. *Member of a pension company* means a stockholder or shareholder in a pension company.
7. *Pension beneficiary* means a person who is entitled to a pension.
8. *Reference date* means the date on which the conditions for entitlement to an old-age pension are satisfied in accordance with the Pension Insurance Act.
9. *Personal account* means the account opened in the name of a pension fund member in a selected pension fund, on which paid contributions and all changes in the personal assets of the pension fund member during the period of individual capitalised savings are recorded, and which is maintained by the Central Registry of Insured Persons.
10. *Temporary account* means the account opened for the forwarding of unrelated payments and of payments that, after reconciliation, cannot be transferred to pension funds and during the period before the selection of a pension fund.
11. *Transfer account* means the account into which contributions to the individual capitalised savings system and funds from personal accounts are paid to be further allocated to mandatory pension funds, mandatory pension companies, temporary accounts, pension insurance companies, the Croatian Pension Insurance Institute or a legal heir.
12. *Transfer of an account* means the transfer of assets held in a member's personal account from one pension fund to another.
13. *Prospectus* means a statement by a pension company containing complete, accurate and objective information about a pension fund and the pension company managing that fund,

based on which a potential pension fund member can make a decision about his or her membership in the pension fund.

14. *Statute* is the fundamental document of a pension fund, which defines the basic legal relationships of the fund.

15. *Guarantee deposit* means funds kept at a separate account opened with a depository, in which the pension company must hold HRK one million for every 10 000 members above the membership of fifty thousand of all categories of pension funds managed by the same pension company.

16. *Close links* means a situation in which two or more natural or legal persons or entities are linked in one of the following ways:

- a) by participation relationship;
- b) by control relationship.

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

- a) the person has direct or indirect investments on the basis of which he or she owns 20 % or more of the capital or voting rights of that legal person, or
- b) 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.

18. *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:

- 1. a subsidiary company of a subsidiary company is also considered a subsidiary of the parent company which is at the head of those companies;
- 2. 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.

19. *Parent company* means a parent company as defined by legislation governing the accounting activities of an undertaking and the application of financial reporting standards.

20. *Subsidiary* means a subsidiary company as defined by legislation governing the accountancy of an undertaking and the application of financial reporting standards.

21. *Durable medium* means paper or any instrument which enables information to be stored in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

22. *Transferable securities* means those classes of securities which are negotiable on the capital market, such as:

- a) 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;
- b) bonds and other forms of securitised debt, including depositary receipts in respect of such securities;
- c) 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, indices or other measures.

For the purposes of this item, instruments of payment are not deemed to be transferrable securities.

23. *Transferable equity securities* means securities defined in item 22(a) of this Article.

24. *Transferable debt securities* means securities defined in item 22(b) of this Article.

25. *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, which are liquid and have a value which can be accurately determined at any time.

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

- a) a person in a managing position in the pension company or a person who is a member of the pension company;
- b) a member of the supervisory board or a procurator of the pension company;
- c) an employee of the pension company.

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

- a) the spouse of the relevant person or any other person considered by national law as equivalent to a spouse;
- b) a dependent child or stepchild of the relevant person;
- c) any other relative of the relevant person who has shared the same household as that person for at least one year on the date of the personal transaction concerned.

28. *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 and exercises supervision,

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

The concept of “relatedness” means the relatedness between the first and the second entity, then the relatedness between the second and the third entity and the relatedness between the third and the fourth entity. The relatedness between the fourth and any further entity shall not be regarded as relatedness to the first entity.

For the purposes of this Act, persons linked by close links, relevant persons and persons with whom a relevant person has a family relationship shall also be considered to be related persons.

29. *Auditor* means an independent external certified auditor as defined by the legislation governing auditing.

30. *Depositary* means a credit institution or a branch of a credit institution entrusted with the duties provided for by the provisions of Article 172 of this Act.

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

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

33. *Management company* means a company managing UCITS funds and/or alternative investment funds.

34. *Investment firm* means a legal person whose business is the provision of one or more investment services to third parties and/or the performance of one or more investment activities on a professional basis.

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

36. *Third country* means a country that is not a member state in terms of item 35 of this Article.

37. *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 and by this Act.

38. *Central Registry of Insured Persons* means the institution whose responsibilities and scope of activities are prescribed by the Act on the Central Registry of Insured Persons.

39. *Authorisation* means a positive decision of the Agency on the application that has been submitted, which is always sought and issued prior to taking certain actions or concluding a deal, as prescribed by this Act.

40. *Without delay or immediately* means taking certain action or closing a deal no later than the next business day.

Application of other legislation

Article 3

The provisions of the act governing the establishment and operation of companies shall apply *mutatis mutandis* to the operation of pension companies, unless otherwise provided for in this Act or other legislation.

Register of pension funds and pension companies

Article 4

(1) Pension funds and pension companies to which authorisation for the establishment and operation has been issued by the Agency shall be registered respectively in the register of mandatory pension funds and the register of pension companies managing mandatory pension funds in the Republic of Croatia. The registers shall be kept by the Agency.

(2) Pension funds and pension companies and all the information required by this Act and the ordinance referred to in paragraph 4 of this Article as well as any changes in that information shall be entered in the register of mandatory pension funds and in the register of pension companies managing mandatory pension funds, respectively.

(3) The Agency shall publish on its website the information contained in the register of mandatory pension funds and in the register of pension companies managing mandatory pension funds.

(4) The Agency shall issue an ordinance prescribing the content and manner of keeping the register of mandatory pension funds and the register of pension companies managing mandatory pension funds, as well as the information that is to be published on the Agency's website in accordance with paragraph 3 of this Article.

Part Two

PENSION COMPANY

Title 1

Section 1

Form of the pension company

Article 5

(1) A pension company shall be a company within the meaning of the law governing the establishment and operation of companies and shall be established in the legal form of a joint-stock company or a limited liability company.

(2) A pension company may not issue preferred stocks.

(3) A pension company shall ensure that all stockholders or shareholders are treated in an equal manner and shall not award any additional rights or privileges to them, nor limit their rights or impose on them additional responsibilities.

Name of the pension company

Article 6

(1) The name of a pension company shall contain the words "mandatory pension fund management company", or the words "mandatory and voluntary pension fund management company" if the pension company also carries out the activities referred to in Article 7, paragraph 1, item b of this Act.

(2) Only pension 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 pension company's authorisation to conduct business ceases to be valid, the pension company must immediately change its name by removing from it the words "mandatory pension fund management company" or the words "and voluntary", depending on the activities in respect of which the authorisation has ceased to be valid.

Activities of the pension company

Article 7

(1) The activities of a pension company shall be as follows:

a. establishment and management of pension funds (hereinafter: management of pension funds)

b. establishment and management of voluntary pension funds in accordance with the law governing the establishment and management of voluntary pension funds (hereinafter: management of voluntary pension funds).

(2) The establishment and management of pension funds shall comprise:

1. establishment of pension funds;
2. managing the assets of pension funds, and
3. administrative tasks.

(3) The establishment and management of voluntary pension funds is regulated by the law governing the establishment and operation of voluntary pension funds.

(4) The administrative tasks referred to in paragraph 2, item 3 of this Article shall include:

1. legal and accounting tasks relating to management of pension funds;
2. receiving and processing inquiries from pension fund members;
3. valuation of assets and determining the value of units of account of pension funds;
4. regulatory compliance monitoring;
5. settlement of contractual obligations;
6. keeping business records;
7. keeping records on pension fund members based on the data to be provided by the Central Registry of Insured Persons;
8. transferring members' personal assets under the conditions set out in this Act;
9. disclosures and notifying pension fund members;
10. promoting the pension company and pension funds.

(5) A pension company must establish and manage one pension fund of each of the categories A, B and C.

(6) A pension company may not carry out activities other than those specified in paragraph 1 of this Article.

(7) A pension company shall not delegate the tasks referred to in paragraph 2 of this Article to third persons.

Section 2

Share capital of the pension company

Article 8

- (1) The minimum share capital of a pension company shall be HRK 40 000 000.00.
- (2) If a pension company is also authorised to manage voluntary pension funds, the minimum share capital shall be equal to the amount indicated in paragraph 1 of this Article, increased by the minimum share capital prescribed by the law governing the establishment and operation of voluntary pension funds.
- (3) The share capital of a pension company shall be paid in full amount in cash.
- (4) The share capital of a pension company shall not originate from loans or credits nor be encumbered in any way.
- (5) The share capital of a pension company shall be paid in full amount before the pension company is registered with the commercial court.
- (6) If a pension company is established and operates as a joint-stock company, all the shares of the pension company shall be in the name of the holder and shall be issued in book-entry form, and no preferred stocks may be issued.
- (7) The shares of a pension company may not be admitted to trading on a regulated market, MTF or other organised market.
- (8) The share capital of a pension company may not be increased through a public invitation.

The capital of the pension company

Article 9

- (1) A pension company shall at all times maintain its capital in an amount equal to the minimum share capital referred to in Article 8 of this Act.
- (2) Any change in the share capital of a pension company, prior to the registration in the court register, shall require the prior approval by the Agency.
- (3) A pension company shall notify the Agency without delay of any reduction in the pension company's capital causing it to fall below the level specified in paragraph 1 of this Article.
- (4) If the capital of a pension company falls below the level prescribed in paragraph 1 of this Article, the pension company must increase its capital to the required level by increasing the share capital within a period to be determined by the Agency.
- (5) The Agency shall issue an ordinance specifying the items of the pension company's capital.

Section 3

Authorisation to establish and conduct the business of a pension company

Article 10

(1) Before a pension company is registered in the court register, an authorisation to establish and conduct business of a pension company (hereinafter: authorisation to conduct business) must be obtained from the Agency, which shall be attached to the application for the registration of the company in the court register, and after the pension company is registered in the court register it shall submit an application to the Agency for an authorisation to establish and manage pension funds.

(2) An application for authorisation to conduct business shall be submitted to the Agency by all the members of the board of directors and of the supervisory board of the pension company.

(3) An application for authorisation to conduct business must relate to the establishment and management of mandatory pension funds, but may also relate to the establishment and management of voluntary pension funds in accordance with the law governing the establishment and operation of voluntary pension funds.

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

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

(6) The company referred to in paragraph 5 of this Article must obtain from the Agency an authorisation to conduct business before any change in the company's business is registered in the court register.

(7) After obtaining authorisation to conduct business, the pension company may request an extension of the authorisation in order to perform the activities referred to in Article 7 of this Act that are not covered by the previously issued authorisation.

(8) An application for an extension of the authorisation to conduct business referred to in paragraph 1 of this Article shall be submitted by the board of directors of the pension company.

(9) The provisions of this Act concerning the issuance of an authorisation to conduct business shall apply accordingly to the extension of the authorisation to conduct business.

Article 11

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

1. the articles of association of the pension company, together with a document providing the basis for the adoption of these articles of association (founders' statement) if the pension company is established as a joint-stock company, or a company agreement or a deed of establishment if the pension company is established as a limited liability company;

2. a list of the founders, along with information as to whether they are related persons and as to the nature of their relatedness and documents confirming the legal status and the origin of the funds intended for paying up the pension company's share capital, as well as the level of the founders' or members' participation in the share capital of the pension company;

3. a list of the members of the board of directors and the members of the supervisory board of the pension 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 Articles 31 and 32 of this Act with respect to the members of the board of directors, or to the provisions of Article 39 of this Act with respect to the supervisory board members, as well as a description of their qualifications and previous professional activities;

4. the organisational structure and the business plan of the pension company for the next five years;

5. a description of the risk management system.

(2) The Agency shall issue an ordinance specifying other documents and information that must accompany an application for authorisation to conduct business of a pension company.

Article 12

(1) Within 15 days of receiving an application for authorisation to conduct business, the Agency may request additional documents and information, which the founders must submit to the Agency within a further period of 15 days.

(2) The Agency may, if it deems necessary, re-examine the documents and information relating to the application for authorisation to conduct business. In doing so, the Agency may:

1. cooperate with competent authorities;
2. gather documents and information from other sources.

Article 13

The Agency shall examine an application for authorisation to conduct business submitted in accordance with Articles 11 and 12 of this Act and shall, within 15 days of receiving the complete application or receiving the last document or information or holding a hearing, approve or refuse the application.

Article 14

The Agency shall approve an application for authorisation to conduct business if it finds, based upon the submitted documents and the information collected, that the following requirements are satisfied:

1. the proposed pension company satisfies the requirements concerning the payment of the share capital;
2. the founders of the pension company, the members of the board of directors and of the supervisory board, and all the related persons that are known of are financially stable, appropriate and suitable for performing these tasks;
3. the members of the board of directors and of the supervisory board of the pension company meet the requirements for the issuance of approval for the performance of the duties of a member of the board of directors or of the supervisory board of the pension company;
4. it has been demonstrated or at least made likely that the founders of the pension company meet, or will meet before beginning to manage pension funds, the organisational requirements in accordance with this Act and regulations made under this Act;
5. conditions are in place for the pension company to operate in accordance with this Act and regulations made under this Act;
6. the instrument of incorporation of the proposed pension company complies with the provisions of this Act;
7. the proposed name of the pension company is not misleading for potential and future members of a pension fund or for any other persons likely to have dealings with it.

Article 15

The Agency shall refuse an application for authorisation to conduct business if:

1. the requirements of Article 14 of this Act are not satisfied;
2. it estimates, based on the information collected and the documents submitted, that the pension company's operations will not be conducted with due skill, care and diligence and in accordance with sound business practice.

Article 16

- (1) If an application for authorisation to conduct business is approved, the founders may establish a pension company by submitting an application for the registration of the company in the court register, which must be accompanied by the Agency's decision granting the authorisation to conduct business.
- (2) An application for registration in the court register shall be submitted no later than within six months from the date of receipt of the decision granting the authorisation to conduct business.
- (3) The pension company's authorisation to conduct business and the registration of that company in the court register do not guarantee obtaining an authorisation to establish and manage pension funds.

Termination of the validity of an authorisation to conduct business

Article 17

(1) The authorisation to conduct business of a pension company shall cease to be valid:

1. on the day on which bankruptcy proceedings are opened against the pension company or on which pre-bankruptcy settlement proceedings are initiated against the pension company;
2. when winding-up proceedings are instituted in respect of the pension company;
3. upon coming into effect of legal consequences of the transfer of the pension fund management activities to another pension company;
4. if the pension company ceases to exist.

(2) In cases when the authorisation to conduct business ceases to be valid as referred to in paragraph 1 of this Article, the Agency shall issue a decision determining that the authorisation to conduct business has ceased to be valid.

(3) The Agency shall notify the depositary and the Central Registry of Insured Persons of the termination of the validity of the authorisation referred to in paragraph 1 of this Article. In cases when the authorisation to conduct business ceases to be valid for reasons indicated in item 3 of paragraph 1 of this Article, the Agency shall also notify the competent commercial court.

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

Article 18

When granting authorisation to conduct business to a pension company, the Agency may at the same time decide on the following applications:

1. an application for authorisation to conduct business;
2. an application for approval to perform the function of a member of the board of directors of the pension company;
3. an application for approval to perform the function of a member of the supervisory board of the pension company.

Section 4

Members of a pension company

Article 19

The following persons shall be eligible to be members of a pension company:

1. persons who, in the period of three years prior to acquiring membership in the pension company, did not have more than 10 % holding in the share capital of a pension company, a

credit institution authorised to carry on the business of a depositary, an investment company or a credit institution authorised to carry on the business of purchasing and selling financial instruments, a management company or an insurance undertaking, at the time when the authorisation to conduct business was revoked in respect of these companies;

2. persons who have full legal capacity;

3. a company, sole trader or craftsman in respect of whose assets no bankruptcy proceedings have been opened or completed pursuant to the provisions of the law governing bankruptcy proceedings;

4. persons who have not held a managing position in a company against which bankruptcy proceedings have been opened or completed or whose authorisation to conduct business has been revoked, 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 are not state officials or who do not hold a public service office or an office in a local and regional self-government body and who are not officers in state or local and regional self-government bodies or in bodies responsible to the legislative or executive authorities in the Republic of Croatia, another Member State or a third country;

6. persons from whom, because of their non-compliance with regulations, approval or authorisation for the performance of relevant duties has not been withdrawn by 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, by a judgement with final force and effect, of a criminal offence provided for in the ordinance referred to in Article 34, paragraph 11 of this Act;

8. persons who have not been convicted, by a judgement with final force and effect, of a 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, other 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 and 57/11), 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 the right to health care and disability protection referred to in Article 115.

Approval to acquire stocks or shares

Article 20

- (1) Any transaction in stocks or shares, or any change of the owner or change in the ownership structure of a pension company which is based on a legal act shall require the prior approval of the Agency. Any transaction or legal act failing to meet this requirement shall be null and void.
- (2) An application for obtaining the approval referred to in paragraph 1 of this Article shall be filed by the pension company on behalf of the person intending to acquire stocks or shares.
- (3) The same legal or natural person may not be a stockholder or shareholder of more than one pension company. If a person subsequently acquires stocks or shares in another pension company, the person concerned may not exercise the voting rights attaching to those stocks or share or any other management rights until the person disposes of the stocks or shares held in other pension companies.
- (4) In its decision granting approval, the Agency may set a deadline by which the proposed transaction in stocks or shares of a pension company must be made.
- (5) If the proposed transaction in stocks or shares is not made by the deadline referred to in paragraph 4 of this Article, the Agency shall revoke the granted approval.

Article 21

(1) When submitting an application for approval of the proposed transactions in stocks or shares in a pension company as referred to in Article 20 of this Act, the pension company shall submit to the Agency information on persons intending to become members of the pension company (proposed acquirer), the amount of their share in the share capital of the pension company, as well as additional documents prescribed by the ordinance referred to in Article 31, paragraph 8 of this Act.

(2) The Agency shall, in order to ensure the sound and prudent management of the business of the pension company in which transactions in stocks or shares are proposed, and having regard to the likely influence of the proposed acquirer on the pension company, assess the appropriateness, suitability and financial stability of the proposed acquirer on the basis of the documents and information referred to in paragraphs 1 and 3 of this Article. During the assessment, the Agency shall take into account the following criteria:

1. the reputation of the members of the pension company and of the proposed acquirer;
2. the business reputation and experience of the persons who will direct the business of the pension company as a result of the proposed acquisition;
3. the financial stability of the members of the pension company and of the proposed acquirer;
4. whether the pension company will be able to comply and continue to comply with the requirements laid down in this Act and, where applicable, other legislation on individual and consolidated basis, and in particular whether the pension company has a structure that makes it possible to exercise effective supervision;
5. whether there are reasonable grounds to suspect that the proposed acquirers committed or attempted a criminal offence of money laundering or terrorism financing.

(3) When carrying out the assessment referred to in paragraph 2 of this Article, the Agency may cooperate with the competent state authorities and gather documents and information from other sources.

Article 22

(1) The Agency shall carry out the assessment referred to in Article 21, paragraph 2 of this Act and make a decision within 60 days of the date of submission of the complete application referred to in Article 20, paragraph 2 of this Act (hereinafter referred to as the assessment period).

(2) The Agency may, during the assessment period, if necessary, and no later than on the 50th day of the assessment period, request any further information or clarification that is necessary to complete the assessment, and in such case the 60-day period for making a decision shall run from the day of receipt of all the requested information or clarification.

(3) In its decision approving the proposed acquisition the Agency may set the deadline by which the proposed acquisition must be completed and may subsequently extend it for justified reasons.

(4) If the proposed acquirer does not acquire a qualifying holding within the time limit referred to in paragraph 3 of this Article, the Agency shall fully revoke its decision to approve the proposed acquisition. The power of the Agency to revoke its lawful decision shall not be time limited.

Article 23

(1) The Agency shall refuse an application for approval of the proposed transaction in stocks or shares of the pension company if:

1. the requirements laid down in Articles 20 and 21 of this Act are not satisfied, or
2. the supplied information is incorrect, incomplete or misleading, or
3. the additional information referred to in Article 22, paragraphs 2 and 4 of this Act is not supplied.

(2) If the Agency does not adopt a decision approving the transactions in stocks or shares within the time specified in Article 22 of this Act and does not submit the relevant decision within a further period of three days, the approval shall be deemed to be granted.

Close links

Article 24

(1) Where close links exist between the pension company and other natural or legal persons, the Agency shall grant to the pension company an authorisation to conduct business only if those close links do not prevent or hinder the effective exercise of supervision of the pension company.

(2) The Agency shall refuse to grant authorisation to conduct business if the laws and regulations of a third country governing one or more natural or legal persons with which the pension company has close links, or the application of these laws and regulations, prevent or hinder the exercise of supervision of the pension company.

Article 25

(1) The pension company shall comply, on a continuous basis, with the conditions under which the authorisation to conduct business has been granted to it by the Agency.

(2) The pension company shall notify the Agency within three business days of any significant change in the information given in the application for authorisation to conduct business and of any significant facts due to which the authorisation to conduct business would need to be withdrawn or revoked pursuant to Article 222 of this Act.

Article 26

(1) The pension company may only invest its funds in the assets referred to in Article 125, paragraph 1, items 1, 2 and 8 of this Act or, if it purchases another pension company, in accordance with Article 27 of this Act.

(2) By way of derogation from paragraph 1 of this Article, the pension company may also invest its assets in:

1. units in UCITS funds referred to in Article 125, paragraph 1, item 6 of this Act that are money market funds or of a nature similar to money market funds, in accordance with the criteria to be specified by the Agency by means of an ordinance, and

2. forward contracts that satisfy the requirements of Article 125, paragraph 1, item 9 of this Act and have been concluded exclusively for the purpose of protecting assets invested in foreign currency against the Croatian kuna.

(3) The pension company shall maintain the prescribed capital referred to in Article 9 of this Act in the assets specified in Article 125, paragraph 1, items 1, 2 and 8 of this Act.

(4) If a pension company indirectly acquires assets that do not comply with paragraphs 1 to 3 of this Article, it shall notify the Agency thereof without delay, and shall bring the investment structure into compliance within six months of the day of acquisition.

Article 27

(1) A pension company may acquire a partial or full shareholding in another pension company, subject to the prior approval of the Agency and in accordance with the legislation governing the protection of competition.

(2) The Agency shall approve the acquisition unless it considers:

1. that it is not in the interests of the members of the pension funds managed by the pension companies referred to in paragraph 1 of this Article;

2. that the acquiring pension company will not fulfil the requirements of this Act or other legislation governing the operation of pension companies.

(3) A contract for the acquisition of a partial or full shareholding in another pension company without the prior approval referred to in paragraph 1 of this Article shall be null and void.

Changes in the pension company's status

Article 28

(1) If a pension company is involved in a merger by acquisition, merger by the formation of a new company, division or conversion, it must obtain approval from the Agency for such change in the status before registration in the court register. When deciding on whether to grant approval, the Agency shall, in particular, take into account whether the change in the status will result in the pension company ceasing to exist, who will take over the performance of the activities of the pension company provided for in Article 7 of this Act and in what manner, or who will take over the management of the pension funds and/or voluntary pension funds managed by the pension company that ceases to exist and in what manner.

(2) The provisions of this Act concerning the granting of authorisation to conduct business to a pension company shall apply *mutatis mutandis* to the making of a decision on the approval of a status change as referred to in paragraph 1 of this Article.

(3) If a pension company merges with another pension or other company, the new company must obtain from the Agency authorisation to conduct business prior to registration of the status change in the court register.

(4) If a pension company acquires another pension or other company, it shall continue to operate as a pension company. However, if a pension company is acquired by a company that is not a pension company, that company (acquiring company) must, in addition to the Agency's approval and prior to registering the acquisition, obtain from the Agency authorisation to conduct business, in order to be able to continue operating as a pension company and to manage the funds managed by the acquired pension company.

(5) If a pension company ceases to exist due to a demerger, its authorisation to conduct business shall also cease to have effect and at least one of the companies to which the assets are divided must obtain from the Agency authorisation to conduct business before the division is registered in the court register.

(6) Changes in the status must also be in accordance with the legislation governing the protection of competition.

(7) The Agency shall issue an ordinance specifying in more detail the requirements that need to be met for obtaining approval for the changes in the status referred to in this Article.

Title 2

Bodies of a pension company

Article 29

(1) The bodies of a pension company shall be:

a) in the case of a joint-stock company – the annual general meeting, the board of directors and the supervisory board;

b) in the case of a limited-liability company – the general meeting, the board of directors and the supervisory board.

(2) Minutes shall be kept of the meetings and sessions of the pension company's bodies.

The board of directors of a pension company

Article 30

(1) The board of directors of a pension company shall have at least two members who shall jointly direct the business of the pension company and represent it. The term of office of a member and of the president of the board of directors shall not exceed five years.

(2) If a pension company also manages voluntary pension funds, the board of directors of the pension company must have at least three members.

(3) No member of the board of directors of a pension company may be authorised to individually represent the pension company.

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

Article 31

(1) A member of the board of directors of a pension company may only be a person:

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

2. who is of good 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 not 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 a pension company or any other company at the time when bankruptcy proceedings were opened against these entities or when a decision on compulsory liquidation of these entities was taken or in a pension or other company whose authorisation was withdrawn, unless the Agency finds that the person concerned has not affected the opening of the bankruptcy proceedings, the initiation of pre-bankruptcy settlement proceedings, the compulsory liquidation or the withdrawal or revocation 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, another 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 such approval has been refused, at least one year has passed from the date of a 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 pension 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 a 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, other 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 and 57/11), 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 the 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 a pension company, a company managing a voluntary pension fund, a pension insurance company or an investment fund managing company, or a five-year experience in directing the business activities comparable to the activities of a pension 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, item 8 of this Article if he or she has not been convicted, by a judgement with final force and effect, for acts that, according to their description, are equivalent to these acts.

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

(5) All the members of the board of directors of a pension company must have a good command of the Croatian language.

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

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

(8) The Agency shall issue an ordinance on the requirements to be met by members of the board of directors and by members of a company managing mandatory pension funds, specifying in more detail the requirements referred to in Article 19, item 8 of this Act and the requirements referred to in paragraphs 1, 2, 3 and 6 of this Article, and the documentation that must be enclosed with an application for approval to perform the duties of a member of the board of directors and with an application for approval to acquire stocks or shares in accordance with Article 20, paragraph 2 of this Act.

Article 32

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

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

1. another pension company;
2. a pension company managing voluntary pension funds;
3. the depositary;
4. a managing company;
5. a credit institution;
6. an investment company;
7. an insurance company;

8. a reinsurance company;

9. a pension insurance company;

10. other legal persons operating on the basis of an authorisation or licence issued by the Agency, other than a stock exchange.

Liability of members of the board of directors

Article 33

Members of the board of directors of a pension company shall be jointly liable to the pension 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 34

(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 pension company may be appointed as member of the board of directors of the pension company.

(2) An application for approval to perform the function of a member of the board of directors of a pension company shall be submitted to the Agency by the candidate member of the board of directors of the pension company for a term of office not exceeding five years. Together with the application, the candidate member shall submit a written consent of the supervisory board or of a body responsible for appointing the members of the pension company's board of directors, as well as the programme for managing the operations of the pension company for the term of office for which the approval is requested.

(3) In addition to notifying the candidate member of the board of directors of its decision to grant or refuse to grant the approval, the Agency shall also always notify thereof the pension company whose candidate is involved.

(4) The Agency may grant approval to perform the function of a member of the board of directors of a pension company for a period shorter than requested.

(5) Exceptionally, if a member of the board of directors or a temporary administrator of a pension company is appointed by the competent court in accordance with the provisions of the legislation governing the establishment and operation of companies, his or her term of office may not exceed six months, but in that case the appointed person must nevertheless meet the requirements set out in Article 31 of this Act, except for the requirements set out in Article 31, paragraph 6 of this Act.

(6) A pension company shall ensure that an application for approval to perform the function of a member of the board of directors of the pension company and the programme for managing the operations of the pension 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.

(7) A pension company shall ensure that a new application for approval and the programme for managing the operations of the pension company for the term of office are submitted to the Agency within 45 days of the date of receipt of the notice of the withdrawal, revocation, termination or refusal of approval to perform the function of a member of the board of directors of the pension company, and whenever the pension company does not meet the requirement concerning the minimum number of members of the board of directors in accordance with the provisions of this Act.

(8) An applicant submitting an application for approval referred to in paragraph 1 of this Article shall enclose evidence of fulfilment of the requirements for performing the function of a member of the board of directors of a pension company set out in this Act and in the ordinance referred to in paragraph 11 of this Article.

(9) When deciding whether to grant the approval referred to in paragraph 1 of this Article, the Agency may require the candidate member of the board of directors of a pension company to present his or her programme for managing the operations of the pension company for his or her term of office.

(10) A person to whom the Agency has granted approval to perform the function of a member of the board of directors of a pension company shall, before being appointed to the same position in another pension company, obtain a new approval from the Agency.

(11) The Agency shall issue an ordinance specifying in more detail the contents of the programme for managing the operations of a pension company and the procedure and criteria for assessing the programme and the candidate presenting it.

Article 35

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

1. the proposed person does not meet the requirements laid down by the provisions of Article 31 of this Act and by the provisions of the ordinance referred to in Article 34, paragraph 11 of this Act;
2. the Agency has objective and provable reasons to validly assume that the business or duties in which the person is or was engaged would represent a threat to managing the pension company with due care and diligence and in accordance with the organisational requirements laid down in Articles 48 to 58 of this Act;
3. the information given in the application for approval is incorrect, false or misleading or the information that is important for deciding on the application for approval has been withheld;
4. the programme for managing the operations of the pension company referred to in Article 34, paragraph 2 of this Act and its presentation are assessed by the Agency as being unsatisfactory.

Termination of an approval to perform the function of a member of the board of directors of a pension company

Article 36

(1) An approval to perform the function of a member of the board of directors of a pension company shall terminate:

1. if the person concerned is not appointed to office or does not assume office to which the approval relates within six months of the date of issuance 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 pension company, on the date when employment ended.

(2) If an approval to perform the function of a member of the board of directors of a pension company terminates as referred to in paragraph 1 of this Article, the Agency shall issue a decision determining that the approval to perform the function of a member of the board of directors has terminated.

Withdrawal or revocation of an approval to perform the function of a member of the board of directors of a pension company

Article 37

(1) The Agency shall issue a decision withdrawing or revoking an approval to perform the function of a member of the board of directors of a pension company in the following cases:

1. if the member of the board of directors no longer fulfils the conditions under which the approval was granted;
2. 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;
3. if the member of the board of directors has violated the provisions on prohibition of trading or effecting transactions, or 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;
4. if the member of the board of directors has 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 pension company, in particular if this has jeopardised the interests of pension fund members, the liquidity or capital maintenance of the pension company or if he or she has committed recurring violations of the same regulations twice in three years;
5. if, due to failure to act or negligence on the part of the member of the board of directors, the pension company has failed to implement the supervisory measures ordered by the Agency;

6. if the member of the board of directors has not ensured appropriate organisational conditions referred to in Articles 48 to 58 of this Act;

7. if it establishes that the member of the board of directors is in a conflict of interests which prevents, or may be validly assumed to prevent, him or her from fulfilling his or her responsibilities and duties with due professional care and diligence;

8. if the member of the board of directors fails to regularly fulfil the obligation to establish and review the effectiveness of the policies, measures or internal procedures put in place in order to bring the pension company and the pension funds managed by the pension company into compliance with this Act and regulations made under this Act, or the obligation to take appropriate measures to correct deficiencies or irregularities in the operations of the pension company, or if he or she fails to fulfil these obligations with due care and diligence.

(2) In the cases referred to in paragraph 1, items 5 to 8 of this Article, the Agency may also take a special supervisory measure to temporarily prohibit the performance of the function of a member of the board of directors of the pension company (Article 220, paragraph 2, item 12 of this Act) until the illegalities or irregularities are corrected, but only for a period not exceeding six months. If the member of the board of directors or the pension company fails to remedy the illegalities or irregularities within the specified time, the Agency shall issue a decision revoking or withdrawing the approval to perform the function of a member of the pension company's board of directors granted to the member concerned.

(3) If the Agency issues a decision revoking or withdrawing an approval to perform the function of a member of the board of directors, the competent body of the pension company shall without delay issue a decision revoking the appointment of that member of the board of directors.

Article 38

(1) The procurator may only represent the pension company jointly with at least one member of the board of directors. When entering the name of a procurator in the court register, the pension company's board of directors shall also enter the limitations on the powers of the procurator.

(2) The procurator shall not be required to pass an examination for obtaining the qualification of a certified pension fund manager or an internationally recognised qualifying examination in the field of investment managing approved by the Agency, unless he or she is authorised for managing assets of funds and/or for risk management.

Supervisory board of a pension company

Requirements for the position of a member of the supervisory board of a pension company

Article 39

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

(2) The experience requirement referred to 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 a size and activities comparable to those of the pension company.

(3) The Agency may require the pension company to convene an annual general meeting or a general meeting and propose to revoke the appointment of a member of the supervisory board of the pension company if:

1. the supervisory board has not performed its duties set out in the articles of incorporation of the pension company for a long period of time;
2. the member of the supervisory board violates his or her duties defined by this and other Acts and regulations made under these Acts;
3. the pension 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 companies;
4. the member of the supervisory board discloses a business secret without authorisation, or
5. the member of the supervisory board does not meet the requirements for the position of a member of the supervisory board.

(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 a pension company.

Article 40

An employee representative need not be appointed or elected to the supervisory board of a pension company.

Approval to perform the function of a member of the supervisory board of a pension company

Article 41

(1) Only a person who has obtained approval from the Agency to perform the function of a member of the supervisory board of a pension company may be elected or appointed as member of the supervisory board of the pension company.

(2) An application for approval to perform the function of a member of the supervisory board of a pension company shall be submitted by the pension company for a term of office not exceeding four years.

(3) Exceptionally, if a member of the supervisory board of a pension 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 appointed person must nevertheless meet the requirements set out in Article 39 of this Act.

(4) An application for an approval referred to in paragraph 1 of this Article must be accompanied by evidence of fulfilment of the requirements set out in Article 39 of this Act.

(5) A person to whom the Agency has granted approval to perform the function of a member of the supervisory board of a pension company shall obtain a new approval from the Agency before being appointed to the same position in another pension company.

Article 42

The Agency shall issue a decision refusing to grant approval to perform the function of a member of the supervisory board if:

1. the proposed person does not meet the requirements laid down by the provisions of Article 39 of this Act;
2. the Agency has objective and provable reasons to validly assume that the business or duties in which the person is or was engaged would represent a threat to supervising the management of the pension company in a professional and conscientious manner;
3. the information given in the application for approval is incorrect, false or misleading or the information that is important for deciding on the application for approval has been withheld.

Termination of approval to perform the function of a member of the supervisory board of a pension company

Article 43

(1) An approval to perform the function of a member of the supervisory board of a pension company shall terminate:

1. if the person concerned is not elected to the supervisory board within three months of the issuance of a decision granting approval, on the date of expiry of that period;
2. if the person's membership in the supervisory board expires, on the date of expiry of membership;
3. if the person resigns or his or her appointment is revoked before the expiry of his or her term of office.

(2) If an approval to perform the function of a member of the supervisory board of a pension company terminates as referred to in paragraph 1 of this Article, the Agency shall issue a decision determining that the approval to perform the function of a member of the supervisory board has terminated.

Withdrawal or revocation of an approval to perform the function of a member of the supervisory board of a pension company

Article 44

(1) The Agency shall issue a decision withdrawing or revoking an approval to perform the function of a member of the supervisory board of a pension company in the following cases:

1. if the member of the supervisory board no longer fulfils the conditions under which the approval was granted;
2. 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;
3. if the member of the supervisory board 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;
4. if the member of the supervisory board has seriously or systematically violated his or her duties and powers set out in this and other Acts and regulations made under these Acts.

(2) If the Agency issues a decision revoking or withdrawing the approval to perform the function of a member of the supervisory board, the competent body of the pension company shall without delay take a decision to revoke the appointment of the member concerned.

(3) If the case referred to in paragraph 2 of this Article results in a pension company not having the minimum number of members of the supervisory board in accordance with the articles of incorporation or the law, the competent body of the pension company must appoint a new member of the supervisory board within three months.

Duties of members of the supervisory board of a pension company

Article 45

(1) In addition to the powers conferred on the supervisory board by the provisions of the act governing the establishment and operation of companies, the supervisory board of a pension company shall be responsible for deciding on granting approval to the board of directors in respect of the following:

1. the establishment of the business policy of the pension company;
2. the financial plan of the pension company;
3. the organisation of the internal control system of the pension company and of the risk management system;
4. the investments referred to in Article 126, paragraphs 3, 4 and 5 of this Act;
5. the pension company's annual plan, and
6. decisions concerning other matters provided for in this Act.

(2) The supervisory board of a pension company shall define the investment principles of pension funds, which shall be an integral part of the pension fund's statute, in accordance with the principles referred to in Article 124 of this Act.

(3) The supervisory board shall be responsible for monitoring the implementation of internal by-laws of the pension company.

Article 46

(1) The supervisory board of a pension company shall:

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

(2) Members of the supervisory board of a pension company shall be jointly liable to the pension company for any damage 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.

Article 47

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

1. in performing their activities or duties, act honestly and fairly and in accordance with the rules of the profession and in the best interests of members of the pension funds they manage, 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 effectively employ the resources and procedures that are necessary for the proper performance of the activities of the pension 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 funds and pension fund members and to ensure that pension fund members 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 fund members and the integrity of the capital market.

(2) The pension company, members of the board of directors and supervisory board, procurators and employees of the pension company shall always give priority to the interests of pension fund members and shall never place their own interests or the interests of related persons above the interests of pension fund members and the integrity of the capital market.

Title 3

Organisational requirements for pension companies

General organisational requirements

Article 48

(1) A pension 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 a 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 pension company, including rules for personal transactions of all relevant persons;
4. procedures for internal reporting and communication of information at all relevant levels of the pension company as well as effective information flows with any third party involved;
5. records of its business and internal organisation;
6. records of all 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 arrangements and procedures and the system of maintaining business books and drawing up financial statements, as well as arrangements and procedures for keeping and maintaining business documents which reflect a true and fair view of the financial position of the company and pension funds 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, on a continuous basis, the security, integrity and confidentiality of information;

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

(2) A pension company shall set up, within its organisational structure and taking into account the nature, scale and complexity of its business, at least the following organisational units responsible for:

1. risk management;

2. legal support and monitoring compliance with relevant legislation;

3. internal audit;

4. assets management;

5. analysis of financial markets, and

6. administrative and accounting support.

(3) Persons employed in the organisational units listed in paragraph 2 of this Article shall be employed with the pension company on a full-time basis, and the number of employees in a particular organisational unit and the scope of their duties must be adequate.

(4) A person referred to in paragraph 3 of this Article may not simultaneously work for two organisational units referred to in paragraph 2 of this Article.

(5) Persons employed in the organisational units referred to in paragraph 3 of this Article must have adequate education and be trained in performing the tasks contained in the job description for the position they hold.

Conflicts of interest

Article 49

(1) The pension company shall, taking into account the nature, scale and complexity of its business, organise the business in such a manner as to minimise the risk of a conflict of interest.

(2) The pension company shall take all reasonable steps to ensure that, in the course of providing services and performing activities, the interests of the pension funds and their members are not jeopardised.

(3) The pension 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 interests whose existence may damage the interests of the pension funds and their members.

(4) The pension 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) In order to prevent conflicts of interest, the pension company shall establish, implement and regularly update the policies on personal transactions of the relevant persons and of persons related to them, involving financial instruments in which the pension funds managed by the pension company invest.

(6) The relevant persons of the pension 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 pension fund of shares or holdings in that another company, except for the entitlement to reimbursement of travel expenses and other justified costs.

Monitoring of compliance with the relevant legislation

Article 50

(1) The pension 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 legislation, as well as the associated risks, and put in place adequate measures and procedures designed to minimise such risk.

(2) The pension company shall establish, implement and regularly update, assess and monitor policies and procedures designed to ensure that it operates in accordance with this Act and regulations made under this Act and with other relevant legislation, and to ensure that the 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 pension company.

Risk management system

Article 51

(1) The pension company shall establish a comprehensive and effective risk management system for the pension company and pension funds, 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 risk management.

(2) The pension 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 business of the pension company and the operation of the pension funds it manages and with the business processes and systems of the pension company and the pension funds it manages.

(3) In the risk management process, the pension company shall determine the risk profile of the pension funds it manages and the contribution of individual risks to the overall risk profile of a particular pension fund and shall set a tolerable level of risk.

(4) The pension company shall employ a risk-management process that enables it to monitor and measure at any time the risk of the positions and their contribution to the overall risk profile of the portfolios of the pension funds it manages.

(5) On the basis of the adopted risk management strategies and policies and the tolerable level of risk that has been set, and in order to properly identify, measure, manage and monitor all risks to which pension funds are exposed, the pension company shall adopt effective procedures, risk measurement techniques and risk management measures.

(6) The pension 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 measures foreseen to rectifying possible deficiencies in the risk management strategies, policies and procedures, including failures on the part of the relevant persons.

(7) At the request of the Agency, the pension company shall without delay submit to the Agency the adopted risk management strategy and policies.

(8) The pension company's board of directors shall be responsible for the risk management process and all employees of the pension company must participate in the implementation of that process.

(9) The pension company shall use appropriate procedures for the accurate and independent assessment of the value of OTC derivatives.

(10) The pension company shall inform the Agency regularly about the types of financial derivative instruments, the underlying risks, the quantitative limits on the investments and the methods chosen in order to estimate the risks associated with transactions in derivative financial instruments for each pension fund it manages.

(11) The Agency shall issue an ordinance to specify in more detail the criteria for assessing the adequacy of risk management process used by the pension company in accordance with paragraph 4 of this Article and the rules for informing the Agency in accordance with paragraph 10 of this Article.

Investment process

Article 52

(1) The pension company shall organise its business in such a manner as to ensure the continuing investment process, which shall comprise at least the following:

1. making of analyses;
2. determining an investment strategy;

3. making investment decisions;
4. risk management;
5. trading;
6. control of compliance, and
7. analysis of the results achieved compared to those expected from the investment.

(2) For each type of asset that is significant in terms of contribution to the assets, risks and/or operational requirements, the pension company must ensure that there is an adequate number of employees responsible for investments, trading, analyses and risk management for that type of asset. The scope of responsibilities of an individual employee must be appropriate.

(3) For each type of asset the company must know the nature of the investment, the issuer, particularities relating to trading, legal regulations and the associated risks.

(4) The Agency shall issue an ordinance specifying in more detail the required procedures, conditions, documentation, participants and other requirements relating to the investment process, as well as other requirements referred to in this Article.

Corporate governance

Article 53

(1) A pension company shall set up an internal body responsible for making decisions concerning corporate governance and relations with issuers whose securities are owned by the pension funds managed by the pension company, which shall be composed of persons who have adequate knowledge in the field of corporate governance.

(2) A pension company shall determine clear procedures to be followed in all standard dealings with issuers.

(3) If a relevant person of a pension company is a member of the board of directors or of another body of the issuer, such person must not influence, formally or informally, directly or indirectly, the persons in the pension company who are responsible for making investment decisions relating to securities of that issuer.

(4) The Agency shall issue an ordinance to specify in more detail the requirements concerning corporate governance in a pension company.

Internal audit

Article 54

(1) A pension company shall establish an internal audit function which makes an independent and objective assessment of the internal control system, provides 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 systematic, disciplined approach to

assessing and improving the effectiveness of risk management, control and corporate governance.

(2) The Agency shall issue an ordinance prescribing the organisational form, tasks, persons performing internal audit, planning and reporting on audit activities of a pension company.

Business continuity measures

Article 55

(1) A pension 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 pension company shall employ appropriate systems, resources and procedures that are proportionate to the nature, scope and complexity of its activities.

Remuneration policies

Article 56

(1) In order to prevent taking unsuitable risks in its business, the pension company shall prescribe and implement clear remuneration policies and procedures 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 pension company or pension fund.

(2) The remuneration policies and procedures of the pension company shall consistently promote effective risk management and shall not encourage risk-taking which is inconsistent with the pension fund's risk profile or statute.

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

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

(5) For the purpose of supervising the operation of the pension company, the implementation of the remuneration policies and procedures shall be, at least annually, subjected to internal review for compliance with the remuneration policies and procedures adopted by the board of directors of the pension 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 on the overall results of the pension company or pension funds, and when assessing individual performance, financial as well as non-financial criteria shall be taken into account.

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

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

(9) Annual financial statements of a pension company shall disclose:

1. the total amount of bonuses and awards, split into fixed and variable components, paid by the pension company to its employees, including the number of beneficiaries of such bonuses and awards;

2. the total amount of bonuses and awards, broken down by members of the board of directors, members of the supervisory board, procurators and employees of the pension company whose activities may have a material impact on the risk profile of the pension company or pension fund.

Document handling procedures, keeping of records and business documents of a pension company

Article 57

(1) A pension company shall have clear and transparent procedures for handling documents that relate to the pension company and the pension funds it manages.

(2) A pension company shall keep and retain the records and business documents about all the activities and transactions it has carried out, in particular those relating to the management of pension funds' assets, in a manner that makes it possible to supervise operations in accordance with the provisions of this Act and regulations made under this Act, in particular the fulfilment of the obligations towards the actual and potential pension fund members.

(3) A pension 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 for its own account or for the account of a particular pension fund.

(4) A pension company shall keep all the documents relating to the dealings with the assets of a particular pension fund separately from the documents of the pension company and other pension funds it manages.

(5) A pension company shall protect all business documents from unauthorised access and possible record losses and shall retain them in a durable medium.

Adoption of ordinances

Article 58

The Agency shall issue ordinances laying down in more detail the organisational requirements for a pension company, including additional organisational requirements where a pension company also manages a voluntary pension fund, as regards the following:

1. organisational conditions;
2. conflicts of interest;
3. administrative and accounting procedures;
4. monitoring compliance with relevant legislation;
5. risk management;
6. internal control mechanisms;
7. business continuity measures;
8. remuneration policies;
9. keeping and maintaining the pension company's business documents;
10. adequate management of the information system, and
11. business conduct rules.

Title 4

Conduct of the business of a pension company

Article 59

A pension company shall:

1. be able to meet in a timely manner its liabilities as they fall due (liquidity principle) and permanently meet all its liabilities (solvency principle);
2. manage pension funds in such a manner as to ensure that each pension fund is able to meet its liabilities as they fall due (liquidity principle) and that each pension fund is able to permanently meet all its liabilities (solvency principle);
3. manage a pension fund in accordance with investment limits and the specified risk profile of each individual pension fund it manages;
4. be responsible for a timely, fair and efficient exercising of all the rights and obligations provided for in this Act and the statute of the pension fund;

5. put in place supervisory systems and mechanisms which clearly demonstrate that the pension company acts, in the long run, in accordance with this Act and the statute of the pension fund, and which makes it possible to monitor all the decisions, orders and transactions relating to the pension fund's assets;
6. ensure that promotional material, publications and reports to pension fund members, whether delivered directly or published in print or electronic media, are clear, accurate and not misleading, and that they are in compliance with the Agency's requirements;
7. acquire assets for pension funds exclusively in its own name and for the account of the pension fund, by placing these in safe-keeping with a depositary, in accordance with this Act, regulations made under this Act and other relevant legislation;
8. submit to the depositary copies of all original documents relating to transactions involving assets of pension funds immediately after these documents are prepared or received, as well as any other document or file important for the performance of the activities and fulfilment of the duties of a depositary as provided for in this Act, regulations made under this Act and other relevant legislation;
9. keep records of transactions involving assets of a particular pension fund separately from its own records and accounts and transaction records of other pension funds, and reconcile them with the depositary's records at regular intervals;
10. provide, in a timely manner, the Central Register of Insured Persons with information provided for in this Act and regulations made under this Act;
11. publish information on the pension company and the pension funds it manages, in accordance with this Act, regulations made under this Act and other relevant legislation;
12. submit to the Agency regular reports in accordance with the procedure provided for in the rules of the Agency;
13. observe the principle of honesty and good faith in its dealings with the Agency;
14. establish, maintain and keep available all the records determined by the Agency's regulation, in a complete, timely, accurate and truthful manner, for a period to be determined by the Agency;
15. make all its records available to the Agency in a timely manner, and make it possible for the Agency to conduct interviews with the persons carrying out tasks in the pension company;
16. comply with other requirements provided for in this Act and regulations made under this Act;
17. not conclude any contract intended to diminish or change the responsibilities determined by this Act, and any provision of a contract drawn up with such intent shall be considered null and void;

18. charge one member of the board of directors with the duty of maintaining contacts with the Agency for the purposes of reporting and other correspondence activities required by the provisions of this Act;

19. issue orders to the depositary for the purpose of exercising the rights attaching to the pension fund's assets;

20. ensure that the pension fund's assets and liabilities are assessed at fair value and that the value of the unit of account is correctly determined;

21. comply with other requirements provided for in this Act and regulations made under this Act.

Prohibited activities for pension companies

Article 60

A pension company may not:

1. carry out activities of intermediation in purchase and sale of financial instruments;
2. acquire or dispose of assets of the pension funds it manages, whether for its own account or for the account of relevant persons;
3. purchase, out of the pension fund's assets, the assets not provided for in this Act or enter into deals not provided for in this Act;
4. effect transactions by which it would violate the provisions of this Act, regulations made under this Act and the pension fund's statute, including the provisions concerning the limitations on the investment in the pension funds it manages;
5. dispose of the pension fund's assets without receiving the appropriate compensation;
6. acquire or dispose of assets of the pension funds it manages at a price less favourable than the fair value of the asset concerned;
7. arrange, whether directly or indirectly, simultaneously or with a delay, sale, purchase or transfer of assets between two pension funds managed by the same pension company under conditions other than market conditions or under conditions that favour one pension fund over the other;
8. assume obligations with respect to assets which, at the time when these obligations are assumed, are not owned by the pension fund, except for:
 - a. transactions in financial instruments made on a regulated market or another market the rules of which allow for delivery versus payment for financial instruments, and
 - b. transactions for which delivery versus delivery of financial instruments is not possible or which cannot normally be made through a delivery-versus-payment settlement system, in

which case the pension company must put in place appropriate procedures and measures to control the settlement risk.

The pension company's liability

Article 61

(1) A pension company shall be liable to pension fund members for the sound and prudent conduct of the business activities provided for in this Act, regulations made under this Act and the pension fund's statute.

(2) In the case that a pension company does not perform or fails to perform, wholly or in part, or improperly performs any activity or duty provided for in this Act or in the pension fund's statute, the pension company shall be liable to the pension fund members for the damage caused to the assets of the pension fund, which has occurred as a consequence of the failure on the part of the pension company to perform and fulfil its duties.

(3) In the pension fund's statute, the pension company shall provide for appropriate procedures for compensating loss to the pension fund members, which are to be applied in the event that the value of the unit of account is wrongly calculated and in the event that the investment limits are not complied with within the meaning of Article 135, paragraph 4 of this Act, and which must cover, in particular, the development and verification of a loss compensation plan and loss compensation measures.

(4) The loss compensation procedures referred to in paragraph 3 of this Article must be audited by an auditor within the framework of an audit of the pension fund's annual reports.

(5) The Agency shall issue an ordinance elaborating in more detail the loss compensation procedure and its implementation, in particular:

1. the details of the loss compensation procedure, the minimum amount of the wrongly calculated value of the unit of account above which the loss compensation procedure is to be carried out, and the details of a simplified loss compensation procedure in the case of absence of a defined total loss value;

2. loss compensation measures that are to be taken with respect to the pension fund members or to the pension fund and low-value limits within which such loss compensation measures would cause disproportionate cost;

3. notification obligations towards the Agency;

4. obligation to provide information to pension fund members;

5. the contents and development of a loss compensation plan and the details of loss compensation measures;

6. the contents and scope of an audit of a loss compensation plan and loss compensation measures to be carried out by an auditor.

Assertion of claims and exercise of rights by a pension company

Article 62

A pension company shall be empowered and obliged to exercise, in its own name, the rights of pension fund members against a depositary.

Title 5

Financing of pension company's activities

Article 63

In order to cover the costs of a pension company, the pension company may charge the following fees:

1. an entry fee of up to 0.8 % of the paid contributions;
2. a management fee of up to 0.45 % per annum of the total assets minus the pension fund's financial liabilities in 2013, 2014 and 2015, and for each further year the fee rate shall be reduced by 7 % compared to the fee rate applied in the preceding year, rounded to three decimal places, and shall not be lower than 0.3 %; the basis for calculation and the method of collecting this fee shall be prescribed by the Agency by way of an ordinance;
3. an exit fee for leaving the pension fund during the first three years of membership, if this also involves the selection of another pension company; the fee shall be a maximum of 0.8 % in the first year, 0.4 % in the second year, and 0.2 % in the third year of membership.

Title 6

Reporting by a pension company

Pension company's reports

Article 64

- (1) The legislation governing accounting and the International Financial Reporting Standards shall apply to financial reporting by a pension company, unless the Agency provides otherwise.
- (2) The Agency shall issue an ordinance laying down the structure and the contents of annual financial statements of a pension company, their publication and the method and deadlines for their submission.
- (3) Apart from annual financial statements referred to in paragraph 2 of this Article, the Agency may lay down the structure, the contents and the method and deadlines for submission of other reports of a pension company that pension companies are required to prepare for the Agency's purposes.
- (4) The Agency may prescribe the chart of accounts for a pension company.

Auditing of pension company's reports

Article 65

(1) Annual financial statements of a pension 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 this Act.

(2) The pension company shall submit to the Agency audited annual financial statements referred to in Article 64, 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 audit no more than seven consecutive annual financial statements of a pension company.

Article 66

(1) The Agency may require the auditor to provide additional explanations with regard to the audited annual financial statements or other audited reports of a pension company.

(2) If the Agency establishes that an audit of the pension company's reports has not been carried out or that the auditor's report has not been drawn up in accordance with this Act, 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 pension company or otherwise, that the auditor's report on the pension company's reports is not based on true and objective facts, it may reject the auditor's report and require the pension company to have the audit carried out by certified auditors from another audit firm at the expense of the pension company.

(3) The Agency may issue an 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 or other reports of a pension company.

Title 7

Transfer of the pension fund management activities to another pension company

Section 1

Voluntary termination of the business of a pension company

Article 67

(1) A pension company may terminate its registered business by:

1. taking a decision to terminate its business; and

2. concluding a contract with another pension company for the transfer of management activities.

(2) The pension company shall communicate the decision referred to in paragraph 1, item 1 of this Article and the notification of termination of the business to the pension fund depositary and the Agency at least four months prior to the date of termination of the pension fund management activities.

Article 68

(1) The pension company shall, within two months of the communication referred to in Article 67, paragraph 2 of this Act, carry out the procedure for the transfer of the pension fund management activities to another pension company in accordance with the provisions of Articles 69 to 71 of this Act.

(2) If the pension company does not find a new pension company to which the pension fund management activities would be transferred in accordance with the provisions of paragraph 1 of this Article, it shall immediately inform the Agency thereof. In that case, conditions for the compulsory transfer shall arise, and the provisions of Articles 75 to 77 of this Act shall apply accordingly.

(3) Upon completion of the procedure for the transfer of the pension fund management activities to another management company or completion of the compulsory transfer, the Agency shall revoke the granted authorisation to conduct business, at the pension company's own request.

Section 2

Voluntary transfer of the pension fund management activities to another pension company

Transfer of the pension fund management activities to another pension company

Article 69

(1) A pension company (transferor company) is entitled to transfer the pension fund management activities to another pension company (transferee company) in accordance with this Act, regulations made under this Act, and the legislation governing the protection of competition.

(2) Prior to the transfer of the pension fund management activities, the transferee company must obtain approval from the Agency.

(3) The transfer of the pension fund management activities shall be evidenced by a written contract between the transferor company and the transferee company, which must contain:

1. a description of all procedures and actions that the pension companies will take with regard to the transfer of the management activities;

2. the time limit within which the management activities will be transferred to another pension company. This period shall not be shorter than one month and shall begin to run from the public announcement of the transfer of the management activities referred to in Article 72, paragraph 1 of this Act.

(4) During the procedure for the transfer of the fund management activities to a transferee company, all three pension fund categories, i.e. A, B and C, shall be transferred.

(5) If a transferee company already manages pension funds, each pension fund of the transferor company must be merged with the transferee company's pension fund of the same category.

(6) The Agency shall issue an ordinance specifying in more detail the procedure, the conditions for and the method of transfer of the pension fund management activities.

Application for approval for the transfer of the pension fund management activities

Article 70

In support of its application for approval for the transfer of the pension fund management activities the transferee company shall submit:

1. the contract on the transfer of the pension fund management activities referred to in Article 69, paragraph 3 of this Act;
2. the text of the announcement referred to in Article 72, paragraph 1 of this Act;
3. the text of the notification to be provided to pension fund members as referred to in Article 72, paragraph 2 of this Act;
4. an application for approval to conclude or amend a depositary contract referred to in Article 170, paragraph 3 of this Act;
5. when necessary, such other documents as may be requested by the Agency.

Deciding on an application for approval for the transfer of the pension fund management activities

Article 71

(1) The Agency shall refuse an application for approval for the transfer of the pension fund management activities if:

1. the transferee company does not meet the requirements for managing pension funds;
2. the contents of the announcement to be published and of the notification to be provided to pension fund members, as referred to in Article 72, paragraphs 1 and 2 of this Act, do not comply with the provisions of this Act and regulations made under this Act;

3. it considers that the transfer of the management activities could harm the interests of the members of the pension funds that are being transferred or the interests of the public;

4. it considers that the transfer of the management activities would be contrary to the legislation governing the protection of competition.

(2) If an application for approval for the transfer of the pension fund management activities is submitted by a transferor company, the Agency shall reject such application.

Notifying pension fund members of the transfer of the management activities

Article 72

(1) Within eight days of receiving approval from the Agency, the transferor company and the transferee company shall jointly publish an announcement of the transfer of the management activities.

(2) Within 15 days of receiving approval from the Agency, the transferor company and the transferee company shall notify all the members of the pension funds they manage of the transfer of the management activities, through the Central Registry of Insured Persons.

(3) The pension fund members shall not be charged an exit fee in consequence of the transfer of the pension fund management activities to another pension company.

(4) The members of the funds managed by the transferor company and of the funds managed by the transferee company must be given an opportunity to join a pension fund managed by a third pension company without charging them an exit fee for leaving the fund in the period beginning on the date on which the notification referred to in paragraph 2 of this Article is received and ending six months after the legal consequences of the transfer of the management activities take effect.

(5) The Agency shall issue an ordinance specifying the contents and the method of publishing and submitting the announcement and the notification referred to in paragraphs 1 and 2 of this Article.

Legal consequences of the transfer of management activities

Article 73

(1) On expiry of the time limit referred to in Article 69, paragraph 3, item 2 of this Act, the following legal consequences shall arise:

1. all rights and obligations of the transferor company with regard to the management of the pension funds shall be transferred to the transferee company;

2. the transferor company's authorisation to manage the pension funds shall terminate.

(2) The transferor company and the transferee company shall, by the date of expiry of the time limit referred to in Article 69, paragraph 3, item 2 of this Act, complete all the procedures and

actions necessary for the transfer of the pension fund management activities, and shall notify the Agency of all the procedures and actions taken.

(3) By way of exception, the Agency may, at the request of the transferor company and the transferee company, extend the time limit referred to in Article 69, paragraph 3, item 2 of this Act, if it serves the interests of the pension fund members. An application for extension shall be submitted to the Agency by the transferor company and the transferee company before the expiry of the time limit referred to in Article 69, paragraph 3, item 2 of this Act.

(4) On completion of the procedure for the transfer of management activities, pension funds of the same category shall be merged in accordance with the provisions of Articles 151 to 169 of this Act.

Section 3

Compulsory transfer of the pension fund management activities to another pension company

Reasons for the compulsory transfer of the pension fund management activities

Article 74

A compulsory transfer of the pension fund management activities shall be carried out:

1. if the Agency has withdrawn the pension company's authorisation to conduct business, or
2. if bankruptcy proceedings, pre-bankruptcy settlement proceedings or winding-up proceedings have been initiated against the pension company, or
3. if the case referred to in Article 68, paragraph 2 of this Act has occurred.

Obligations of the depositary

Article 75

(1) From the time when the reasons for a compulsory transfer of the pension fund management activities arise until the time when the legal consequences of the transfer of the management activities to another pension company (transferee company) take effect, the depositary shall perform those pension fund management activities which, for the protection of the interests of the pension fund members, cannot be delayed.

(2) The pension fund management activities referred to in paragraph 1 of this Article that cannot be delayed shall be deemed to be, for example:

- a) the administrative tasks referred to in Article 7, paragraph 3, items 3, 5, 6, 7 and 8 of this Act;
- b) other tasks which, if not performed by the depositary, would cause damage to the pension funds.

(3) From the time when the reasons for a compulsory transfer of the pension fund management activities arise the Agency may, in exceptional cases and for the purpose of protecting the assets of the pension fund members, order the Central Registry of Insured Persons to suspend the payment of contributions by the pension fund members, to suspend the transfer of membership from one pension fund to another and to suspend the closing of personal accounts.

(4) From the time when the reasons for a compulsory transfer of the pension fund management activities arise until the time when legal consequences of the transfer of the management activities to a transferee company take effect, the depositary shall be entitled, in addition to a fee provided for in Article 191 of this Act, to an additional fee for performing the activities referred to in paragraph 2 of this Article, in accordance with the contract concluded with the transferee company as referred to in Article 76, paragraph 5 of this Act. The fee generated from the contributions paid in this period shall constitute the revenue of the transferee company.

Selection of another pension company and transfer of management activities

Article 76

(1) The depositary shall, within seven days of the day when the reasons for a compulsory transfer of the pension fund management activities have arisen as referred to in Article 74 of this Act, issue a public invitation to pension companies to submit to the depositary, within 45 days, their bids for the management of the pension funds that are temporarily managed by the depositary. On expiry of this period, the depositary shall, within a further period of 15 days, propose to the Agency, in writing, a transferee pension company to which the management activities are to be transferred, and shall also submit all the bids received. The Agency shall, within a further period of 15 days, issue to the proposed pension company an authorisation to manage the pension funds, unless it establishes that the pension company concerned does not meet the requirements set out in this Act and regulations made under this Act, in which case it shall order the depositary either to propose another pension company from among those that have submitted their bids or to issue a new public invitation.

(2) An order to the depositary to launch a new public invitation may be issued by the Agency only once. The Agency shall not issue an authorisation for the management of the pension funds if it considers that the depositary's proposal or none of the bids submitted are acceptable.

(3) Criteria for selecting the most favourable pension company referred to in paragraph 1 of this Article shall be prescribed by the Agency by way of an ordinance. When selecting a pension company, account shall be taken exclusively of the interests of the pension fund members, and the payment of any type of compensation may not be a criterion for selecting the most favourable pension company.

(4) The pension company to which the Agency grants the authorisation referred to in paragraph 1 of this Article shall, within six months of the date of submission of the authorisation referred to in paragraph 1 of this Article, merge the pension funds that have been taken over with the pension funds it already manages, in accordance with the merger procedure set forth in Articles 151 to 169 of this Act.

(5) The depositary and the transferee company shall conclude a contract for the transfer of management activities.

(6) The provisions of Article 69, paragraph 3 of this Act shall apply accordingly to the contract referred to in paragraph 5 of this Article, but the period in which the depositary and the transferee company are to complete the transfer of management activities may not exceed 15 days from the day on which the Agency's decision granting the authorisation referred to in paragraph 1 of this Article is submitted to the pension company.

(7) The provisions of Article 69, paragraphs 4 and 5, Article 71, items 1, 3 and 4 and Article 72, paragraphs 1 and 2 of this Act, with respect to a transferee company, and the provisions of Articles 156 to 169 of this Act shall apply *mutatis mutandis* to the compulsory transfer of management activities.

(8) From the time when the reasons for a compulsory transfer of the pension fund management activities arise until the time when legal consequences of the transfer of the management activities to the transferee company take effect, the members of the pension funds that are temporarily managed by the depositary are not allowed to change the pension fund.

(9) Members of the pension funds that have been taken over may, at any time during one year from the day when legal consequences of the transfer of the management activities to the transferee company take effect, transfer to a pension fund of the same category managed by a third pension company, in accordance with the restrictions referred to in Article 93 of this Act and without being charged an exit fee.

(10) At any time during the six months following the day when legal consequences of the transfer of the management activities take effect as referred to in paragraph 4 of this Article, members of the pension funds managed by the transferee company must be given the opportunity to transfer to a pension fund managed by a third pension company, without being charged an exit fee.

(11) If the depositary fails to act in accordance with his obligations set out in paragraph 1 of this Article or no pension company submits a bid following the public invitation referred to in paragraph 1 of this Article or if, in the case referred to in paragraph 2 of this Article, the Agency does not grant an authorisation to manage pension funds because it considers that none of the bids submitted are acceptable, the Central Registry of Insured Persons shall issue special instructions to the pension fund members informing them they need to choose a pension fund managed by another pension company, and shall set a deadline by which they must join this new fund.

(12) The provisions of Article 91, paragraphs 3 and 4 of this Act shall apply *mutatis mutandis* to pension fund members who fail to choose a fund managed by another pension company within the deadline referred to in paragraph 11 of this Article.

(13) The Agency shall issue an ordinance to specify in more detail the procedures, conditions and method for a compulsory transfer of the pension fund management activities, as well as the obligations of the persons participating in the procedure for a compulsory transfer of the pension fund management activities.

Article 77

Following the pension funds' merger in the case referred to in Article 69, paragraph 5 and Article 76, paragraph 4 of this Act, as well as in the case referred to in Article 76, paragraph 11 of this Act, the Agency shall *ex officio* remove these funds from the register of pension funds and from the register of pension companies.

Part Three

PENSION FUNDS

Title 8

Article 78

(1) Persons who are mandatorily insured under the mandatory pension insurance scheme based on generational solidarity shall be mandatorily insured in a pension fund based on individual capitalised savings.

(2) A pension fund shall be classified as category A, B or C, depending on its membership structure and investment principles. Pension funds of different categories differ according to membership restrictions provided for in Article 93 of this Act and investment strategies and investment limits pursuant to the provisions of Articles 126 and 127 of this Act.

Article 79

(1) The pension fund referred to in Article 78 of this Act shall be a separate pool of assets that has no legal personality and is established as a special fund with a view to collecting financial assets derived from contributions paid by fund members and investing these assets in order to increase the value of the fund's assets, with a goal to provide for the payment of pension benefits to members of that fund in accordance with the statutory provisions.

(2) A pension fund is owned by its members whose individual ownership rights are determined in proportion to the assets in their personal accounts.

(3) A certificate that the Central Registry of Insured Persons issues to pension fund members in accordance with the provisions of Article 193 of this Act shall serve as evidence of ownership in a pension fund.

Article 80

A pension fund shall be managed by a pension company in accordance with the statute of the fund and this Act.

Article 81

The registered name of a pension fund shall contain the words "mandatory pension fund" and an indication of the category referred to in Article 78, paragraph 2 of this Act.

Approval to establish and manage pension funds

Article 82

(1) A pension company shall submit to the Agency an application for approval to establish and manage pension funds within three months of the date of registration in the court register, and shall provide the following in support of its application:

1. the documents and information referred to in Article 11 of this Act, if these have changed since the time of submission of an application for authorisation to conduct business of a pension company;
2. the statutes of the pension funds of categories A, B and C;
3. the contract concluded with a depositary, in accordance with the provision of Article 170 of this Act;
4. an estimate of the number of members of the pension funds of categories A, B and C who could join the funds in the first five years and their structure, based on a market research, and the method of achieving that number;
5. other documents that are required by the by-laws of the Agency.

(2) The Agency may require that the documents referred to in paragraph 1 of this Article be modified, amended or explained, as appropriate.

(3) If there has been a change with regard to the documents and information referred to in paragraph 1, item 1 of this Article, or if the pension company proposes a change to the documents and information listed in Article 11 of this Act before an authorisation to establish and manage pension funds is granted, it shall be necessary to obtain an approval from the Agency, unless such change is out of the pension company's control and the pension company has made reasonable efforts to prevent such change. The Agency shall examine any change in accordance with the provisions of Article 15 of this Act, and in doing so, it may consolidate the procedures as provided for in Article 18 of this Act.

(4) The Agency shall issue an ordinance specifying additional documents that a pension company must provide with an application for approval referred to in paragraph 1 of this Article.

Article 83

(2) If all the documents and information have been properly submitted in accordance with Article 82 of this Act, and if the Agency's approval within the meaning of Article 82, paragraph 3 of this Act has been obtained when required, the Agency shall issue an approval to establish and manage pension funds within 15 days of receipt of the complete application, or receipt of the last document and information obtained in accordance with Article 82 of this Act, provided that it is not aware of any reason listed in Article 14 of this Act that would justify refusing to grant the approval.

(3) The Agency shall notify the Central Registry of Insured Persons of the decision referred to in paragraph 1 of this Article.

Article 84

(1) The Agency shall refuse an application for approval to establish and manage pension funds if it establishes that:

1. the application does not comply with the requirements set out in this Act;
2. the operations and organisation of the pension funds would not comply with this Act;
3. the documents submitted in accordance with Article 82 of this Act contain information indicating that the interests of the pension fund members are not adequately protected.

(2) The Agency shall notify the pension company and the Central Registry of Insured Persons of the decision referred to in this Article or in Article 83 of this Act.

Joining of procedures when deciding on an application for approval to establish and manage pension funds

Article 85

When granting an approval to establish and manage pension funds, the Agency may at the same time decide on the following applications:

1. the pension company's application for approval to establish and manage pension funds;
2. an application for approval of the statutes of the pension funds of categories A, B and C, and
3. an application for approval of a depositary for the pension funds of categories A, B and C.

Pension fund's assets

Article 86

The pension fund's assets shall not belong to the pension company, shall not be part of the pension company's assets or its liquidation or bankruptcy estate and may not be subject to execution to satisfy claims against the pension company. The pension fund's assets shall be held and kept separately from the pension company's assets.

Pension fund's costs

Article 87

Only the following may be paid directly out of the pension fund's assets:

1. a management fee referred to in Article 63, item 2 of this Act;

2. a fee payable to a depositary, and

3. costs, fees or charges related to the acquisition or sale of the pension fund's assets, including the necessary costs for protecting or safeguarding the assets of the fund.

The pension fund's liability

Article 88

(1) The pension fund shall not be liable for the obligations of the pension company.

(2) Pension fund members shall not be directly liable for the obligations of the pension company, not even those arising from legal transactions concluded by the pension company in its own name and for the joint account of the pension fund members. The pension company may not conclude a legal transaction that would impose a direct obligation on a pension fund member. Any legal transactions contrary to this paragraph shall be null and void.

(3) Any power of attorney under which the pension company would represent the pension fund members shall be null and void.

(4) The pension company may settle claims for reimbursement of costs and fees arising from the conclusion of legal transactions for the joint account of the pension fund members solely out of the pension fund's assets and may not directly charge the pension fund members for these costs and fees.

Article 89

(1) The pension company may not issue to pension fund members a power of attorney to exercise the voting rights attaching to financial instruments belonging to the pension fund's assets.

(2) The pension company shall exercise, by itself or through a depositary, the voting rights attaching to shares and the rights attaching to other financial instruments that form part of the pension fund's assets. The pension company shall give to the depositary clear voting instructions.

(3) The voting rights attaching to shares and the rights attaching to other financial instruments that form part of the pension fund's assets may also be exercised by a proxy to whom the pension company or the depositary shall issue a special power of attorney in writing.

Membership in and contributions to pension funds

Article 90

(1) Persons insured under the mandatory pension insurance scheme based on generational solidarity in accordance with the Pension Insurance Act and who are under 40 years of age must be insured on the basis of individual capitalised savings in a pension fund of their choice of which they shall become members subject to the restrictions specified in Article 93 of this Act.

(2) The mandatory pension insurance based on individual capitalised savings referred to in paragraph 1 of this Article shall commence on the date of commencement of insurance under the mandatory pension insurance scheme based on generational solidarity in accordance with the Pension Insurance Act and the obligation to choose a pension fund of a particular category, subject to the restrictions specified in Article 93 of this Act, shall arise on that date.

(3) An insured person may be a member of only one pension fund and may have only one account in that pension fund.

(4) The insured persons referred to in paragraph 1 of this Article are liable to pay contributions for mandatory pension insurance based on individual capitalised savings, and their payment obligation shall be carried out by contribution payers specified by law.

(5) Contributions for mandatory pension insurance based on individual capitalised savings shall be paid at a rate set by law.

(6) Contributions paid for mandatory pension insurance based on individual capitalised savings shall be allocated by the Central Registry of Insured Persons to pension funds in accordance with the law governing the operation of the Central Registry of Insured Persons.

(7) The method of allocating the collected contributions shall be determined by law and by the Agency's by-laws.

Selection of a fund

Article 91

(1) The insured persons referred to in Article 90, paragraph 1 of this Act shall, within six months of commencement of their mandatory pension insurance, choose a pension fund of a particular category in accordance with the restrictions specified in Article 93 of this Act.

(2) Pending the selection of a pension fund of a particular category, the insured person's assets shall be placed in a temporary account.

(3) If an insured person does not choose a pension fund within six months of commencement of his or her mandatory pension insurance, the Central Registry of Insured Persons shall, *ex officio*, allocate him or her to a category B pension fund.

(4) The allocation of insured persons pursuant to paragraph 3 of this Article shall be done by allocating an equal number of persons to each pension fund.

(5) The Agency shall issue an ordinance specifying the manner in which the Central Registry of Insured Persons shall allocate insured persons and the manner in which it shall inform them of the need to choose a fund, the method of ensuring the payment of contributions that are to be paid prior to late joining, the procedure and frequency of allocation, the procedure for notifying about the death of a fund member, and other procedures and conditions that must be satisfied when choosing a fund.

Article 92

The provisions of this Act shall apply *mutatis mutandis* to persons insured under the extended insurance scheme in accordance with the Pension Insurance Act.

Membership restrictions

Article 93

- (1) An insured person may be a member of a category A pension fund if he or she has 10 or more years until the reference date.
- (2) An insured person may be a member of a category B pension fund if he or she has five or more years until the reference date.

Article 94

- (1) A pension fund member may switch to a pension fund managed by another pension company if more than 14 days have passed since the previous transfer of membership from one pension fund to another, regardless of whether it was a transfer from one to another category of the pension fund managed by the same pension company or a transfer of membership in a pension fund managed by another pension company.
- (2) In the case of a transfer of membership referred to in paragraph 1 of this Article, an exit fee shall be charged in accordance with Article 63, paragraph 3 of this Act.

Article 95

- (1) A pension fund member may switch to a pension fund of another category only in a year in which the member reaches years of age that are a multiple of three (3).
- (2) A pension fund member may switch to a pension fund of another category only in the calendar month of his or her birthday.
- (3) The selection of a pension fund category shall be in accordance with the restrictions specified in Article 93 of this Act.
- (4) An exit fee referred to in Article 63, paragraph 3 of this Act shall not be charged for switching from one to another category of the pension fund.

Article 96

- (1) If an insured person is a member of a category A pension fund on the day when he or she satisfies the requirement that less than 10 years remain until the reference date, the Central Registry of Insured Persons shall allocate the insured person to a category B pension fund managed by the same company.
- (2) If an insured person is a member of a category B pension fund on the day when he or she satisfies the requirement that less than five years remain until the reference date, the Central Registry of Insured Persons shall allocate the insured person to a category C pension fund managed by the same company.

(3) The Central Registry of Insured Persons shall make the information about allocation available to the pension fund member and the pension company in accordance with Article 194 of this Act.

Article 97

(1) If a pension fund member wants to select a pension fund or switch to another pension fund, he or she shall do it by registering with the Central Registry of Insured Persons, on the basis of which he or she shall become a member of the newly chosen fund.

(2) The registration referred to in paragraph 1 of this Article must contain the name, personal identification number, date of birth, sex and address of the insured person, the name of the pension company and the category of the pension fund chosen by the insured person, the date of filing the registration and the signature of the insured person. The Central Registry of Insured Persons must make all information contained in the registration available to the pension company managing the chosen pension fund, so that the latter can enter the registration information, or changes to information in case of a change of a pension fund, in its records on the pension fund members.

(3) The Central Registry of Insured Persons shall use one registration form for all cases of entry of members to a pension fund, and a special registration form for switching from one pension fund category to another.

(4) The Agency shall issue an ordinance specifying the contents of the registration forms referred to in paragraph 3 of this Article.

(5) Admission to membership of a pension fund may not be refused, except when the person applying for membership does not meet the requirements laid down in this Act.

Article 98

(1) The transfer of membership from one pension fund to another involves the transfer of a pension fund member's account.

(2) The transfer of an account shall cover the amount in the personal account of the pension fund member as on the day of prior valuation, less any deductions made in accordance with Article 63 of this Act.

(3) When the transfer referred to in paragraph 1 of this Article is made, the Central Registry of Insured Persons shall make available, without delay, a report on the total amount in, and all the contributions paid to, the personal account, calculated in accordance with paragraph 2 of this Article, to the pension company managing the pension fund to which the personal account of the pension fund member is transferred.

(4) The Agency shall issue an ordinance laying down the method of transferring an account and the pension company's obligations in the process of making a transfer of an account.

Article 99

If a pension fund member ceases to pay contributions to a pension fund, he or she shall remain a full member of the pension fund to which he or she was paying contributions.

Exercise of the right to a pension

Article 100

(1) The total capitalised assets in the personal account of a pension fund member shall be transferred to a pension insurance company when the member qualifies for an old-age or early retirement pension in accordance with the Pension Insurance Act.

(2) If a pension fund member does not qualify for an old-age or early retirement pension in accordance with the Pension Insurance Act, and is not covered by the insurance scheme on the reference date, the capitalised assets in his or her personal account may be transferred to a pension insurance company after he or she meets the age requirements for an old-age pension in accordance with the Pension Insurance Act.

(3) The insured person's membership in the pension fund shall terminate with the withdrawal of assets under paragraphs 1 and 2 of this Article.

(4) A pension fund member whose rights under pension insurance are regulated by a special regulation governing entitlement to pension insurance of active military personnel, police officers or authorised officials, or whose pension is determined in accordance with that regulation, may, within 30 days of the entry into force of this Act, make a statement to the Central Registry of Insured Persons that he or she wants to continue to be a member of the pension fund.

(5) If a pension fund member does not make a statement within the time specified in paragraph 4 of this Article, the Central Registry of Insured Persons shall transfer the total capitalised assets from the personal account of the pension fund member to the State Budget, and, after the former pension fund member qualifies for a pension, the Croatian Pension Insurance Institute shall determine his or her pension as if he or she had only been insured under the mandatory pension insurance scheme based on generational solidarity.

(6) The Central Registry of Insured Persons shall inform the Ministry of Finance and the Croatian Pension Insurance Institute about transfers of assets from personal accounts referred to in paragraph 5 of this Article on a monthly basis.

Article 101

(1) If a pension fund member suffers from a full loss of capacity to work, which makes him or her entitled to a disability pension in accordance with the Pension Insurance Act, the total capitalised assets in the personal account of the pension fund member shall be transferred by the pension company to the State Budget through the Central Registry of Insured Persons, and the Croatian Pension Insurance Institute shall determine his or her disability pension in accordance with the Pension Insurance Act as if the fund member had only been insured under the mandatory pension insurance scheme based on generational solidarity.

(2) The provision of paragraph 1 of this Article shall not apply to a pension fund member who is over 55 years of age and has been a pension fund member for a period of more than 10

years, if the monthly disability pension amount to which he or she would be entitled under the scheme of the pension insurance company, increased by the amount of the basic disability pension referred to in paragraph 3 of this Article, would exceed the monthly disability pension amount determined by applying paragraph 1 of this Article. In that case the assets in the account of the pension fund member shall be transferred through the Central Registry of Insured Persons to a pension insurance company of his or her choice, which would provide him or her with a permanent monthly disability pension under its scheme, in accordance with a special law.

(3) If paragraph 2 of this Article is applied, the insured person's disability pension under the mandatory pension insurance scheme based on generational solidarity shall be determined as the basic pension in accordance with the Pension Insurance Act.

(4) If a pension fund member suffers from a partial loss of capacity to work, which makes him or her entitled to a disability pension in accordance with the Pension Insurance Act, the fund member may be granted the right to a pension only under the mandatory pension insurance scheme based on generational solidarity, and the capitalised contributions shall remain in the personal account of the fund member until he or she qualifies for an early retirement pension, old-age pension, or disability pension due to a complete loss of capacity to work.

Article 102

(1) If a pension fund member dies before becoming entitled to a pension in accordance with Articles 100 or 101 of this Act and his or her family members are entitled to a survivors' pension in accordance with the Pension Insurance Act, the total capitalised assets in the account of that member shall be transferred by the pension company to the State Budget through the Central Registry of Insured Persons. The Croatian Pension Insurance Institute shall determine the survivors' pension on the basis of the total qualifying periods completed by the deceased insured person in accordance with the Pension Insurance Act, as if the deceased insured person had only been insured under the mandatory pension insurance scheme based on generational solidarity.

(2) The provision of paragraph 1 of this Article shall not apply if a deceased pension fund member was over 55 years of age at the time of death and had been a pension fund member for a period of more than 10 years and if based on the total capitalised assets of the deceased pension fund member the monthly survivors' pension amount payable to his or her family members under the pension insurance company's scheme, increased by the amount of the basic survivors' pension, would exceed the monthly survivors' pension amount determined by applying paragraph 1 of this Article. In that case the total capitalised assets in the account of the deceased pension fund member shall be transferred through the Central Registry of Insured Persons to a pension insurance company chosen by his or her family members, which would provide them with a monthly survivors' pension under its scheme, in accordance with a special law.

(3) After the death of a pension beneficiary whose pension was partially or wholly determined as the basic pension, and when there is an entitlement to a survivors' pension, the survivors' pension shall be determined by applying the pension factor in accordance with the Pension Insurance Act.

(4) If a pension fund member receiving a disability pension due to a partial loss of capacity to work was employed at the time of death or engaged in an activity based on which he or she was mandatorily insured, his or her family members may be entitled to a survivors' pension under the same conditions as those applicable after the death of an insured person.

(5) If a pension fund member receiving a disability pension due to a partial loss of capacity to work dies and at the time of death he or she was neither employed nor engaged in an activity based on which he or she was mandatorily insured, his or her family members may be entitled to a survivors' pension under the same conditions as those applicable after the death of an insured person, but only under the mandatory pension insurance scheme based on generational solidarity, and the assets in the personal account shall be transferred to the State Budget through the Central Registry of Insured Persons.

Article 103

(1) If a pension fund member dies and his or her family members are not entitled to a survivors' pension under the Pension Insurance Act, the total capitalised assets in the account of the deceased pension fund member shall be inheritable under the law governing inheritance rights.

(2) If the assets in the personal account of a deceased pension fund member are inherited, and a family member subsequently becomes entitled to a survivors' pension under the Pension Insurance Act and his or her entitlement is derived from the deceased fund member's entitlement, the survivors' pension shall be determined as the basic pension in accordance with that Act.

(3) If a pension fund member dies before qualifying for a pension that he or she would receive under more favourable conditions than those established in the Pension Insurance Act or for a pension that would be determined in a more favourable manner than that established in that Act, and if the assets in the personal account of the pension fund member are inherited, and a member of his or her family subsequently becomes entitled to a survivors' pension under the mandatory pension insurance scheme based on generational solidarity, such survivors' pension may only be granted under that pension insurance scheme. The portion of the pension payable in respect of the insurance periods completed after the beginning of the implementation of the mandatory pension insurance based on individual capitalised savings shall be determined on the basis of the pension that would have been granted had the deceased pension fund member been insured solely under the mandatory pension insurance scheme based on generational solidarity, by applying the basic pension factor in accordance with the Pension Insurance Act.

Article 104

(1) A pension fund member who was between 40 and 50 years of age at the time of entering the mandatory pension insurance scheme based on individual capitalised savings may exit that insurance scheme on the day of exercising the right to a pension under the Pension Insurance Act, if he or she submits to the Central Registry of Insured Person a request for exit by submitting a statement to that effect during the procedure for exercising the right to an old-age or early retirement pension.

(2) Upon exiting the mandatory pension insurance scheme based on individual capitalised savings in accordance with paragraph 1 of this Article, the former pension fund member shall exercise his or her pension insurance rights pursuant to the Pension Insurance Act as an insured person who is insured solely under the mandatory pension insurance scheme based on generational solidarity.

(3) In the case referred to in paragraph 1 of this Article, the pension fund shall, within 30 days of receiving the data from the Croatian Pension Insurance Institute, transfer the total capitalised assets from the fund member's personal account to the State Budget through the Central Registry of Insured Persons.

(4) The provisions of paragraphs 1 to 3 of this Article shall apply *mutatis mutandis* to a request made by a beneficiary of a survivor's pension granted after the death of an insured person who was a pension fund member, if the capitalised contributions in the personal account of the deceased fund member have not been inherited.

(5) The pension referred to in paragraph 1 of this Article which is determined under the Pension Insurance Act as if the insured person had only been insured under the mandatory pension insurance scheme based on generational solidarity shall be payable from the first day of the month following the month in which the pension fund member referred to in paragraph 1 of this Article submitted a request for exit.

Article 105

The Central Registry of Insured Persons shall make transfers of assets from personal accounts in the cases referred to in Article 104 of this Act and shall inform thereof the Ministry of Finance and the Croatian Pension Insurance Institute on a monthly basis.

Title 9

Management of personal accounts and valuation of assets

Article 106

(1) Contributions paid to a pension fund and the accounts transferred shall be credited to the personal account opened in the name of a fund member. The assets in the personal account of a pension fund member shall constitute his or her personal assets. The right to receive assets standing to the personal account of a pension fund member may not be exercised until retirement and shall be subject to the provisions of this Act, regulations made under this Act and other applicable legislation.

(2) The assets in the personal account of a pension fund member may neither be subject to execution or security to satisfy claims against the pension fund member, nor may they form part of his or her bankruptcy or liquidation estate. Also, these assets may neither be subject to execution or security to satisfy claims against a depositary or any other person, nor may they form part of the bankruptcy or liquidation estate of a depositary or any other person.

(3) The assets in the personal account of a pension fund member may not be pledged or assigned to the benefit of any other person. Any such action shall be null and void.

Article 107

(1) The pension company shall be responsible for determining the value of assets of a pension fund and the value of all its liabilities at the time of calculating its net asset value or the value of the unit of account.

(2) The calculation of the net asset value of a pension fund shall ensure impartiality towards all the members of the pension fund and shall be in the interest of the members of the pension fund.

Article 108

(1) The contributions paid to a pension fund as well as the accounts transferred to the fund shall be converted into units of account.

(2) For the purposes of valuation, each unit of account shall represent a proportionate share in the net asset value of the pension fund.

(3) The total value of all units of account of a pension fund shall always be equal to the net asset value of the pension fund, calculated in accordance with the provisions of this Act and regulations made under this Act.

(4) The Agency shall issue an ordinance specifying in more detail the calculation of the net asset value of a pension fund and the value of a unit of account.

Article 109

(1) The contributions paid and the accounts transferred shall be converted into units of account on a daily basis according to the value of the units of account on that date.

(2) The initial value of a unit of account of pension funds of categories A, B and C shall be HRK 100.00 (in words: one hundred kuna).

Article 110

(1) The net asset value of a pension fund must be calculated on each valuation date in accordance with Articles 108 and 111 of this Act.

(2) On each valuation date, the value of a unit of account shall also be calculated and rounded to four decimal places.

Article 111

(1) The net asset value and the value of a unit of account of a pension fund shall be calculated by the pension company in accordance with the adopted accounting policies and valuation methodologies that comply with this Act, regulations made under this Act, other legislation and the pension fund's statute.

(2) The pension company shall adopt the accounting policies and valuation methodologies for each pension fund it manages, at the time when the fund is established, and shall without delay communicate these to the depository of the pension fund.

(3) The depository shall ensure that the pension company calculates the net asset value and the value of a unit of account of a pension fund in accordance with the adopted accounting policies and valuation methodologies that must comply with this Act, regulations made under this Act, other applicable legislation and the pension fund's statute.

(4) The calculation of the values referred to in paragraph 1 of this Article shall be verified by the depository in charge of verifying the calculations.

(5) The depository shall sign and keep for its records one copy of the documents evidencing that the calculations have been verified.

(6) If the depository, at the time of verifying the calculation of the net asset value of a pension fund, finds any inaccuracy and/or irregularity, it shall inform thereof the pension company without delay in writing.

(7) When auditing annual reports, the pension fund's auditor shall also audit the implementation of the method of valuation of the pension fund's net asset value provided for in this Act, regulations made under this Act and other applicable legislation in order to ascertain that the values of a unit of account determined by applying the specified principles are accurate and that the management fee and other fees and expenses provided for in the law and in the pension fund's statute do not exceed the allowed amounts.

(8) The pension company shall, for each valuation date and within the time limit set in the ordinance referred to in paragraph 13 of this Article, inform the Central Registry of Insured Persons about the value of the pension fund's unit of account as confirmed by the depository.

(9) The pension company shall, for each valuation date, publish on its website the net asset value and the value of the unit of account of pension funds as confirmed by the depository.

(10) The pension company shall be responsible for the proper valuation of the pension fund's assets and for the accurate calculation of the pension fund's net asset value and of the value of the unit of account.

(11) If the calculation and verification of the net asset value of a pension fund are not completed within the prescribed time, the pension company shall notify the Agency and the Central Registry of Insured Persons thereof without delay, indicating the reasons for which it was not possible to determine the accurate net asset value of the pension fund. The Agency shall issue an ordinance setting out the actions that need to be taken in such cases.

(12) The Agency shall issue an ordinance laying down the method and deadline by which the depository must notify the Agency of the calculation of the pension fund's net asset value and the value of an accounting unit, as well as the method of reporting.

(13) The Agency shall issue an ordinance laying down the method and deadline by which a pension company must notify the Central Registry of Insured Persons of the value of an account unit, as well as the method of reporting.

Guarantee deposit

Article 112

- (1) For every ten thousand members above the membership of fifty thousand of all categories of pension funds it manages, a pension company shall maintain a guarantee deposit worth at least the base amount of HRK one million adjusted according to the consumer price index.
- (2) The base amount referred to in paragraph 1 of this Article shall be adjusted in accordance with a decision to be issued by the Agency in the first quarter of each calendar year, in line with the consumer price index for the preceding calendar year and on the basis of the data provided by the Central Bureau of Statistics, using 2002 as the base year for calculation.
- (3) Any payment into and out of the guarantee deposit shall require approval by the Agency.
- (4) The guarantee deposit may be held in a separate trust account with a depositary or invested in treasury bills of the Republic of Croatia.
- (5) The guarantee deposit held in a separate trust account with a depositary may neither be subject to execution or security to satisfy claims against the depositary, nor may they form part of the depositary's assets or its bankruptcy or liquidation estate or of the bankruptcy or liquidation estate of the pension company.
- (6) The assets referred to in paragraph 4 of this Article shall be valued in accordance with the provisions of the ordinance referred to in Article 108, paragraph 4 of this Act.

Guaranteed rate of return

Article 113

- (1) Each pension fund member shall be guaranteed a rate of return that equals the reference rate of return of the relevant pension fund category, reduced by twelve percentage points in the case of a category A pension fund, six percentage points in the case of category B pension fund and three percentage points in the case of a category C pension fund.
- (2) The reference rate of return of pension funds shall be calculated for the preceding calendar year for each pension fund category as the weighted arithmetic mean of average annual rates of return of all pension funds of the same category for the preceding three calendar years, and the weight used shall represent the share of the net asset value of a fund in the total net asset value of all pension funds of the same category on the last business day of the calendar year.
- (3) If the average annual rate of return of a pension fund in the three preceding calendar years is lower than the guaranteed rate of return referred to in paragraph 1 of this Article, the pension company shall pay the pension fund the difference up to the guaranteed rate of return, out of the guarantee deposit or, if this is not sufficient, out of the share capital of the pension company up to a maximum of 50 % of the share capital of the pension company.
- (4) The calculation of the guaranteed rate of return in accordance with this Article shall be made in January each year for the preceding calendar year, in a manner and within a period to be prescribed by the Agency by way of an ordinance.

Title 10

Promotion of pension funds and relations with pension fund members

Article 114

(1) Any promotional material, whether printed or electronic, that is addressed to members or potential members of pension funds must be clearly identifiable as such.

(2) Promotional material about pension funds and pension companies:

1. shall be written in simple language that is easily understandable to members and potential members;

2. shall not be prepared in such a way that its purpose is to encourage a person to cancel his or her membership in one pension fund and become a member of a pension fund managed by the pension company concerned, but must be primarily aimed at providing additional education and raising awareness among members and potential members of pension funds about investments, investment limits in each pension fund category and associated risks, taking into account a diverse profile of pension fund members, so that they can make a decision on their own on the choice or change of a pension fund on the basis of objectively presented and impartial facts;

3. shall not be contrary to the contents of the pension fund's statute and prospectus;

4. it shall contain an accurate and truthful description of the pension funds that are being promoted;

5. the facts and statements given therein shall be comprehensive, clear, accurate, true and unambiguous on the date when they are presented and they must not be misleading;

6. it shall be prepared in such a way that any use of comparison is based on accurate and up-to-date facts or that key assumptions are clearly stated, and that any such comparison is presented in a fair and balanced way, which is not misleading and includes all factors important for such comparison;

7. it shall be prepared in such a way that every opinion given therein is accurate, complete and unambiguous, and that approval of the pension company must be obtained for any further use thereof;

8. its design, content or format shall not distort, disguise or diminish the significance of any statement, warning or other information which must be disclosed in accordance with this Act or a regulation made under this Act;

9. no information shall be omitted if omission of such information would result in the promotional material being inaccurate, untruthful, vague or misleading.

Article 115

(1) The presentation of operating results of a pension fund:

1. must not be subject to any warranty, guarantee or promise;
2. must not be prepared in the form of estimate of any kind;
3. must reflect the pension fund's operating results from the date of its establishment to the date of release of the presentation;
4. must contain up-to-date information available at the time of presentation of the pension fund's operating results;
5. must be drawn up on a consistent basis in terms of the periods covered, including or excluding specific factors which have impact on such results;
6. must not be provided in a manner that might be construed as a forecast of possible future operating results of the pension fund concerned.

(2) The Agency shall issue an ordinance determining the contents and the methods of presentation of a pension fund's operating results.

Article 116

Promotional materials concerning pension funds and pension companies distributed through print and electronic media shall include:

1. brochures;
2. advertisements in newspapers, magazines, on the radio or on television and on websites;
3. communications sent by regular or electronic mail, facsimile or by other means;
4. telemarketing, which includes use of a specialised provider of telemarketing services on the basis of an agreement concluded with a pension company;
5. means of promoting the offer that have the characteristics of financial promotion;
6. investment or other publications offering impersonal recommendations concerning the offer of membership in pension funds or the change of a pension fund;
7. other methods or means of promotion that members or potential members of pension funds may read, see or receive.

Article 117

(1) A pension company may not:

1. offer any benefits to any person for the purpose of persuading that person to become or remain a member of a particular pension fund;

2. offer any benefits to any employer or to a related person of an employer for the purpose of inducing that employer to persuade or require its employees to become members of a particular pension fund;

3. offer any collateral benefits to a trade union or other collective entity or to a related person of such trade union or entity for the purpose of inducing that body to persuade or require its members to become members of a particular pension fund;

4. offer or pay to its employee, representative or relevant person any compensation money or other benefits for joining or transferring to a pension fund managed by the pension company concerned.

(2) For the purposes of paragraph 1 of this Article, benefits include, for example, cash incentives, payment of compensation for transferring from a pension fund managed by another pension company or gifts of physical property, other than benefits which flow naturally and directly from membership in a pension fund.

(3) Employees and relevant persons of a pension company are not allowed to collect, in writing, personal data from a future member of a pension fund for the purpose of recording that person's joining or transferring to a pension fund managed by the pension company concerned.

Article 118

(1) Pension companies, their related persons, and employees of pension companies and related persons may not make any claims or statements, either orally or in advertisements, other promotional material or in the form of information communicated to pension fund members, to those who are eligible to be pension fund members or to those who may become eligible at a future date, about a pension fund or the pension company which manages it, which may give a misleading or false impression or convey false information.

(2) Pension companies, their related persons, and employees of pension companies and related persons may not make any claims, statements or predictions relating to the future investment activities of a fund, to pension fund members or those who may become eligible to be pension fund members at a future date, except by making a statement in a form and manner specified in regulations passed by the Agency.

(3) Promotional materials concerning the pension company and pension funds, in particular those concerning the disclosure of the value of units of account, financial operation and the rights of pension fund members, must be submitted to the Agency before being published.

(4) The pension company shall be responsible for the completeness and accuracy of information published for the purpose of promoting pension funds.

(5) The pension company shall keep a copy of each published promotional material, when applicable, as well as the sources of information supporting the statements contained in such publications.

(6) The Agency shall determine, by way of an ordinance referred to in Article 120 of this Act, what should not be contained in the information referred to in paragraph 4 of this Article.

(7) If the Agency considers that the information referred to in paragraph 4 of this Article is or could be misleading, it may ban its publication or communication, and order that an appropriate correction is published or communicated within a specified time.

Article 119

The following is not regarded as pension fund advertising:

1. short, exclusively factual announcements on the radio, television, websites, in printed or electronic media, which relate to a pension company and/or pension fund, and indications as to basic contact information;
2. letters and written communications individually addressed to third persons concerning their specific requests, which are not part of a mass mail advertising campaign;
3. quarterly and annual reports of pension funds, annual financial statements of pension companies and other reports of pension companies and pension funds that pension companies are required to prepare for the purposes of the Agency;
4. the pension fund's statute and prospectus.

Article 120

The Agency shall issue an ordinance to prescribe in more detail the contents of promotional materials of pension funds.

Handling of complaints of pension fund members

Article 121

A pension company shall:

1. establish and implement appropriate procedures ensuring that complaints received from members of the pension funds managed by the pension company are dealt with in an adequate manner and that there are no restrictions for the exercise of the members' rights;
2. establish and implement appropriate procedures ensuring that the information in connection with the handling of complaints received from a pension fund member are made available to both the pension fund member and the Agency;
3. keep records and retain documents on all complaints received from pension fund members and on actions taken in relation to those complaints, for at least five years from the date of the last action taken in response to a complaint.

Settlement of disputes between a pension company and pension fund members

Article 122

(1) Without prejudice to the possibility of resolving disputes before a court or other competent authority, a pension company shall provide the conditions for out-of-court settlement of

disputes between the pension company and members of the pension funds managed by the pension company.

(2) Pension companies may jointly, through a professional organisation referred to in Article 227 of this Act, regulate the procedure and requirements for the out-of-court settlement of disputes referred to in paragraph 1 of this Article.

The pension company's website

Article 123

(1) A pension company shall have, regularly update and maintain its website, which shall contain at least the following data and information:

1. general information about the pension company (the name, the address of the registered office and the address of the head office if not the same as that of the registered office, the reference number of the authorisation to conduct business granted by the Agency, as well as the date of establishment and registration in the court register, the amount of share capital, the founders and members);
2. basic information about the members of the board of directors, the members of the supervisory board and procurators of the pension company (personal names, short resumes);
3. quarterly and audited annual reports of pension funds;
4. quarterly and audited annual financial statements of the pension company;
5. general information about the pension funds' depositary (the name, the address of the registered office and the address of the head office if not the same as that of the registered office, the information about and reference number of the authorisation for the performance of business activities of a depositary granted by the competent institution, the amount of initial capital, a list of all third parties with whom the depositary has entered into an agreement on delegation of the activities referred to in Article 172, paragraph 1, item 1 of this Act);
6. a list of pension funds managed by the pension company, with an indication of the pension fund category;
7. the prospectuses and statutes of the pension funds it manages;
8. information for pension fund members about the possibilities and rights to transfer from a pension fund of one category to a pension fund of another category;
9. a tabular summary of risks associated with the pension company and pension funds, including the level of impact of each risk on the pension company and the pension fund;
10. the value of the unit of account for each valuation date;
11. information about the identified conflicts of interests and the achievement of the investment strategy and objectives for the securities referred to in Article 126, paragraphs 4 and 5 of this Act;

12. all notices related to the pension company and the pension funds managed by the pension company, as well as other data that are to be published in accordance with this Act and regulations made under this Act;

13. information about the possibilities of lodging a complaint and the out-of-court settlement of disputes between the pension company and members of the pension funds managed by the pension company.

(2) The Agency shall issue an ordinance specifying additional data and information that are to be made available on the pension company's website and that the Agency considers to be important for the members, the market and the public.

Title 11

Management of the pension funds' assets

Article 124

The assets of a pension fund may be invested in accordance with the provisions of this Act in order to increase the value of the pension fund's assets, by observing the principles of security, prudence and precaution and the principles of risk reduction through dispersion of investments.

Article 125

The assets of a pension fund may consist solely of:

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. transferable 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 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 and maturing in no more than 12 months, provided that the credit institution has its registered head office in the Republic of Croatia or another Member State or an OECD member state, and further 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 underlying assets of the derivative 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 pension fund may invest in accordance with the provisions of this Act and regulations made under this Act;

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

c) 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 pension fund's request;

10. cash in the transaction account intended for business purposes of the pension fund and opened with a depositary, and in other accounts when necessary for the realisation of investments;

11. other types of assets arising from the assets referred to in items 1 to 10 of this paragraph.

(2) The assets referred to in paragraph 1 of this Article must satisfy the following requirements:

1. 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;

2. 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.

(3) The Agency shall issue an ordinance laying down additional requirements which the assets referred to in this Article must satisfy, the requirements which other accounts referred to in item 10 of paragraph 1 of this Article must satisfy, and the requirements which must be satisfied by counterparties to pension fund's transactions.

Limitations with regard to the type of assets

Article 126

(1) A pension fund may acquire no more than:

1. 10 % of a single issue of transferable debt securities referred to in Article 125, paragraph 1, items 2, 3 and 4 of this Act;

2. 10 % of a single issue of money market instruments referred to in Article 125, paragraph 1, items 2, 3 and 4 of this Act;

3. 20 % of a single issue of transferable equity securities carrying voting rights referred to in Article 125, paragraph 1, item 5 of this Act, which have been admitted to trading on the official market or other segments of a regulated market for which the stock exchange will lay down stricter conditions for admission and investor protection in the Republic of Croatia, another Member State or an OECD member state;

4. 10 % of a single issue of transferable equity securities carrying voting rights referred to in Article 125, paragraph 1, item 5 of this Act, which have not been admitted to trading on the official market or other segments of a regulated market for which the stock exchange will lay down stricter conditions for admission and investor protection in the Republic of Croatia, another Member State or an OECD member state;

5. 10 % of a single issue of transferable equity securities not carrying voting rights referred to in Article 125, paragraph 1, item 5 of this Act;

6. 20 % of units in a fund referred to in Article 125, paragraph 1, item 6 of this Act;

7. 15 % of a single issue of shares in a fund referred to in Article 125, paragraph 1, item 7 of this Act, which have been admitted to trading on the official market or other segments of a

regulated market for which stricter conditions have been laid down as regards admission and investor protection in the Republic of Croatia, another Member State or an OECD member state;

8. 10 % of shares or holdings or of an issue of shares in a fund referred to in Article 125, paragraph 1, item 7 of this Act which do not satisfy the requirements of item 7 of this paragraph;

9. exposure of 5 % of the guarantee capital of a credit institution referred to in Article 125, paragraph 1, item 8 of this Act, by investing in deposits.

(2) The pension funds managed by the same pension company may jointly acquire no more than:

1. 15 % of a single issue of transferable debt securities referred to in Article 125, paragraph 1, items 2, 3 and 4 of this Act;

2. 15 % of a single issue of money market instruments referred to in Article 125, paragraph 1, items 2, 3 and 4 of this Act;

3. 20 % of a single issue of transferable equity securities carrying voting rights referred to in Article 125, paragraph 1, item 5 of this Act, which have been admitted to trading on the official market or other segments of a regulated market for which the stock exchange will lay down stricter conditions for admission and investor protection in the Republic of Croatia, another Member State or an OECD member state;

4. 15 % of a single issue of transferable equity securities carrying voting rights referred to in Article 125, paragraph 1, item 5 of this Act, which have not been admitted to trading on the official market or other segments of a regulated market for which the stock exchange will lay down stricter conditions for admission and investor protection in the Republic of Croatia, another Member State or an OECD member state;

5. 15 % of a single issue of transferable equity securities not carrying voting rights referred to in Article 125, paragraph 1, item 5 of this Act;

6. 25 % of units in a fund referred to in Article 125, paragraph 1, item 6 of this Act;

7. 20 % of a single issue of shares in a fund referred to in Article 125, paragraph 1, item 7 of this Act, which have been admitted to trading on the official market or other segments of a regulated market for which stricter conditions have been laid down as regards admission and investor protection in the Republic of Croatia, another Member State or an OECD member state;

8. 15 % of shares or holdings or of an issue of shares in a fund referred to in Article 125, paragraph 1, item 7 of this Act which do not satisfy the requirements of item 7 of this paragraph;

9. exposure of 7 % of the guarantee capital of a credit institution referred to in Article 125, paragraph 1, item 8 of this Act, by investing in deposits.

(3) By way of derogation from the provisions of items 3 and 4 of paragraph 1 of this Article and the provisions of items 3 and 4 of paragraph 2 of this Article, a pension fund, or pension funds managed by the same pension company, may acquire a greater percentage of a single issue of transferable equity securities than that laid down in items 3 and 4 of paragraph 1 and items 3 and 4 of paragraph 2 of this Article, provided that any such investment taken individually does not exceed 2 % of the pension fund's net asset value and further provided that in total such assets do not exceed 5 % of the pension fund's net asset value.

(4) Exceptionally, a pension fund, or pension funds managed by the same pension company, may invest in transferable debt securities or transferable equity securities referred to in Article 125, paragraph 1, items 4 and 5 of this Act without the limitations specified in paragraphs 1, 2 and 3 of this Act and without the limitations specified in Article 128, paragraphs 2, 3 and 4 of this Act, under the following conditions:

a) these securities are intended for the financing and securitisation of infrastructure projects in the territory of the Republic of Croatia;

b) these securities have long-term, stable and predictable cash flows, so as to correspond to the maturity of the pension fund's liabilities, in accordance with the principles of security, prudence and precaution;

c) on the basis of a proposal submitted by the pension company on behalf of the pension fund, the Government of the Republic of Croatia has classified the issuer of these securities as an issuer of securities dedicated to the financing and securitisation of infrastructure projects in the territory of the Republic of Croatia.

(5) When a pension fund or pension funds managed by the same pension company invest in transferable equity securities that account for more than 10 % of the issue of the securities in question, or in the securities referred to in paragraph 4 of this Article, the board of directors of the pension company must adopt:

1. a methodology to recognise, manage, monitor and disclose conflicts of interests during the lifetime of the investment between the issuer, on the one hand, and the pension company and its related persons, on the other hand;

2. clearly defined investment objectives, a strategy to achieve these investment objectives, deadlines and the monitoring of the realisation of the strategy and of the achievement of the objectives, as well as an exit strategy for the case of non-fulfilment or fulfilment of the investment objectives, and

3. precise rules for corporate governance and dealings with the issuer.

(6) The pension company shall publish, and regularly update, in its prospectus and on its website, information about any identified conflict of interests and the achievement of the investment strategy and objectives of the pension fund, or pension funds managed by the same pension company, for investments in equity securities that account for more than 10 % of the issue of the securities in question, or in the securities referred to in paragraph 4 of this Article.

(7) If the pension company fails to act in accordance with paragraph 5 of this Article, the Agency may temporarily prohibit or restrict investments by that pension company in equity securities that account for more than 10 % of the issue of the securities in question, or in the securities referred to in paragraph 4 of this Article.

(8) The Agency shall issue an ordinance to specify in more detail the method of investing in the assets referred to in paragraphs 4 and 5 of this Article, and the method of informing the public and the Agency about investments referred to in paragraphs 4 and 5 of this Article.

Limitations with regard to the net asset value of a pension fund

Article 127

(1) Investments of assets of a category A pension fund shall be subject to the following limits:

1. at least 30 % of the net asset value of the pension fund must be invested in the assets referred to in Article 125, paragraph 1, item 1 of this Act;
2. not more than 30 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 2 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, items 6 and 9 of this Act;
3. not more than 30 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 3 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, items 6 and 9 of this Act;
4. not more than 50 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 4 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, items 6 and 9 of this Act;
5. not more than 55 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 5 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, items 6 and 9 of this Act;
6. not more than 30 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 6 of this Act;
7. not more than 15 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 7 of this Act;
8. not more than 20 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 8 of this Act;
9. not more than 10 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 10 of this Act;

10. by way of derogation from the provisions of item 9 of this paragraph, more than 10 % but up to 20 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 10 of this Act, but for a maximum period of 14 days;

11. total investments that satisfy the criteria of Article 126, paragraph 3 and Article 125, paragraph 1, item 7 of this Act and the total investments referred to in Article 125, paragraph 1, item 6 of this Act that give rise to an indirect exposure to markets outside of the Republic of Croatia, other Member States and OECD member states must not exceed, taken together, 15 % of the net asset value of the pension fund;

12. an individual investment in the assets referred to in Article 126, paragraph 4 of this Act must not exceed 10 % of the net asset value of the pension fund and, in total, no more than 15 % of the net asset value of the pension fund may be invested in the assets referred to in Article 126, paragraph 4 of this Act.

(2) Investments of assets of a category B pension fund shall be subject to the following limits:

1. at least 50 % of the net asset value of the pension fund must be invested in the assets referred to in Article 125, paragraph 1, item 1 of this Act;

2. not more than 30 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 2 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, items 6 and 9 of this Act;

3. not more than 30 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 3 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, items 6 and 9 of this Act;

4. not more than 30 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 4 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, items 6 and 9 of this Act;

5. not more than 35 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 5 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, items 6 and 9 of this Act;

6. not more than 30 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 6 of this Act;

7. not more than 10 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 7 of this Act;

8. not more than 20 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 8 of this Act;

9. not more than 5 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 10 of this Act;

10. by way of derogation from the provisions of item 9 of this paragraph, more than 5 % but up to 10 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 10 of this Act, but for a maximum period of 14 days;

11. total investments that satisfy the criteria of Article 126, paragraph 3 and Article 125, paragraph 1, item 7 of this Act and the total investments referred to in Article 125, paragraph 1, item 6 of this Act that give rise to an indirect exposure to markets outside of the Republic of Croatia, other Member States and OECD member states must not exceed, taken together, 10 % of the net asset value of the pension fund;

12. an individual investment in the assets referred to in Article 126, paragraph 4 of this Act must not exceed 10 % of the net asset value of the pension fund and, in total, no more than 15 % of the net asset value of the pension fund may be invested in the assets referred to in Article 126, paragraph 4 of this Act.

(3) Investments of assets of a category C pension fund shall be subject to the following limits:

1. at least 70 % of the net asset value of the pension fund must be invested in the assets referred to in Article 125, paragraph 1, item 1 of this Act;

2. not more than 10 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 2 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, item 6 of this Act;

3. not more than 10 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 3 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, item 6 of this Act;

4. not more than 10 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 4 of this Act, account also being taken of indirect exposure through investments in the financial instruments referred to in Article 125, paragraph 1, item 6 of this Act;

5. not more than 10 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 6 of this Act, provided that such investment gives rise to an indirect exposure solely to the assets referred to in Article 125, paragraph 1, items 1, 2, 3, 4, 8 and 10 of this Act;

6. not more than 20 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 8 of this Act;

7. not more than 10 % of the net asset value of the pension fund may be invested in the assets referred to in Article 125, paragraph 1, item 10 of this Act;

8. the pension fund's assets must not be invested in the assets referred to in Article 125, paragraph 1, items 5 and 7 of this Act;

9. investments in the assets referred to in Article 125, paragraph 1, item 9 of this Act shall only be permitted if made to achieve currency matching;

10. assets of a category C pension fund may not be invested in the assets referred to in Article 126, paragraph 4 of this Act.

Other limitations with regard to the net asset value of a pension fund

Article 128

(1) Not more than 20 % of the net asset value of a pension fund may be invested in a single transferable debt security referred to in Article 125, paragraph 1, item 1 of this Act.

(2) Not more than 3 % of the net asset value of a pension fund may be invested in securities, money market instruments and OTC derivatives of a single issuer or a group of issuers that are related companies, other than the issuers referred to in Article 125, paragraph 1, item 1 of this Act.

(3) By way of derogation from paragraph 2 of this Article, up to 10 % of the net asset value of a pension fund may be invested in securities, money market instruments and OTC derivatives of a single issuer or a group of issuers that are related companies if this issuer or these issuers are joint-stock companies whose shares are admitted to trading on the official market or other segments of a regulated market for which stricter conditions have been laid down as regards admission and investor protection in the Republic of Croatia, another Member State or an OECD member state.

(4) Not more than 15 % of the net asset value of a pension fund may be invested in assets not satisfying the requirements of paragraph 2 of this Article but satisfying the requirements of paragraph 3 of this Article.

(5) Not more than 3 % of the net assets of a pension fund may be invested in an individual fund referred to in Article 125, paragraph 1, items 6 and 7 of this Act.

(6) Not more than 5 % of the net assets of a pension fund may be invested in assets referred to in Article 125, paragraph 1, items 6 and 7 of this Act of the same managing company.

(7) Not more than 3 % in total of the net asset value of a pension fund may be exposed to one and the same credit institution referred to in Article 125, paragraph 1, item 8 of this Act, or to a group of credit institutions.

Currency matching of assets

Article 129

The pension fund's assets shall be invested in such a way as to be currency matched to the pension fund's liabilities, i.e. at least:

- 40 % of the net asset value of a category A fund
- 60 % of the net asset value of a category B fund
- 90 % of the net asset value of a category C fund

must be invested in assets that are traded or settled in the currency in which pensions under the mandatory pension insurance scheme based on individual capitalised savings are paid out.

Maturity matching of assets

Article 130

Assets of a category C pension fund shall be invested in such a way as to be maturity matched to the pension fund's liabilities.

Borrowing/lending

Article 131

(1) A pension fund may borrow money from third persons up to an amount totalling 5 % of the fund's net asset value, but only through repos and sell-buy back transactions and only for a period not exceeding three months.

(2) Not more than 5 % of the net asset value of a pension fund, and not more than 50 % of each individual investment may be lent to third persons. The pension fund's assets may be lent only on the basis of a written contract or through organised securities lending systems that operate within a clearance and settlement system. Lending shall only be permitted if it is made exclusively for the benefit of the pension fund for the purpose of increasing the pension fund's rate of return, without inappropriately increasing risks. In this regard, lent securities must be adequately secured by collateral. Lending contracts shall contain a provision allowing for the withdrawal of lent securities on demand within 15 business days.

Derivatives

Article 132

(1) A pension company may use financial derivatives in its own name and for the account of a pension fund only for the purpose of:

1. protecting the pension fund's assets;
2. efficiently managing the pension fund's assets and liabilities.

(2) When contracting financial derivatives, the following limits must be observed:

1. the total exposure to the underlying assets created through financial derivatives must not exceed 30 % of the net asset value of the pension fund;

2. the exposure to a single body resulting from the derivative financial instruments contracted with that body must not exceed 3 % of the net asset value of the pension fund;

3. investment in derivatives or other instruments referred to in Article 125, paragraph 1 that embed a derivative shall create neither exposure to the underlying assets that exceeds the investment limits specified in this Act or ordinances issued under this Act nor exposure to the assets referred to in Article 134 of this Act.

Article 133

The Agency shall issue an ordinance to prescribe additional investment limits, dealings with assets of pension funds and the calculation of exposures referred to in this Title of the Act, including the maximum amount of investments referred to in Article 126, paragraph 3 of this Act.

Article 134

Assets of a pension fund may not be invested in:

1. assets that are inalienable according to the law or encumbered, i.e. pledged or fiduciarily transferred as a security for a claim, and
2. securities issued by the pension fund's depositary, any shareholder or stockholder of the pension company or any related person of these persons. This limitation shall not apply to the securities referred to in Article 125, paragraph 1, item 1 of this Act.

Article 135

(1) A pension fund may exceed the investment limits referred to in Articles 126 to 134 of this Act when exercising pre-emptive subscription rights or subscription rights attaching to transferable securities or money market instruments forming part of its assets.

(2) If the limits referred to in Articles 126 to 134 of this Act are exceeded as a result of:

1. circumstances beyond the control of the pension company;
2. the exercise of the subscription rights referred to in paragraph 1 of this Article or
3. the acquisition of assets referred to in Article 125, paragraph 1, item 11 of this Act,

the pension 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 made by the pension fund into compliance within a reasonable period not exceeding three months and shall enter into transactions primarily to bring investments of assets of the pension fund into compliance, taking into account interests of the pension fund members, trying to minimise any loss that might occur.

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

(4) If the limits referred to in Articles 126 to 134 of this Act are exceeded as a result of a transaction into which the pension company has entered and by which, at the time of its inception, the limits in question were exceeded or the excess additionally increased, and such excesses are not covered by paragraph 2 of this Article, the pension company must bring the pension fund's investments into compliance immediately upon becoming aware that the limits have been exceeded. The pension company shall compensate the pension fund for the damage suffered.

(5) The investment limits referred to in Articles 126 to 134 of this Act may be exceeded in the first six months following the establishment a pension fund, with due observance of the principles of risk spreading and protection of interests of the pension fund members.

Article 136

(1) The pension company is prohibited from entering into transactions, in its own name and for the account of a pension fund, with members of the pension company's board of directors or supervisory board.

(2) If the counterparties to transactions entered into for the account of a pension fund are:

1. shareholders or stockholders of the pension company;
2. the depositary of the pension fund or
3. any other person who is related to the above mentioned legal or natural persons,

the pension company shall keep records thereof and shall, upon request and without delay, submit these records to the Agency.

(3) The Agency may, when it deems necessary, and in particular to protect the financial interests of the pension fund members, prohibit the pension company from entering into transactions, in its own name and for the account of the pension fund, with or through the intermediary of a related person, either for a specific period of time or permanently.

(4) The pension company is prohibited from granting loans or guarantees out of the pension fund's assets to any legal or natural person.

Title 12

Documents and information to be provided by a pension fund

General provisions

Documents, information and other announcements

Article 137

(1) The pension company shall:

1. adopt and publish the pension funds' statutes in accordance with the provisions of Articles 138 to 140 of this Act;

2. adopt and publish the pension funds' prospectuses in accordance with the provisions of Articles 141 to 143 of this Act;

3. for each pension fund it manages, adopt and publish quarterly and audited annual reports in accordance with the provisions of Articles 144 to 148 of this Act;

4. with respect to operations of a pension fund, inform the pension fund members about other events stipulated by the provisions of Articles 149 and 150 of this Act.

(2) The documents and information referred to in paragraph 1 of this Article shall be drawn up and published in the Croatian language.

(3) The latest versions of the documents and information referred to in Articles 138 to 149 of this Act shall be published on the pension company's website.

Statute of a pension fund

Article 138

(1) The statute of a pension fund shall contain at least the following information, described in clear and simple language easily understandable to its members:

1. basic rights, obligations and responsibilities of the pension company towards the pension fund members and the pension fund, and of the pension fund members towards the pension company and the pension fund, as well as the manner and conditions of their exercise and protection;

2. basic rights, obligations and responsibilities of the pension company towards the depositary, of the depositary towards the pension company and towards the pension fund members, and of the pension fund members towards the depositary;

3. basic information on the operating conditions of the pension company and on supervision of its operations;

4. procedures for compensating a pension fund member for loss suffered because of a wrong calculation of the value of a unit of account and violation of investment limits, in accordance with the provisions of Article 61, paragraph 5 of this Act;

5. information on any conflict of interest and the manner in which it is addressed, in particular as regards possible conflicts of interest between the pension company, the pension fund members and/or related persons of the pension company and the pension fund or the pension fund members, and conflicts of interest between the pension funds themselves, and between the pension funds and voluntary pension funds if the pension company also manages voluntary pension funds;

6. a description of the procedure for the settlement of disputes between the pension company and a pension fund member;

7. the name of the pension fund, with an indication of the pension fund category;
 8. the date of establishment of the pension fund;
 9. an indication of the place where the pension fund's prospectus and statute or additional information about the pension fund, as well as quarterly and audited annual reports can be obtained and the manner in which they shall be published;
 10. the pension fund's investment principles, strategy and objectives;
 11. conditions under which a fund may be merged and the rights of its members in a merger;
 12. management and operating fees and costs that may be charged to a pension fund, and the method of determining an entry fee, an exit fee, a management fee and a depositary fee;
 13. the duration of the business year;
 14. the date of issue of the pension fund's statute;
 15. the rights of the pension fund members, and the conditions for transferring from a pension fund of one category to a pension fund of another category and for transferring to a pension fund managed by another pension company.
- (2) The pension fund's statute shall enter into force subject to approval by the Agency, but not earlier than the day following the day of its publication in accordance with Article 140 of this Act.
- (3) The Agency shall issue an ordinance laying down additional information that must be contained in the pension fund's statute.

Issuance of approval for the pension fund's statute

Article 139

- (1) The Agency shall issue an ordinance specifying in more detail the mandatory contents of an application for approval of the pension fund's statute, and may specify additional information that must be enclosed with the application.
- (2) The Agency shall decide on an application for approval of the pension fund's statute within 60 days of the date of receipt of the complete application. An application shall be deemed to be complete if, pursuant to the provisions of the ordinance referred to in paragraph 1 of this Article, it contains all required information and if all necessary documents containing the required information are annexed thereto.
- (3) If the Agency fails to take a decision on an application for approval of the pension fund's statute within the time specified in paragraph 2 of this Article, the approval shall be deemed to have been granted.
- (4) The Agency's approval shall be required for any amendments to the pension fund's statute, in which case the provisions of Articles 138 to 140 of this Act shall apply accordingly.

Publication of the pension fund's statute

Article 140

(1) Once approved by the Agency, the pension fund's statute and any amendments to it must be published in an electronic form on the pension company's website and in one of the following ways:

1. by publication in one or more daily newspapers circulated throughout, or widely circulated in, the territory of the Republic of Croatia, or

2. in a printed form to be made available, free of charge, to the public at the offices of the pension company and at reception offices of the Central Registry of Insured Persons.

(2) Within seven days of obtaining the Agency's approval, the pension company shall publish the pension fund's statute in accordance with the provisions of paragraph 1 of this Article and shall inform the Agency on how it was published.

Prospectus

Article 141

(1) The pension company shall, at the latest by 30 April each calendar year, issue the pension fund's prospectus containing information covering the period until 31 December of the preceding year.

(2) The pension fund's prospectus shall contain at least:

a) information concerning the pension fund:

1. the name of the pension fund and an indication of all the categories of the pension funds managed by the company;

2. the date of establishment of the pension fund;

3. an indication of the place where the pension fund's statute or additional information about the pension fund, as well as quarterly and audited annual reports can be obtained and the manner in which they shall be published;

4. information about the audit firm and other providers of services to the pension fund;

5. the manner in which paid contributions and transferred accounts are converted into units of account, the method and conditions for transferring funds from the pension fund member's account to the pension insurance company or to another pension fund, and circumstances in which calculations may be suspended;

6. an overview of exposure of the assets of each category of pension funds to individual risks on 31 December of the preceding calendar year, the impact of and changes in these exposures during the preceding year, and the method of managing these risks;

7. the method and time of calculation of the net asset value of the pension funds of each category;
8. the time, method and frequency of calculation of the value of the unit of account and the manner in which this value is published;
9. the method of calculation of the fees payable to the pension company:
 - a) an entry fee;
 - b) a management fee and
 - c) an exit fee for switching to another pension fund;
10. the method of calculation of the depositary fee;
11. a description, amount and frequency of payment of authorised fees and costs that may be charged to the pension fund and to a pension fund member;
12. information about the pension fund's portfolio, with reference to investment objectives and changes in the portfolio structure;
13. a description of the target structure of the pension fund's portfolio;
14. risks associated with investments and with the pension fund's structure, including a tabular presentation of these risks and the level of their impact on the pension fund and the pension company, as well as the risk management method and the risk profile, the level of risk propensity and risk tolerance;
15. a list of all investments for the pension fund that account for 1 % or more of the net asset value of the pension fund, including the name of the issuer and the amount and value (in HRK) on the last day of the reporting period, and the total value of the investment concerned in the fund's net assets;
16. information about the identified conflicts of interests and the achievement of the investment strategy and objectives for the equity securities referred to in Article 126, paragraph 3 of this Act;
17. the method of the calculation of the pension fund's operating results and, in particular, the definition of the terms "reference rate of return", "guaranteed rate of return" and "real rate of return", and their values in the reporting period;
18. the pension fund's historical rate of return;
19. the pension fund's turnover rate and volume, with a specific justification;
20. the duration of the business year;
21. the date of issue of the prospectus;

b) information concerning the pension company;

1. the pension company's name, legal form, registered office address and the address of its head office if not the same as that of the registered office, the reference number of the authorisation granted by the Agency, the date of establishment and the date of registration in the court register;

2. an organisational chart of the pension company;

3. names and positions of the members of the board of directors, procurators and the members of the supervisory board, and the members of the management board, their resumes, including the particulars of their main activities outside the pension company, if these are significant for the pension company and the pension fund;

4. the amount of the share capital of the pension company, the personal names or company names of the members of the pension company, their legal form and an indication of the holdings of the members in the share capital;

5. important provisions of the agreement entered into with the depositary which may be relevant to the pension fund members, excluding those relating to payment of fees;

6. the pension company's business objectives and strategy;

7. the pension company's organisational structure with clear lines of responsibility;

8. a description of the risks associated with operations of the pension company, including a tabular presentation of these risks and the level of their impact on the fund and the pension company, as well as the risk management method and the risk profile, the level of risk propensity and risk tolerance;

9. the investment principles and strategy for the investment of the assets of the pension company;

10. a description of responsibilities and of the manner in which investment decisions are made;

11. a description of corporate governance undertaken in the past period;

12. a description of the remuneration policy;

13. information about the pension company's audit firm;

14. the pension company's annual financial statements audited by a certified auditor;

15. information on whether the members of the board of directors and supervisory board are members of a fund managed by the pension company;

c) information concerning the depositary;

1. the depositary's name, legal form, registered office and the address of its head office, the details about and the reference number of the authorisation for the performance of business activities of a depositary granted by the competent institution, the depositary's core activity;

2. the statement by the depositary on the manner of performing custody activities abroad;

3. where the depositary has delegated the activities referred to in Article 174 of this Act to third parties, the information referred to in Article 185 of this Act and a list of all third parties with whom the depositary has entered into a contract for the delegation of the activities referred to in Article 172, paragraph 1, item 1 of this Act;

4. the level of the depositary's share capital;

d) basic information about the Agency and the Central Registry of Insured Persons, with an explanation of their role in the pension system;

e) an overview of the rights of the pension fund members provided for by the Act and the possibilities of transferring from one pension company to another and from a pension fund of one category to a pension fund of another category;

f) such other information as the Agency may prescribe by an ordinance.

(3) The Agency shall issue an ordinance specifying the additional content and structure of the pension fund's prospectus.

(4) The pension company shall make the prospectus available to each person applying for membership in the fund managed by it.

(5) The pension company shall deliver the prospectus to pension fund members on request and free of charge, either as a paper copy or in a durable medium, depending on the member's request.

Article 142

(1) Information given in the prospectus shall be true, accurate, complete and consistent.

(2) All the provisions contained in the prospectus shall be written in clear and simple language easily understandable to members.

Publication of the prospectus

Article 143

(1) The pension company shall submit the pension fund's prospectus to the Agency and the Central Registry of Insured Persons in electronic form within the deadline specified in Article 141, paragraph 1 of this Act, and shall publish the prospectus in accordance with the provisions of paragraph 2 of this Article and notify the Agency of how the prospectus has been published.

(2) The pension company shall be deemed to have fulfilled its obligation to publish the prospectus as referred to in paragraph 1 of this Article when the prospectus has been published in electronic form on the pension company's website and made available to the public in one of the following ways:

1. by publication in one or more daily newspapers circulated throughout, or widely circulated in, the territory of the Republic of Croatia, or

2. in a printed form to be made available, free of charge, to the public at the offices of the pension company and at reception offices of the Central Registry of Insured Persons.

(3) The Agency may prescribe, by way of an ordinance, additional requirements concerning the publication of the prospectus.

Reporting by pension funds

Pension fund's business year and application of financial reporting standards

Article 144

(1) The pension fund's business year shall correspond to a calendar year.

(2) The legislation governing accounting and the International Financial Reporting Standards shall apply to financial reporting by pension funds, unless the Agency provides otherwise.

(3) The Agency shall prescribe the chart of accounts for pension funds.

Pension fund reports

Article 145

(1) The Agency shall issue an ordinance laying down the structure and contents of quarterly and annual reports of pension funds and the method of their submission and publication.

(2) Apart from quarterly and annual reports of pension funds referred to in paragraph 1 of this Article, the Agency shall prescribe, by way of an ordinance, the structure, the contents and the method and deadlines for submission of other pension fund reports that the pension companies are required to prepare for the Agency's purposes.

Auditing of pension fund reports

Article 146

(1) Pension fund annual reports 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 this Act.

(2) The Agency may issue an ordinance to specify in more detail the scope and content of the audit, auditing procedures and auditor's report on an audit of pension fund annual reports.

(3) The Agency may require the auditor to provide additional explanations with regard to the audited annual reports.

(4) The same audit firm may conduct no more than seven consecutive audits of annual reports of the same pension fund.

(5) If the Agency establishes that an audit of the pension fund annual 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 pension fund or otherwise that the audit and the auditor's report on the pension fund annual reports are not based on true and objective facts, it may reject the auditor's report and require the pension company to have the audit carried out by certified auditors from another audit firm at the expense of the pension company.

Time limits for the preparation of quarterly reports and audited annual reports

Article 147

(1) Pension fund quarterly reports shall be submitted to the Agency and the Central Registry of Insured Persons within one month after the end of the quarter to which they relate.

(2) Audited annual reports of a pension fund shall be submitted to the Agency and the Central Registry of Insured Persons within four months after the end of the business year.

Availability of quarterly reports and audited annual reports

Article 148

(1) The pension company shall publish quarterly reports and audited annual reports on its website.

(2) The most recent audited annual reports and quarterly reports of a pension fund shall be available for inspection by members and potential members at the offices of the pension company and at all reception offices of the Central Registry of Insured Persons.

(3) The most recent audited annual reports and quarterly reports of a pension fund shall be delivered to members on their request and free of charge.

Other pension fund notices and information

Disclosure of legal and business transactions and provision of information

Article 149

(1) A pension company shall, whenever possible, disclose on its website any legal and business transactions related to the pension company when such transactions might have a significant impact on the operations of a pension fund.

(2) The pension company shall without delay notify the Agency of the legal and business transactions referred to in paragraph 1 of this Article.

(3) Upon request of a pension fund member, the pension company shall also provide additional information about the limits that apply in the risk management of the pension fund managed by the pension company, about the procedures chosen to this end and about changes in the risks involved and in the rates of return of the basic categories of financial instruments in which the pension fund's assets have been invested.

Reporting to the Croatian Parliament

Article 150

A pension company shall annually, in the first quarter of the year, submit to the Croatian Parliament a report in respect of the preceding year on the operations of the pension funds it manages.

Title 13

Mergers of pension funds

Mergers of pension funds

Article 151

(1) Two or more pension funds of the same category may be merged.

(2) In the case of a fund merger referred to in paragraph 1 of this Article, the merger shall be carried out accordingly for all the categories of the pension funds managed by the pension companies concerned.

(3) Only pension funds of the same category may be merged.

(4) A merger of pension funds shall be effected by transferring all the assets, rights and liabilities of one or more pension funds (the merging fund) to another existing pension fund (the receiving fund).

(5) Several merging funds and only one receiving fund may participate in a pension fund merger.

(6) A pension fund merger shall be carried out in the following cases:

1. in the case of the transfer of the management function, regardless of whether it is a voluntary or forced transfer to another pension company that already manages pension funds;

2. when one pension company directly acquires all the shares or holdings in another pension company (the exclusive owner) or

3. in the case of a merger or acquisition between pension funds.

Legal consequences of a pension fund merger

Article 152

- (1) When a pension fund merger is effected, the merging fund shall cease to exist and all the assets, rights and liabilities of the merging fund shall be transferred to the receiving fund.
- (2) The pension company managing the receiving fund shall enter into all legal transactions in which the pension company of the merging fund participated, on its own name and for the account of the merging fund.
- (3) After a pension fund merger is effected, the unit-holders of the merging fund shall become unit-holders of the receiving fund, in accordance with the defined exchange ratio.

Date for calculating the exchange ratio and the effective date of a merger

Article 153

- (1) The exchange ratio of units of the merging fund into units of the receiving fund shall be calculated on the effective date of the merger on the basis of the net asset value of the funds involved in the merger, calculated in accordance with the rules to be adopted by the Agency with regard to the method of valuation of the assets and liabilities of pension funds (date for calculating the exchange ratio).
- (2) The effective date of the merger shall be the date set in the draft terms of merger as the planned effective date of the merger, on which the assets and liabilities of the merging fund are transferred to the receiving fund and units of the merging fund exchanged for units in the receiving fund.
- (3) The exchange of units shall be carried out by the Central Register of Insured Persons, and the deadline for the allocation of units of the receiving fund shall be the business day following the effective date of the merger.

Rules and conditions for effecting a merger

Article 154

- (1) After a merger is effected, the net asset value of the receiving fund must be at least equal to the net asset value of the merging fund before the merger. The total value of all the units of the receiving fund held by a pension fund member after the merger is effected shall be at least equal to the total value of units of the merging fund held by that pension fund member before the merger.
- (2) A pension fund merger must not weaken the financial situation of members of the pension funds involved in the merger.

Pension fund merger procedure

Merger approval

Article 155

- (1) Prior to the implementation of the merger procedure, the pension company of the merging fund shall obtain an approval from the Agency (merger approval).
- (2) If a merger involves several merging funds that are managed by different pension companies, each pension company managing the merging fund must obtain the merger approval for all merging funds.

Merger approval application

Article 156

- (1) A merger approval application shall be submitted to the Agency by the pension company managing the merging fund.
- (2) The application referred to in paragraph 1 of this Article shall be accompanied by:
 1. draft terms of merger, in accordance with the provisions of Article 157 of this Act;
 2. the receiving fund's statute and prospectus;
 3. statement of the depositaries about the merger, as referred to in Article 158 of this Act;
 4. information about the merger that will be provided to the members of the merging fund and the receiving fund.

Draft terms of merger

Article 157

- (1) The pension companies managing the merging fund and the receiving fund shall draw up common draft terms of merger.
- (2) The draft terms of merger shall specify:
 1. the names and categories of all the pension funds involved in the merger, the name and registered office address of the pension company managing the merging fund the name and registered office address of the pension company managing the receiving fund and an indication that the merger procedure is being performed;
 2. a short description of the background to and rationale for the merger;
 3. a description of the expected consequences of the merger for the members of both the merging and the receiving fund;
 4. a description of the method adopted for valuation of the assets and liabilities of both the merging and the receiving fund on the date for calculating the exchange ratio;

5. a description of methodology to be applied for the calculation of the exchange ratio on the date for calculating the exchange ratio;

6. an indication of the planned effective date of the merger;

7. a detailed description of the procedures concerning the transfer of assets of the merging fund to the receiving fund and the exchange of the units of the merging fund for units of the receiving fund.

(3) In addition to the information and documentation referred to in paragraph 2 of this Article, additional information concerning the merger procedure may be included in the draft terms of merger.

(4) The draft terms of merger shall be signed by all the members of the board of directors of the merging and the receiving funds' pension companies.

(5) If a merger involves more than one merging fund and such funds are managed by different pension companies, one draft terms of merger shall be drawn up.

Opinion and obligations of the depositaries in the case of a merger

Article 158

(1) The depositaries of the pension funds involved in a merger shall, autonomously and independently of each other, prepare their statements on the merger, each for the pension fund for which it provides depositary services, on the basis of the draft terms of merger referred to in Article 157 of this Act.

(2) In its statement, the depositary shall explicitly indicate whether items 1, 4, 5, 6 and 7 of paragraph 2 of Article 157 of this Act have been drafted in conformity with the provisions of this Act and the pension fund's statute.

(3) Costs associated with the preparation of the depositary's statement on the merger may not be paid out of the assets of the pension funds involved in the merger.

(4) If a pension company managing a merging fund is not able to fulfil its obligations in accordance with the provisions of this title of the Act, such obligations shall be accordingly fulfilled by the depositary of the pension funds that are or were managed by the pension company concerned.

Informing members about the merger

Article 159

(1) The receiving fund's pension company shall make available to all the members of the receiving fund, through the Central Registry of Insured Persons, information about all the actions and circumstances concerning the merger, so as to enable the members to assess the consequences of the merger for their assets in the receiving fund.

(2) The merging fund's pension company shall make available to all the members of the merging fund, through the Central Registry of Insured Persons, information about all the actions and circumstances concerning the merger, so as to enable the members to assess the consequences of the merger for their assets in the merging fund.

(3) The information about the merger, as referred to in paragraphs 1 and 2 of this Article, shall include:

1. a short description of the background to and rationale for the merger;
2. a description of the expected consequences of the merger for the members of the merging fund;
3. a description of, and the procedure for exercising, all the rights that the pension fund members have pursuant to the provisions of this Act, and the planned effective date of the merger;
4. the prospectus of the receiving fund.

(4) The pension companies managing the merging and the receiving funds shall provide the information on the merger referred to in paragraphs 1 and 2 of this Article to members only after the Agency has issued a merger approval to the merging fund's pension company, but at least 30 days before the merger procedure is due to take place.

(5) Members of the merging fund and of the receiving fund shall be allowed to switch, without being charged an exit fee, to a pension fund managed by another pension company within the time limit referred to in paragraph 4 of this Article and within six months after the merger is completed.

(6) The Agency shall issue an ordinance specifying in more detail the contents of the information about the merger and the method of its delivery to the members of the merging and the receiving fund.

Article 160

The receiving fund's pension company shall notify the Central Registry of Insured Persons of all the actions and circumstances of the merger.

Refusal of a merger approval application

Article 161

The Agency shall refuse a merger approval application if it establishes that the provisions of Articles 151 to 160 of this Act have not been met.

Audit of a merger

Article 162

(1) Before the date for calculating the exchange ratio and the effective date of a merger, the merger must be audited by an auditor from an audit firm appointed by the merging fund's pension company with the consent of the depositary of the merging fund.

(2) On the basis of the audit referred to in paragraph 1 of this Article, the auditor shall draw up a merger report, which shall include the auditor's findings regarding the following:

1. whether the principle of unchangeability of the financial situation of the pension fund members, as set out in Article 154 of this Act, is respected in the proposed merger;

2. the criteria adopted for valuation, as referred to in Article 157, paragraph 2, item 4 of this Act;

3. the appropriateness of the exchange ratio calculation method referred to in Article 157, paragraph 2, item 5 of this Act.

(3) The auditor shall submit his merger report to the board of directors of the pension companies managing the merging fund and the receiving fund, and the pension company of the receiving fund shall submit it to the Agency within three business days.

(4) If the merger involves merging funds of more than one pension company, the auditor shall audit the merger for each merging fund of each pension company. The pension companies managing the merging funds may, in agreement with the depositaries of these funds, determine that the audit of the merger should be performed by the same auditor who will issue a single merger report, in which each merging fund of each pension company shall be covered separately, which means that the provisions of paragraph 2 of this Article will be indicated in the report for each merging fund of each pension company.

(5) The provisions of the legislation governing auditing shall apply *mutatis mutandis* to the damage liability of the auditor preparing the report referred to in paragraph 2 of this Article.

(6) The costs of audits may not be paid out of the assets of the pension funds involved in the merger.

Access to data on a merger

Article 163

(1) A member of the merging or the receiving fund may request from the pension company managing the receiving fund a copy of the auditor's merger report.

(2) The pension company shall provide to the fund member free of charge a copy of the auditor's merger report, no later than the next business day after the receipt of a written request.

(3) A copy of the auditor's merger report may also be provided in electronic format.

Implementation of merger

Article 164

(1) The merger shall be effected on the same day for all the categories of the funds of the pension company managing the merging fund and the pension company managing the receiving fund.

(2) The pension companies managing the merging fund and the receiving fund shall, taking into account the situation as at the date for calculating the exchange ratio and using the methodology described in the draft terms of merger based on which the Agency issued the merger approval, determine the exchange ratio according to which the units in the merging fund shall be exchanged for the units in the receiving fund. This shall take into account the net asset value of the pension funds involved in the merger.

(3) On the effective date of the merger, the pension companies managing the merging fund and the receiving fund shall make the transfer, as provided for in the draft terms of merger, of all the assets and liabilities with respect to each pension fund involved in the merger.

(4) On the effective date of the merger, the pension companies managing the merging fund and the receiving fund shall, for the members of the merging fund, exchange their units in the merging fund for units in the receiving fund, in accordance with the exchange ratio referred to in paragraph 2 of this Article.

(5) The pension companies managing the merging fund and the receiving fund may not perform the transfer of assets and liabilities and the exchange of units in accordance with the provisions of this Article, unless the auditor has previously given his positive opinion about the merger.

(6) With regard to investment limits, the assets of the receiving fund need not be fully aligned with the provisions of this Act and the statute of the receiving fund for a maximum period of 60 after the effective date of the merger, with due observance of the principles of risk spreading and protection of interests of the pension fund members.

(7) Exceptionally, at the request of the pension company, the Agency may extend the period referred to in paragraph 6 of this Article by additional 60 days, when this is in the interest of the pension fund members.

Notification of the Agency

Article 165

The pension company managing the receiving fund shall notify the Agency of the merger on the next business day following the effective date of the merger and shall submit to it the auditor's statement about the accuracy of the actual exchange ratio determined at the date for calculating that ratio.

Publication of the information on the implementation of a merger

Article 166

On the next business day following the effective date of the merger, the pension company managing the receiving fund shall publish on its website the information on the implementation of the merger.

Convalidation of errors in the merger procedure

Article 167

Once the units in the merging fund have been exchanged for the units in the receiving fund, it is not possible to require that the implemented merger of the pension funds be declared null and void nor can the legal actions taken for the purpose of the merger be disputed.

Costs of merger

Article 168

All the costs incurred as a result of the merger shall be borne by the pension companies managing the merging fund and the receiving fund.

Damage liability of the pension company and members of its board of directors

Article 169

(1) The pension companies managing the merging fund and the receiving fund and the members of their boards of directors shall be jointly liable for damage incurred to the members of these pension funds as a result of the implementation of the merger, unless they prove that they acted with due professional care in the merger procedure.

(2) The provisions of the law governing the establishment and operation of companies concerning the damage liability that members of the bodies of a merged company have towards the shareholders or stockholders of that company shall apply *mutatis mutandis* to the damage liability of the pension companies and members of their boards of directors and to the damage compensation procedure and periods of limitation.

Part Four

DEPOSITARY

General provisions

Article 170

(1) The assets of a pension fund shall be entrusted to a depositary for safekeeping and administration.

(2) A pension company shall appoint a single depositary to whom it shall entrust the pension fund assets and with whom it shall conclude a contract for the provision of depositary services in respect of the pension fund assets. The depositary may be:

1. a credit institution with a registered office in the Republic of Croatia, which is authorised by the Croatian National Bank for providing the services of safekeeping and administration of financial instruments for the account of clients, including custody activities and related services, such as cash and collateral management;

2. a branch of a credit institution from another Member State, established in the Republic of Croatia in accordance with the legislation governing the establishment and operation of credit institutions, authorised by the competent authority of the Member State for safekeeping and administration of financial instruments for the account of clients, including custody activities and related services, such as cash and collateral management.

(3) The depositary shall carry out the activities determined by this Act on the basis of a written depositary contract concluded with the pension company.

(4) The depositary shall be ready and able to meet all the necessary organisational requirements and conditions in order to fulfil its duties of depositary pursuant to the provisions of this Act.

(5) The depositary's managers in charge of a pension fund shall have adequate experience. Managers of the depositary shall be deemed to be persons responsible for the operations of an organisational unit which pursues the depositary activities within a credit institution or a branch of a credit institution or persons who can influence the business policy in the area of depositary activities of a credit institution.

(6) No entity shall act as both pension company and depositary.

(7) Each pension fund may have only one depositary.

(8) Depositary activities for all categories of the pension funds managed by the same pension company shall be entrusted to the same depositary.

(9) When depositary activities are performed for several pension funds, the assets, activities and records of each pension fund shall be completely separated, both from those of other pension funds and from those of the depositary.

(10) In carrying out the activities referred to in Article 172 of this Act, the depositary shall act solely in the interest of the members of the pension funds for which it carries out the depositary activities.

(11) The depositary shall keep as confidential all the data that are made available to him in accordance with the provisions of this Act.

(12) The depositary and any pension company or pension insurance company must not be related persons.

Selection and replacement of a depositary

Article 171

(1) Any selection of a depositary by the pension company and any replacement of the depositary shall require an approval by the Agency.

(2) The Agency shall prescribe, by way of an ordinance, the requirements and procedure for the selection of a depositary and the documents that must be enclosed with an application for an approval referred to in paragraph 1 of this Article.

(3) The Agency may at any time order the pension company to replace the depositary, in particular when:

1. in the opinion of the Agency, the depositary does not discharge its duties in accordance with the assumed obligations and/or the provisions of this Act and regulations made under this Act;
2. there are circumstances which raise doubts as to the ability of the depositary to fulfil its duties properly, on time and in a high-quality manner in accordance with the assumed obligations and/or the provisions of this Act and regulations made under this Act;
3. the Agency has reasonable grounds to suspect that the pension company acts in collusion with the depositary to the detriment of the pension fund members;
4. there are circumstances which strongly suggest that there has been a breach of the control duties of the depositary and of the fundamental duties of the pension company;
5. the financial or organisational structure of the depositary has become substantially impaired, thus representing a potential threat to the safety of the pension funds' assets.

Duties and obligations of the depositary

Article 172

(1) The depositary shall perform the following activities for a pension fund:

1. safe-keeping and/or record-keeping of the assets of the pension fund;
2. monitoring of the pension fund's cash flows on a continuous basis;
3. maintaining the accounts for the assets of the pension fund and segregating the assets of each individual pension fund from the assets of other pension funds, the assets of the depositary and other clients of the depositary and of the pension company;
4. carrying out checks to ensure that the assets of the pension fund are invested in accordance with the declared objectives, the provisions of this Act and other applicable legislation and the pension fund's statute;
5. informing the Agency and the pension company of the calculation of the value of the pension fund's assets and of the price of units, and confirming and ensuring that the net asset value of the pension fund and the value of the pension fund's unit of account are calculated in accordance with the adopted accounting policies or valuation methodologies, this Act, applicable regulations and the statute of the pension fund;
6. carrying out the pension company's instructions concerning the transactions involving financial instruments and other assets that form part of the pension fund's assets, provided that they are not in contravention of this Act, the Agency's regulations and the statute of the pension fund;

7. reporting to the pension company on the corporate actions related to the pension fund's assets entrusted to it for safe-keeping, and carrying out the pension company's instructions in that regard;

8. providing voting services at annual general meetings of shareholders and services relating to the exercise of other rights attaching to the financial instruments in which the pension fund's assets have been invested;

9. collection of payments of any income and other rights due to the benefit of the pension fund, attaching to its assets;

10. ensuring that the pension fund's income is applied in accordance with this Act, regulations made under this Act and the statute of the pension fund, and that the costs paid by the pension fund are in compliance with the provisions of this Act, regulations made under this Act and other regulations and with the statute of the pension fund;

11. carrying out other activities provided for in the depositary contract;

12. notifying to the Agency any serious or grave violation of this Act and the depositary contract by the pension company;

13. enabling access to data and accounts related to the pension fund and its assets to auditors and other persons authorised to perform inspection, including the Agency, and exchanging with them information on these data and accounts.

(2) The Agency may also lay down special rules for performing the depositary functions in respect of pension funds' assets and details regarding a standard contract to be concluded between the depositary and the pension company.

Records of violations and the depositary's notifications concerning matters relevant to supervision

Article 173

(1) At the request of the Agency, the depositary shall submit to the Agency the documents, notifications and information on all matters relevant to the exercise of supervision of the activities carried out by the depositary.

(2) When a depositary, in discharging its duties and obligations referred to in Article 172 of this Act establishes irregularities and/or illegalities resulting from the activities of the pension company, which constitute a violation of the obligations of the pension company as determined by this Act, regulations made under this Act or the statute of the pension fund, it shall without delay warn the pension company thereof and request clarification of these circumstances.

(3) If, after the depositary's warning referred to in paragraph 2 of this Article, the pension company continues to violate its obligations, the depositary shall notify the Agency thereof without delay.

(4) The Agency shall issue an ordinance specifying in more detail the procedure and time limits for notifying the irregularities and/or illegalities referred to in paragraphs 2 and 3 of this Article.

Method of safekeeping of pension fund's assets

Article 174

(1) The assets of a pension fund shall be entrusted to the depositary for safekeeping as follows:

1. financial instruments placed in custody:

a) the depositary shall hold in custody all financial instruments that may be registered in a book-entry securities account;

b) financial instruments that cannot be registered in a book-entry securities account and materialised financial instruments which have been entrusted to the depositary shall be registered in other appropriate accounts;

2. non-invested pecuniary assets shall be kept in transaction accounts for business purposes, which may not be subject to execution to satisfy claims against the depositary or the pension company;

3. other assets:

a) the depositary shall check other assets of the pension fund and verify the ownership by the pension fund of such assets, and shall maintain a record of these assets;

b) the assessment and confirmation of the fact that the pension fund holds the ownership of the assets shall be based on information or documents provided to the depositary by the pension company or, where applicable, on the data contained in public registers and records.

(2) For the purposes of safe-keeping, the depositary shall ensure that all financial instruments and pecuniary assets referred to in the paragraph 1, items 1 and 2 of this Article are registered in the depositary's books within segregated accounts in accordance with the law governing the capital market and regulations adopted pursuant to that law in the part relating to the safeguarding of client assets, opened in the name of the pension company and for the account of the pension fund managed by the pension company, so that at all times the assets belonging to the pension fund can be clearly identified and distinguished from the assets of the depositary and from the assets of other clients.

(3) The depositary shall keep its records up to date.

(4) The Agency shall issue an ordinance prescribing in more detail the manner of safekeeping the assets of a pension fund by a depositary.

Separation of depositary's activities and keeping of pension fund's assets

Article 175

(1) The safekeeping and administration activities and other activities that the depositary performs for the pension company shall be separated, in organisational terms, from other activities that the depositary performs in accordance with the law governing the establishment and operation of credit institutions.

(2) The depositary shall safeguard and keep the assets of a pension fund in such a way that at all times the assets belonging to the pension fund can be clearly identified and distinguished from the assets of the depositary and from the assets of other clients.

(3) When the assets of a pension fund have been entrusted to the depositary for safekeeping, the depositary shall implement appropriate measures to protect ownership rights and other rights of the pension fund, especially in the case of insolvency of the pension company and of the depositary.

(4) The depositary and the sub-depositary referred to in Article 182 of this Act shall not use the assets referred to in the Article 174, paragraph 1, items 1 and 3 of this Act to effect transactions for their own account or to obtain any benefit for themselves, their founders or employees, or for any purpose other than for the benefit of the pension fund members.

(5) The pension fund's assets referred to in Article 174, paragraph 1, items 1 and 3 of this Act may neither form part of the assets or liquidation or bankruptcy estate of the depositary or of a sub-depositary referred to in Article 182 of this Act, nor may they be subject to execution to satisfy claims against the depositary or a sub-depositary referred to in Article 182 of this Act.

Discharge of obligations by the depositary

Article 176

(1) In discharging its obligations and duties provided for in this Act and in the depositary contract, the depositary shall act with due professional care in accordance with the principle of honesty and integrity, independently of the pension company, its own founder or a member of the pension company, and solely in the interest of the members of the pension fund for which it performs depositary tasks.

(2) The depositary shall carry out the orders and instructions of the pension company only if they comply with the provisions of this Act, regulations made under this Act and the statute of the pension fund.

(3) In carrying out the tasks, obligations and duties of the depositary provided for in this Act and in the depositary contract, the depositary shall, by means of its organisational structure and internal rules, avoid any conflict of interest between the depositary, its founder and/or a person possessing a qualifying holding in the depositary, a pension company member, and the pension company. A body of the depositary that is independent of the depositary's management body shall be responsible for supervising whether the depositary acts in accordance with this provision.

(4) Managers and other employees of the depositary, its procurators and authorised legal representatives shall not be employees of the pension company.

(5) Members of the board of directors of the pension company, its procurators, authorised legal representatives and other employees of the pension company shall not be employees of the depositary.

Article 177

(1) The depositary shall be liable to the pension fund and to the members of the pension fund for any loss of assets caused by the depositary or a third party to which it has delegated the safekeeping of financial instruments of the pension fund.

(2) In the case of a loss of a financial instrument held in custody, the depositary shall return to the pension fund's assets a financial instrument of an identical type or the corresponding amount of money without undue delay.

(3) The depositary shall not be liable for a loss of financial instruments held in custody if it can prove that the loss has arisen as a result of an external event beyond its reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to avoid them.

Auditing the fulfilment of depositary's obligations

Article 178

(1) The fulfilment of depositary's obligations shall be audited by an auditor once a year.

(2) The depositary shall appoint an audit firm within the period set out in the regulations governing auditing.

(3) The depositary shall without delay notify the Agency of the audit firm it has selected.

(4) Within one month of receiving the notification referred to in paragraph 3 of this Article, the Agency may order the depositary to appoint a new audit firm if it considers it necessary to do so in order to accomplish the purpose of the audit.

(5) Upon receiving the auditor's report, the depositary shall without delay submit the auditor's report to the Agency.

(6) The Agency shall issue an ordinance laying down the scope and contents of an auditor's report on the completed audit of the fulfilment of depositary's obligations.

(7) If the Agency establishes that an audit of the fulfilment of depositary's obligations has not been carried out or that the auditor's report has not been drawn up in accordance with this Act, 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 depositary or otherwise, that the audit and the auditor's report on the fulfilment of depositary's obligations are not based on true and objective facts, it may reject the auditor's report and require the depositary to have the audit carried out by certified auditors from another audit firm at the expense of the depositary.

Liability of the depositary

Article 179

The depositary shall be liable to the pension company and to the pension fund members:

1. for the loss of assets by the depositary or a third party to which it has delegated the safekeeping of financial instruments of the fund;
2. for losses suffered as a result of the depositary's unjustifiable non-performance or improper performance of the duties provided for in the depositary contract, this Act, regulations made under this Act or in the statute of the pension fund, including where the depositary has delegated the performance of its duties referred to in Article 172, paragraph 1, item 1 of this Act to third parties;
3. for the loss of assets of the pension fund resulting from the depositary's negligence in the performance and fulfilment of its duties.

Assertion of claims and exercise of rights by and against the depositary

Article 180

- (1) The depositary shall be empowered and obliged to assert and exercise, in its own name, the pension fund members' claims and rights against the pension company, resulting from infringement of the provisions of this Act, regulations made under this Act and the pension fund's statute. This shall not prevent the pension fund members from exercising individually and independently their property rights claims against the pension company for the same reasons as stated above.
- (2) The depositary shall return to the assets of the pension fund anything that has been paid out of such assets without a valid legal basis.
- (3) The pension company shall be empowered and obliged to exercise, in its own name, the pension fund members' rights against the depositary.
- (4) If the pension company fails to bring an action referred to in paragraph 3 of this Article within 60 days of the infringement of this Act, regulations made under this Act or the prospectus and statute of the pension fund, the pension fund members shall have the right to initiate the appropriate procedure and to bring an action directly.

Article 181

- (1) The depositary shall pay to the pension company, from the account of the pension fund, the fee for the management of the pension fund and related costs, as well as an exit fee if provided for in the pension fund's statute.
- (2) The depositary may pay out from the pension fund's account a fee for the performed depositary tasks only with the approval of the pension company, in accordance with the provisions of this Act.

Delegation of depositary's functions to third parties

Article 182

(1) The depositary may delegate some of its functions to a third party (sub-depositary), whereby the liability of the depositary shall not be excluded.

(2) The depositary functions referred to in paragraph 1 of this Article may only cover the tasks delegated to a third party in another Member State or in a third country which relate to the custody of the pension fund's assets invested in securities whose place of issue is not the Republic of Croatia, whereby the liability of the depositary shall not be excluded. If the depositary delegates some of its functions to a third party in another Member State or in a third country, that third party must be registered for performing custody tasks.

(3) The depositary may delegate to a third party only the tasks and duties referred to in Article 172, paragraph 1, item 1 of this Act (safe-keeping and/or record-keeping of the fund's assets), provided that the following conditions have been satisfied:

1. the tasks are not delegated with the intention of avoiding the obligations and requirements provided for in this Act;

2. the delegation is carried out for objective reasons and exclusively for the purpose of a more efficient performance of these tasks and duties;

3. the depositary must prove that due care was exercised in selecting the third party and that the depositary will at all times monitor the performance of the delegated tasks and duties with due care and effectively;

4. the depositary must prove that the third party meets, and will continue to meet throughout the duration of the delegation contract, the following requirements:

a) it has an internal structure and experience that are adequate and proportionate to the nature and complexity of the assets of the pension fund which have been entrusted to it for safekeeping in accordance with the provisions of Article 174 of this Act;

b) the party is subject to prudential supervision and supervision under the provisions of the applicable law (including capital adequacy requirements) in relation to the delegation of the custody tasks referred to in Article 172, paragraph 1, item 1 of this Act;

c) the party is subject to an external periodic audit to ensure and confirm that the financial instruments entrusted to it for custody are in its possession and/or control, in relation to the delegation of the custody tasks referred to in article in Article 172, paragraph 1, item 1 of this Act;

d) it segregates the assets of the clients of the depositary from its own assets in such a way that they can, at any time, be clearly identified as belonging to clients of a particular depositary;

e) it does not make use of the assets entrusted to it for safekeeping without the prior consent of the pension company and prior notification to the depositary;

f) it complies with the obligations and prohibitions referred to in Articles 175 and 176 of this Act.

(4) The third party may, in turn, sub-delegate the delegated tasks and duties only if the requirements of paragraph 3 of this Article are met.

(5) The depositary shall be liable to the pension company and to the pension fund members for the selection of the third party.

(6) The third parties to which the depositary has delegated the tasks and duties referred to in Article 172, paragraph 1, item 1 of this Act may only be foreign credit institutions or foreign custodians authorised by the competent authority for the pursuit of business of safe-keeping and administration of financial instruments for the account of clients, including custody tasks and related services, such as cash or collateral management, which are prescribed by the law governing the capital market.

Article 183

(1) A depositary that has delegated the functions referred to in Article 172, paragraph 1, item 1 of this Act to third parties shall submit to the Agency:

a) without delay, all contracts concluded with third parties;

b) no later than 31 March each year, a list of all third parties with which it concluded delegation contracts.

(2) The depositary shall also submit the list referred to in paragraph 1, item (b) of this Article to the pension company, and the depositary and the pension company shall, without delay, publish it on their respective websites.

Article 184

A depositary which has delegated the functions referred to in Article 172, paragraph 1, item 1 of this Act to third parties shall:

1. effectively, continuously and with due diligence supervise the performance of the delegated tasks, and in particular potential risks associated with the keeping of the investment fund's assets held in custody, and shall keep the pension company informed of the circumstances which can cause a change in these risks;

2. without delay notify the Agency and the pension company of any non-performance and/or improper performance of an obligation and of any negligence on the part of the third party that may have a significant impact on the pension fund's assets that have been placed in custody.

Article 185

Where the depositary has delegated the functions referred to in Article 172, paragraph 1, item 1 of this Act to third parties, the prospectus of the pension fund shall contain, in the section relating to the depositary, the following particulars:

1. the agreements entered into between the depositary and third parties which may have impact on their liability to the members (for example, choice of applicable law);
2. a clear indication of the entities that will ultimately hold in custody and supervise the assets of the fund;
3. a description of the risks which the delegation could pose to the assets of the pension fund, particularly in the event of non-performance and/or improper performance of obligations and negligence on the part of a sub-depositary.

Replacement of a depositary

Article 186

- (1) A depositary intending to cease carrying on business as a depositary or to cancel or terminate the depositary contract for the assets of a pension fund shall, at least two months prior to the planned cessation of business activities or cancellation or termination of the contract, notify its intention in writing to the Agency and to the pension company for which it carries out the activities of a pension fund depositary.
- (2) The depositary may cease performing depositary activities only in respect of all pension funds managed by a single pension company.
- (3) If the pension company fails to conclude a depositary contract with another depositary within two months of the date of receipt of the notification referred to in paragraph 1 of this Article, the depositary shall, if it is in a position to do so, continue to provide depositary services for a further period of one month, in which period the pension company must conclude a contract with another depositary.
- (4) If the pension company fails to conclude a contract with another depositary within a further period of one month as referred to in paragraph 3 of this Article, its authorisation to conduct business shall be revoked.

Article 187

- (1) Subject to the Agency's approval and to the requirements of this Act, the pension company may replace the existing depositary with a new depositary.
- (2) The replacement of the depositary shall be made in such a way as to ensure continuity in the performance of depositary functions with respect to the assets of the pension fund.
- (3) The former depositary shall, within three days of receipt of the pension company's request for the termination or cancellation of the depositary contract, notify the Agency in writing of whether, to its best knowledge, there are any unresolved infringements of this Act or other regulations.

Article 188

In the event of termination or cancellation of the depositary contract, the depositary shall, within 30 days, transfer all the assets of the pension fund for safekeeping and administration

to the new depositary with which the pension company has concluded a depositary contract, and shall also deliver the books of accounts, records and all other documents and materials relevant to the operations of the pension fund for which it formerly performed the depositary functions, in written or electronic form, depending on the method of keeping these data.

Article 189

(1) In the event that bankruptcy proceedings have been opened or winding-up proceedings instituted in respect of the depositary, the pension company shall:

1. immediately give to the depositary a notice of termination or cancellation of the contract, and shall notify the Agency thereof;
2. immediately select a new depositary and apply for the appropriate approval from the Agency.

(2) If the pension company fails to take the measures referred to in paragraph 1 of this Article, the Agency shall order the replacement of the depositary, in which case the provisions of Article 187, paragraph 2 and Article 188 of this Act shall apply accordingly.

(3) The Agency may order the pension company to replace the depositary if the financial or organisational structure of the depositary has become substantially impaired, thus representing a potential threat to the safety of the pension fund's assets.

(4) The Croatian National Bank shall notify the Agency of any case that could cause, according to the criteria of the Croatian National Bank, a significant impairment of the financial or organisational structure of the depositary.

Article 190

(1) The Agency shall withdraw or revoke its lawful decision approving the choice of a depositary in the following cases:

1. if the approval was obtained on the basis of false, incorrect or misleading information, or in any other fraudulent manner;
2. if the depositary no longer fulfils the conditions under which the approval was granted;
3. if the Agency establishes that the depositary does not discharge its duties in accordance with the assumed obligations and/or the provisions of this Act and regulations made under this Act, in particular as regards delegated tasks, and where withdrawing or revoking the approval is more appropriate than replacing the depositary as referred to in Article 171, paragraph 3 of this Act;
4. if there are circumstances which raise doubts as to the ability of the depositary to fulfil its duties properly, on time and in a high-quality manner in accordance with the assumed obligations and/or the provisions of this Act and regulations made under this Act, in particular as regards delegated tasks, and where withdrawing or revoking the approval is more appropriate than replacing the depositary as referred to in Article 171, paragraph 3 of this Act;

5. if the depositary has systematically and/or seriously violated the provisions of this Act, regulations made under this Act or the statute of the pension fund.

(2) The approval of the choice of a depositary shall cease to be valid by operation of law:

a) on the day on which bankruptcy proceedings are opened against the depositary;

b) on the day on which proceedings for the voluntary or mandatory winding-up of the depositary commence.

(3) The Agency shall issue an ordinance laying down the actions to be taken by the pension company and the depositary in the cases where the depositary's authorisation to conduct business is revoked or where the approval of the choice of a depositary is revoked.

Article 191

(1) For carrying out the depositary tasks referred to in Article 172 of this Act, the depositary shall be entitled to a fee, the maximum level of which shall be determined by the Agency.

(2) Each year, the Agency shall issue a decision determining the level of the depositary's fee to be applicable in the following year, which shall not exceed 0.1 % of the average annual net asset value of the pension fund.

Part Five

CENTRAL REGISTRY OF INSURED PERSONS

Article 192

(1) The Central Registry of Insured Persons shall cooperate with depositaries, the Financial Agency, the Croatian Pension Insurance Institute and other bodies with a view to ensuring efficient collection of contributions and reporting.

(2) The Central Registry of Insured Persons shall be entitled to a monthly compensation for each pension fund member, which shall be paid by the pension company, as prescribed by the law governing the operation of the Central Registry of Insured Persons.

(3) The Agency shall issue an ordinance prescribing the method of payment of contributions, the establishment of a temporary account, the manner in which assets in the transfer and temporary accounts are to be dealt with, and the manner in which assets are to be transferred.

Article 193

(1) The Central Registry of Insured Persons shall, at least once a year, make available free of charge to each pension fund member a certificate indicating the number of units of account in his or her personal account, the value of assets in the personal account, the category of the pension fund in which these assets are invested, the pension company managing that pension fund, the dates and amounts of contributions paid by the pension fund member in the particular period, information about his or her transfer to a pension fund of another category

during the preceding reporting period, if such transfer occurred, and about the possibility of transferring to a fund of another category during the next year.

(2) At the request of a pension fund member, the Central Registry of Insured Persons shall provide this member with the information about the value of the assets on his or her account. The Central Registry of Insured Persons may charge a fee for providing information not covered by paragraph 1 of this Article, but such fee may not be higher than the actual cost of preparing this information.

(3) The Central Registry of Insured Persons shall also make available to the pension company at least once year, in respect of each member of the pension fund managed by that company, the information referred to in paragraph 1 of this Article.

(4) The Central Registry of Insured Persons may communicate the information concerning members, the number of units of account, the value of assets in personal accounts, payments and receipts, the category of the pension fund and possible transfers to judicial and administrative authorities and to other persons on request and within the scope of its authority in accordance with the provisions of a special law.

(5) After being notified of the value of the units of account of all the pension funds as referred to in Article 111, paragraph 8 of this Act, the Central Registry of Insured Persons shall publish these values on its website.

(6) The Agency shall issue an ordinance prescribing the procedure and time limits for submitting the information referred to in paragraph 1 of this Article.

(7) The Agency shall issue an ordinance prescribing the procedure, time limits and additional requirements concerning the publication of the information referred to in paragraphs 3 and 5 of this Article.

Article 194

(1) It shall be deemed that the Central Registry of Insured Persons has made information available to a pension fund member if this information is available in one of the following ways:

1. information is accessible through the web interface of the Central Registry of Insured Persons;

2. the pension fund member may obtain information at reception offices of the Central Registry of Insured Persons on request and free of charge;

3. information has been sent to an electronic mail address of the pension fund member if the following conditions are met:

a) the pension fund member has submitted to the Central Registry of Insured Persons a valid electronic mail address;

b) the pension fund member has chosen such way of submission of information.

(2) It shall be deemed that the Central Registry of Insured Persons has made information available to the pension company if:

1. information is accessible through the web interface of the Central Registry of Insured Persons or
2. information has been sent to the pension company in electronic form.

Article 195

The Central Registry of Insured Persons shall establish, implement and regularly update, assess and monitor, taking into account the scale and complexity of its business, effective and adequate:

1. measures and procedures for the control and protection of the information system and electronic data processing system;
2. measures and procedures to safeguard, on a continuous basis, the security, integrity and confidentiality of information;
3. policies, measures and procedures to ensure the business continuity, and to that end the Central Registry of Insured Persons shall employ appropriate systems, resources and procedures that are proportionate to the scale and complexity of its business.

Part Six

SUPERVISION OF BUSINESS OPERATIONS OF PENSION COMPANIES, PENSION FUNDS, DEPOSITARIES AND THE CENTRAL REGISTER OF INSURED PERSONS

General provisions

Supervision

Article 196

(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 fund members 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 197

(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 standing 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) 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.

(4) When determining the frequency and intensity of supervision of an entity subject to supervision, the Agency shall take into account the size, impact and importance of the pension company and of the funds it manages, as well as the nature, type, scale and complexity of its activities and the performance indicators for those activities.

Entities subject to supervision

Article 198

(1) Entities subject to supervision shall be supervised by the Agency in accordance with the Act on the Croatian Agency for Supervision of Financial Services, 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 make a decision without an oral hearing.

(4) For the purposes of supervision, the Agency shall 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 the provisions of this Act:

1. pension companies;
2. pension funds managed by the pension companies referred to in item 1 of this paragraph;
3. depositaries of the pension funds referred to in item 2 of this paragraph;
4. the Central Registry of Insured Persons.

Supervision procedure

Method of conducting supervision

Article 199

(1) The Agency shall conduct supervision *ex officio*:

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 the overall business operations, 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 monitoring, collecting and examining the documents, information and data obtained at a specific request of the Agency, as well as by monitoring, 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 200

(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, and in that case the legislation governing the confidentiality of data that applies to employees of the Agency shall apply *mutatis mutandis* to these persons.

Providing information at the request of the Agency

Article 201

(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 202

(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 scope of the 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 supervision, the Agency may supplement the notification of supervision. The provisions of paragraph 1 of this Article shall apply *mutatis mutandis* to the supplement to the notification of supervision.

(4) The notification of an on-site supervision shall be delivered to the supervised entity within a period of not less than 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 203

- (1) Following the receipt of a notification of 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 204

- (1) The supervised entity shall provide an authorised person of the Agency with adequate premises where he or she can carry out the supervision of business operations 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 205

(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 206

(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.

(2) The supervised entity is entitled to file a complaint against the received report within 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 pension company, pension fund, depositary, pension fund member or third party.

(4) If supervision reveals no illegalities and/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 207

If the report referred to in Article 206 of this Act identifies illegalities or irregularities which would require the imposition of an appropriate supervisory measure, but which are corrected before a decision imposing an appropriate supervisory measure has been issued, the Agency shall include this information in an addendum to the report and shall issue, after the expiration of the deadline for submission of complaints, 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 208

An objection to the report referred to in Article 206 of this Act 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 the report must be accompanied by appropriate evidence, if such evidence is available to the party concerned.

Off-site supervision

Article 209

(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 the 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 standing 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 210

(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 206 to 208 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 supervisory measures as in the case of on-site supervision.

Supervisory measures

Article 211

(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 has been committed, it shall report it, as appropriate, to the competent authority.

(5) When the Agency establishes that there are reasonable grounds to suspect that a misdemeanour has been committed, it shall report it to the competent authority if, in this specific case, it deems it justified and purposeful.

Measures to be taken by the Agency when the sound and prudent management of a pension company is jeopardised

Article 212

(1) Where the inappropriate influence exercised by a member of a pension company is likely to operate against the sound and prudent management of the pension 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, the submission of a request to the competent court for imposition of interim measures related to the acquisition of the voting rights attaching to the shares or holdings held by the members of the pension company referred to in paragraph 1 of this Article.

Types of supervisory measures

Article 213

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

1. recommendations to the board of directors of the pension company;
2. a warning;
3. instruction to remedy illegalities and irregularities;
4. special supervisory measures;
5. revocation or withdrawal of authorisation to conduct business.

Recommendations to the board of directors of a pension company

Article 214

(1) If during supervision and the examination and assessment of the financial stability and standing of a pension company, or of pension funds that it manages, and the examination and assessment of risks to which the pension 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 and regulations made under those laws, or if the Agency considers it necessary that the pension 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 or in the operation of pension funds it manages, the Agency shall give recommendations to the board of directors of the pension company.

(2) The recommendations shall specify the identified and assessed material risks and problems to which the pension 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 pension company's board of directors to follow in order to remedy them and to improve the pension company's operation, financial stability and standing, and to reduce the risks to which the pension company is or could be exposed in its business operations.

(3) The pension 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 pension company is or could be exposed in its operation and in the operation of pension funds it manages have been reduced, the Agency may perform another supervision of the pension company.

Warning

Article 215

(1) Where, in the course of supervision, the Agency identifies illegalities and irregularities, and the nature and scope of the identified illegalities and irregularities do not have a material

impact and consequences on business operations of the pension company and of pension funds, on the market and/or on pension fund members, the Agency may issue a warning to the pension company.

(2) The Agency may publicly disclose the warning.

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

(4) If the pension 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 ordering the correction of the identified illegalities and irregularities.

(5) The Agency shall be authorised to perform another supervision of the pension company to the extent necessary to determine whether the pension company has acted in accordance with the Agency's order referred to in paragraphs 3 and 4 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 216

(1) Where, in the course of supervision, the Agency identifies illegalities and irregularities, it shall issue a decision ordering the pension company to take measures to correct the identified illegalities and 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 pension company must correct the identified illegalities or irregularities.

Certified auditor's report on the correction of illegalities and irregularities

Article 217

Where, in the course of supervision, the Agency identifies illegalities and irregularities relating to the keeping of business books and other business documents that the pension company is required to keep pursuant to the provisions of this Act, regulations made under this Act or other laws governing the operations of the pension company and regulations made under those laws, or where it finds other major illegalities, it may order the pension company to submit a report on the correction of the illegalities and 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 218

- (1) The pension company shall correct the identified illegalities and 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 pension company shall enclose with the report referred to in paragraph 1 of this Article the documents and other evidence showing whether the identified illegalities and irregularities have been eliminated.
- (3) If 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 referred to in paragraph 1 of this Article, the Agency does not order that the report be supplemented as referred to in paragraph 3 of this Article, it shall be considered that the illegalities and irregularities have been corrected.

Decision confirming that illegalities and irregularities have been corrected

Article 219

- (1) If the Agency concludes, based on the report referred to in Article 218 of this Act, the enclosed documents and other evidence, that the identified illegalities and irregularities have been corrected, it shall issue a decision confirming that the illegalities and 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 pension company to the extent necessary to determine whether the identified illegalities and irregularities have been corrected in the appropriate manner and to the appropriate extent.

Special supervisory measures

Article 220

- (1) The Agency is authorised to impose on a pension company, including members of the pension company's board of directors and supervisory board, special supervisory measures referred to in paragraph 2 of this Article in the following cases:

1. if the pension company has failed to act in accordance with the Agency's decision ordering the measures to correct illegalities and irregularities referred to in Article 216 of this Act;
2. if it has not set up, does not implement or fails to regularly maintain the organisational, technical, human resource or other operating conditions prescribed by Articles 48 to 58 of this Act or by an ordinances specifying these conditions in more detail;

3. if the pension company's capital is less than the required minimum set forth in Article 9 of this Act;

4. if it does not comply with the provisions concerning the limits on investments of pension funds it manages or other limits prescribed by the provisions of this Act or by regulations made under this Act;

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 pension company to increase its capital to the level provided for in Article 9 of this Act;

2. order the supervisory board of the pension company to dismiss a member of the board of directors and/or appoint a new member;

3. order the pension company to convene an annual general meeting or a general meeting and to 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 pension company from entering into transactions with individual shareholders or members, members of the board of directors, members of the supervisory board, procurators and companies that are linked to the pension company by close links;

5. order the pension company to put in place, implement or improve organisational, technical, human resource or other operating conditions prescribed by Articles 48 to 58 of this Act or by ordinances specifying these conditions in more detail;

6. order the pension company to improve its risk management strategies, policies and processes;

7. order the pension company to reduce in its future operations the risks associated with the operation of the pension company or the fund it manages;

8. order the pension 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 pension company;

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

10. order the pension 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 pension company or the pension funds it manages;

11. order the pension company to suspend from office one or more persons who have special rights and responsibilities;

12. temporarily prohibit the performance of the function of a member of the board of directors of the pension company;

13. order the pension company to take other proportionate measures that are necessary in order for it to operate in accordance with the provisions of this Act and regulations made under this Act or in accordance with other laws governing the operations of pension companies 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 pension company shall submit to the Agency a report on the implementation of the measures ordered as referred to in paragraph 2 of this Article, to which the provisions of Article 217 and Article 218, paragraphs 1 to 3 of this Act shall apply *mutatis mutandis*.

(5) If the adoption of the measures referred to in this Article of the Act is necessary in order to protect pension fund members 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 in accordance with the General Administrative Procedure Act.

Article 221

A decision taken by the Agency in administrative matters falling within the scope of its responsibilities cannot be appealed, but an unsatisfied party may initiate an administrative dispute by bringing an action before the competent administrative court.

Withdrawal or revocation of authorisation to conduct business

Article 222

(1) The Agency may issue a decision withdrawing or revoking an authorisation to conduct business granted to a pension 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 pension company no longer fulfils the conditions on the basis of which the authorisation was granted;
3. if the Agency assesses that the pension company's operations are not conducted with due skill, care and diligence and in accordance with sound business practice;
4. if the pension company has seriously and/or systematically violated the provisions of this Act or regulations made under this Act;
5. if it does not maintain the capital referred to in Article 9 of this Act;

6. if the pension company has failed to act in accordance with the Agency's decision ordering measures to correct illegalities or irregularities referred to in Article 216 of this Act or special supervisory measures referred to in Article 220 of this Act;

7. if the pension 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 pension company carries out its activities in a manner which may worsen or jeopardise its liquidity or solvency or the liquidity of the pension funds it manages;

9. if the pension company has not organised its operation or does not keep its business books or business books of the pension funds it manages or administrative and other business documentation in such a manner that it is at all times possible to verify whether the pension company carries out its activities in accordance with risk management regulations and rules, and whether it manages the pension funds in accordance with the provisions of this Act and regulations made under this Act and other legislation it must comply with;

10. if the pension company systematically and/or seriously violates the organisational, technical, human resource or other operating conditions laid down in Articles 48 to 58 of this Act or in an Agency's ordinance specifying these conditions in more detail;

11. if it fails to apply for registration in the court register within the time limit set out in Article 16, paragraph 2 of this Act;

12. if the pension company does not commence its activities within one year of the issue of the authorisation to conduct business;

13. if the pension company submits to the Agency a request for the termination of the authorisation to conduct business.

(2) The Agency may issue a decision withdrawing or revoking the decision granting to a pension company authorisation to conduct business if the pension company fails to conclude a contract with a depositary that meets the requirements of Article 170, paragraph 2 of this Act or if it concludes a contract with a depositary that does not meet these requirements.

(3) The Agency shall without delay notify the pension company, the depositary and the Central Registry of Insured Persons of the withdrawal or revocation of the authorisation to conduct business.

(4) By way of derogation from paragraph 1 of this Article, an authorisation to conduct business may be withdrawn or revoked only in respect of the management of voluntary pension funds, if circumstances justify it or if the pension company requests so.

(5) The power of the Agency to issue a decision withdrawing or revoking a decision granting authorisation to conduct business shall not be time limited.

Responsibility of the Agency to supervise depositaries

Article 223

- (1) The Agency shall be responsible for supervising the depositary of a pension fund.
- (2) For the purposes of paragraph 1 of this Act, supervision means verification of whether the depositary operates in accordance with the provisions of this Act and regulations made under this Act and in accordance with other regulations, its internal by-laws, and the standards and rules of the profession.
- (3) In the course of supervision, the Agency shall examine and assess the risks to which the depositary is exposed or could be exposed when carrying out the activities under this Act and, in doing so, it shall take into account opinions of other supervisory and regulatory authorities that are responsible for supervising the depositary's operation.
- (4) In addition to the provisions of this Act, the provisions of the law governing the capital market which concern supervision of credit institutions providing investment services and carrying on investment activities shall apply *mutatis mutandis* to the supervision referred to in paragraph 1 of this Article.
- (5) Supervision of the operation of a credit institution acting as a depositary of a pension fund, shall be performed, as regards the depositary activities of the credit institution, by the Agency independently or in collaboration with the Croatian National Bank.
- (6) The Agency shall be authorised to request reports and data from persons to whom depositary tasks have been delegated and to inspect their activities, business books and documents and other documentation, print-outs, records and recordings referred to in Article 203, paragraph 3 of this Act, to the extent they relate to the delegated functions, and to temporarily seize them in accordance with Article 203, paragraph 4 of this Act.

Supervisory measures that the Agency may impose on a depositary

Article 224

- (1) The Agency may impose on a depositary the following supervisory measures under the conditions laid down in this Act:
1. recommendations to the board of directors of the depositary;
 2. a warning;
 3. instruction to remedy illegalities and irregularities;
 4. withdrawal of the approval of the choice of the depositary, as referred to in Article 190 of this Act;
 5. order the replacement of a sub-depositary, particularly in the event of non-performance and/or improper performance of obligations and negligence on the part of the sub-depositary or if there are circumstances which raise doubts as to the ability of the sub-depositary to fulfil its duties properly, on time and in a high-quality manner in accordance with the assumed obligations and/or the provisions of this Act and regulations made under this Act.

(2) The provisions of Articles 214 to 219 of this Act shall apply *mutatis mutandis* to the supervisory measures referred to in paragraph 1, items 1 to 3 of this Article that can be imposed on a depositary.

Responsibility of the Agency to supervise the Central Registry of Insured Persons

Article 225

(1) The Agency shall be responsible for supervising the Central Registry of Insured Persons with regard to the activities provided for in this Act.

(2) For the purposes of this Act, supervision means verification of whether the Central Registry of Insured Persons operates in accordance with the provisions of this Act and regulations made under this Act and in accordance with other regulations, its own rules, and the standards and rules of the profession.

(3) The Agency shall, as a part of supervision, examine and assess whether the Central Registry of Insured Persons carries out the tasks laid down in Articles 192 and 193 of this Act.

Supervisory measures that the Agency may impose on the Central Registry of Insured Persons

Article 226

(1) The Agency may impose on the Central Registry of Insured Persons the following supervisory measures, under the conditions prescribed by this Act:

1. recommendations to the director of the Central Registry of Insured Persons;
2. a warning;
3. instruction to remedy illegalities and irregularities.

(2) The provisions of Articles 214 to 219 of this Act shall apply *mutatis mutandis* to the supervisory measures referred to in paragraph 1, items 1 to 3 of this Article that can be imposed on the Central Registry of Insured Persons.

Part Seven

PROFESSIONAL ASSOCIATIONS OF PENSION COMPANIES

Article 227

(1) Pension companies may associate with each other and form a professional and interest-led association of pension companies, under a form of association of their own choice.

(2) A pension company shall not enter into any written or oral agreement with another pension company or association of pension companies that could restrict the principle of free competition or competition in the business of pension companies.

(3) For the purposes of implementing paragraph 2 of this Article, an association of pension companies shall submit to the Agency its articles of association and all the agreements, ordinances and other by-laws.

Part Eight

COOPERATION AMONG SUPERVISORY AUTHORITIES OF THE REPUBLIC OF CROATIA

Article 228

(1) The Agency and other supervisory authorities of the Republic of Croatia that are responsible for supervising and monitoring the same or different institutions shall, at the request of a supervisory authority, submit to that authority all the information concerning supervised entities that is necessary for the supervision and monitoring of these supervised entities, during the procedure for the granting of authorisation to conduct business or during other procedures.

(2) Supervisory authorities shall notify one another of irregularities and other circumstances established by them, where such findings are relevant to the work of other supervisory authorities.

Article 229

With regard to the exercise of rights under this Act, judicial protection can be sought before a regular court of the Republic of Croatia, unless this Act provides otherwise.

Part Nine

PENAL PROVISIONS

Serious misdemeanours committed by a pension company

Article 230

(1) A pension 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 operates in a form and manner other than that prescribed by Article 5 of this Act;
2. it acts contrary to the provisions of Article 7, paragraphs 5, 6 or 7 of this Act;
3. it fails to comply with the provisions of Article 8 of this Act with regard to the share capital of the pension company;

4. it fails to comply with the provisions of Article 9 of this Act with regard to the capital of the pension company;
5. it fails to notify the Agency of any material change in information and of any significant facts in accordance with the provision of Article 25, paragraph 2 of this Act;
6. it acts contrary to the provisions of Article 26 of this Act;
7. it acquires a shareholding without the prior approval of the Agency as required by Article 27, paragraph 1 of this Act;
8. it makes a change in its status contrary to the provisions of Article 28, paragraphs 1, 3 and 5 of this Act;
9. the board of directors of the pension company is not composed and does not act in compliance with the provisions of Article 30 of this Act;
10. a member of the board of directors is a person who has not obtained approval in accordance with the provisions of Article 34 of this Act;
11. it acts contrary to the provisions of Article 60 of this Act;
12. it fails to exercise the members' rights in accordance with the provision of Article 62 of this Act;
13. it charges fees other than those provided for in Article 63 of this Act;
14. it pays fees, costs, commissions and/or charges out of the pension fund's assets contrary to the provision of Article 87 of this Act;
15. it reimburses costs and fees contrary to the provision of Article 88, paragraph 4 of this Act;
16. it fails to manage a personal account in accordance with the provisions of Article 106 of this Act;
17. with regard to the valuation of assets, it fails to act in accordance with the provision of Article 107 of this Act;
18. with regard to the valuation of assets, it fails to act in accordance with Article 108 of this Act;
19. with regard to the valuation of assets, it fails to act in accordance with Article 109 of this Act;
20. with regard to the valuation of assets, it fails to act in accordance with Article 110 of this Act;

21. it fails to adopt accounting policies and valuation methodologies and fails to communicate them to the depositary in accordance with the provision of Article 111, paragraph 2 of this Act;
22. it fails to inform the Central Registry of Insured Persons about the value of the pension fund's unit of account in accordance with Article 111, paragraph 8 of this Act;
23. it fails to maintain a guarantee deposit in accordance with the provision of Article 112, paragraphs 1 and 2 of this Act;
24. it fails to hold the guarantee deposit in accordance with Article 112, paragraph 4 of this Act;
25. it invests the pension fund's assets contrary to the provisions of Article 125 of this Act;
26. it invests the pension fund's assets contrary to the provision of Article 126 of this Act;
27. it invests the pension fund's assets contrary to Article 127 of this Act;
28. it invests the pension fund's assets contrary to Article 128 of this Act;
29. it acts contrary to the provisions of Article 131 of this Act;
30. it uses financial derivatives contrary to the provisions of Article 132 of this Act;
31. it invests the pension fund's assets contrary to the provisions of Article 134 of this Act;
32. it acts contrary to the provisions of Article 135, paragraph 4 of this Act;
33. it acts contrary to the provision of Article 136 of this Act;
34. it acts contrary to Article 150 of this Act;
35. it fails to calculate the exchange ratio in accordance with the provisions of Article 153, paragraph 1 of this Act;
36. with regard to the rules and conditions of merger, it acts contrary to the provisions of Article 154 of this Act;
37. it implements the merger procedure contrary to the provisions of Article 155 of this Act;
38. it fails to act in accordance with the provisions of Article 157 of this Act, in the case of a pension company managing the merging fund;
39. it fails to act in accordance with the provisions of Article 157 of this Act, in the case of a pension company managing the receiving fund;
40. it pays costs out of the fund's assets contrary to the provision of Article 158, paragraph 3 of this Act;

41. it acts contrary to the provisions of Article 159 of this Act;
42. it acts contrary to Article 160 of this Act;
43. it pays costs out of the fund's assets contrary to the provision of Article 162, paragraph 6 of this Act;
44. it fails to act in accordance with the provisions of Article 164 of this Act, in the case of a pension company managing the merging fund;
45. it fails to act in accordance with the provisions of Article 164 of this Act, in the case of a pension company managing the receiving fund;
46. it fails to notify the Agency in accordance with the provision of Article 165 of this Act;
47. in the event of the bankruptcy or winding-up of the depository, it fails to act in accordance with the provisions of Article 189, paragraph 1 of this Act;
48. it fails to provide or make available, at the request of the Agency, the documents, reports and information in accordance with the provision of Article 201, paragraph 1 of this Act;
49. it fails to enable supervision to be carried out in accordance with the provisions of Article 203, paragraphs 1, 2 or 3 of this Act;
50. it fails to enable supervision to be carried out in accordance with Article 204 of this Act;
51. it fails to enable supervision to be carried out in accordance with Article 205 of this Act;
52. it fails to correct the illegalities identified by a decision of the Agency in accordance with the provisions of Article 216 of this Act;
53. it fails to correct the illegalities identified by a decision of the Agency in accordance with the provisions of Article 220, paragraphs 2 and 3 of this Act;
- (2) The responsible person of the pension 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 company

Article 231

- (1) A pension 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 keep minutes of the meetings and sessions in accordance with the provisions of Article 29, paragraph 2 of this Act;
 2. a member of the board of directors is a person who does not meet the requirements of Article 31 of this Act;

3. a member of the board of directors is a person who does not meet the requirements of Article 32 of this Act;
4. a member of the supervisory board fails to act in accordance with the provisions of Article 45 of this Act;
5. a member of the supervisory board fails to act in accordance with Article 46, paragraph 1 of this Act;
6. it fails to act in accordance with the provisions of Article 50 of this Act;
7. it fails to act in accordance with the provisions of Article 51 of this Act;
8. it fails to act in accordance with the provisions of Article 53 of this Act;
9. it fails to set up an internal audit function in accordance with the provisions of Article 54 of this Act;
10. it acts contrary to the provisions of Article 56, paragraphs 1 and 9 of this Act;
11. with regard to financial statements, it fails to act in accordance with the provision of Article 64 of this Act;
12. with regard to the auditing of annual financial statements, it fails to act in accordance with the provisions of Article 65, paragraphs 2 and 3 of this Act;
13. when transferring the management activities, it fails to act in accordance with the provisions of Article 69 of this Act;
14. it fails to publish an announcement of the transfer of the management activities or fails to notify all the pension fund members of the transfer in accordance with the provisions of Article 72, paragraphs 1 and 2 of this Act;
15. it fails to act, for the account of the pension fund, in accordance with the provision of Article 104, paragraph 3 of this Act;
16. it fails to act in accordance with the provision of Article 111, paragraph 11 of this Act;
17. it acts contrary to the provision of Article 117 of this Act;
18. the pension fund's assets are not invested in accordance with the provision of Article 129 of this Act;
19. the pension fund's assets are not invested in accordance with the provision of Article 130 of this Act;
20. it fails to act in accordance with the provision of Article 137 of this Act;
21. it fails to submit the pension fund's quarterly reports and audited annual reports in accordance with the provision of Article 147 of this Act;

22. it acts contrary to Article 148 of this Act;
 23. it acts contrary to Article 149 of this Act;
 24. it fails to act in accordance with the provision of Article 163, paragraph 2 of this Act;
 25. it fails to publish the information on the implementation of the merger in accordance with the provision of Article 166 of this Act;
 26. it acts contrary to the provisions of Article 170, paragraph 2 of this Act;
 27. it acts contrary to the provisions of Article 170, paragraph 7 of this Act;
 28. it acts contrary to the provisions of Article 170, paragraph 8 of this Act;
 29. it acts contrary to Article 170, paragraph 12 of this Act;
 30. the pension fund's prospectus does not contain the particulars set out in Article 185 of this Act.
- (2) The responsible person of the pension company shall be fined from HRK 10 000.00 to HRK 20 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

Serious misdemeanours committed by a depositary

Article 232

- (1) A depositary 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 provisions of Article 173, paragraphs 1, 2 and 3 of this Act;
 2. it accepts for safekeeping the pension fund's assets contrary to the provisions of Article 174 of this Act;
 3. it acts contrary to the provisions of Article 175 of this Act;
 4. it makes payments out of the pension fund's account contrary to the provisions of Article 181 of this Act;
 5. it fails to transfer the assets of the pension fund for safekeeping and administration to the new depositary in accordance with the provision of Article 188 of this Act;
 6. it charges a fee contrary to the Agency's decision issued in accordance with the provisions of Article 191 of this Act;
 7. it fails to submit information, at the request of the Agency, in accordance with the provision of Article 201, paragraphs 1 and 2 of this Act;

8. it fails to enable supervision to be carried out in accordance with the provisions of Article 203, paragraphs 1, 2 and 3 of this Act;

9. it fails to enable supervision to be carried out in accordance with the provision of Article 204, paragraphs 1, 2 and 3 of this Act;

10. it fails to enable an inspection of the IT system to be carried out in accordance with the provision of Article 205, paragraphs 1 and 2 of this Act.

(2) The responsible person of the depositary shall 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 depositary

Article 233

(1) A depositary 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 perform pension fund management activities which cannot be delayed in accordance with the provision of Article 75, paragraph 1 of this Act;

2. it fails to issue a public invitation within seven days of the day when the reasons for a compulsory transfer of the pension fund management activities has arisen, or if it fails to propose to the Agency, within 15 days, in writing, a transferee pension company to which the management activities are to be transferred and fails to submit the bids received, in accordance with the provision of Article 76, paragraph 1 of this Act;

3. it fails to conclude a contract on the transfer of management activities in accordance with the provision of Article 76, paragraph 5 of this Act;

4. it fails to act in accordance with the provisions of Article 111, paragraphs 3, 4, 5 and 6 of this Act;

5. it fails to act in accordance with the provision of Article 158, paragraph 4 of this Act;

6. it acts contrary to the provision of Article 170, paragraph 12 of this Act;

7. it acts contrary to the provisions of Article 172, paragraph 1 of this Act;

8. in discharging its obligations, it fails to act in accordance with the provisions of Article 176 of this Act;

9. in discharging its obligations, it fails to act in accordance with the provisions of Article 178, paragraphs 2, 3 and 5 of this Act;

10. it fails to act in accordance with the provisions of Article 180, paragraphs 1 and 2 of this Act;

11. it delegates tasks to a third party contrary to the provisions of Article 182, paragraphs 2 and 3 of this Act;

12. it fails to act in accordance with the provisions of Article 183 of this Act;

13. when delegating tasks to third parties it fails to act in accordance with the provisions of Article 184 of this Act;

14. it fails to act in accordance with the provisions of Article 186, paragraphs 1, 2 and 3 of this Act;

15. it fails to notify the Agency in accordance with the provision of Article 187, paragraph 3 of this Act.

(2) The responsible person of the depositary shall 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 the Central Registry of Insured Persons

Article 234

(1) The Central Registry of Insured Persons 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 act in accordance with the provisions of Article 96 of this Act;

2. it fails to act in accordance with Article 98 of this Act;

3. it fails to act in accordance with the provisions of Article 193 of this Act;

4. it fails to act in accordance with Article 195 of this Act;

5. it fails to enable supervision to be carried out in accordance with Article 201 of this Act;

6. it fails to enable supervision to be carried out in accordance with Article 203 of this Act;

7. it fails to enable supervision to be carried out in accordance with Article 204, paragraphs 1, 2 and 3 of this Act;

8. it fails to enable supervision to be carried out in accordance with Article 205 of this Act.

(2) The responsible person of the Central Registry of Insured Persons shall 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 an auditor and audit firm

Article 235

(1) The pension company's audit firm 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 audit the loss compensation procedures in accordance with the provision of Article 61, paragraph 4 of this Act;
2. when auditing annual reports, it fails to act in accordance with the provision of Article 111, paragraph 7 of this Act;
3. when auditing a merger, it fails to act in accordance with the provisions of Article 162, paragraphs 2, 3 and 4 of this Act.

(2) The auditor and the responsible person of an audit firm which is a legal person referred to in paragraph 1 of this Article shall 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 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 236

(1) A legal person 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 registers in the court register the activities referred to in Article 7 of this Act without having previously obtained the Agency's authorisation in accordance with the provision of Article 10 of this Act;
2. as a third party sub-delegates the delegated tasks and duties contrary to the provision of Article 182, paragraph 4 of this Act.

(2) The responsible person of the legal person referred to in paragraph 1 of this Article shall be fined from HRK 10 000.00 to HRK 20 000.00 for committing a misdemeanour referred to in paragraph 1 of this Article.

Part Ten

TRANSITIONAL AND FINAL PROVISIONS

Compliance of pension companies and of pension funds

Article 237

(1) Pension companies which on the date of entry into force of this Act have the authorisation to manage pension funds, issued by the Agency, shall continue to operate as pension companies pursuant to this Act on the basis of the existing authorisation, and shall bring their

by-laws and internal structure into compliance with the provisions of this Act within nine months from the date of entry into force of this Act.

(2) The existing pension funds shall become category B pension funds upon the expiry of six months after the date of entry into force of this Act, and the initial value of a unit of account of a category B fund established in such a way shall be equal to the value of the unit of account of the existing pension fund on the last day of its existence.

(3) Pension companies shall establish pension funds of categories A and C within three months from the date of entry into force of this Act.

(4) Pension funds of categories A and C shall commence their activities upon the expiry of six months after the date of entry into force of this Act.

(5) Members of the existing pension funds may, once during a period of three months from the entry into force of this Act until 14 days before the pension funds of categories A and C commence operations, file with the Central Registry of Insured Persons a registration of transfer to a pension fund of another category, which shall take effect as from the beginning of operations of pension funds of categories A and C. The pension fund category must be selected in accordance with the provisions of Article 93 of this Act.

(6) If a pension company fails to act in accordance with the provisions of paragraphs 1, 2, 3 and 4 of this Article, the Agency shall revoke the decision granting it the authorisation to conduct business.

Article 238

(1) Persons who have passed an examination for certified pension fund managers before the entry into force of this Act shall have the same rights as those passing this examination pursuant to this Act.

(2) The provisions of Article 65, paragraph 3 and Article 146, paragraph 4 shall also apply to annual financial statements audited prior to the date on which this Act begins to apply.

Allocation of insured persons

Article 239

(1) Insured persons who had become members of a mandatory pension fund prior to the entry into force of this Act or will become members of a mandatory pension fund in the first six months after the entry into force of this Act shall become members of a category B pension fund, unless they have opted otherwise during the registration period referred to in Article 237, paragraph 5 of this Act.

(2) Upon the expiry of six months from the entry into force of this Act, members of a category B pension fund shall be allocated to a category C pension fund of the same pension company, provided they have less than five years until the reference date.

Article 240

(1) The compensation payable to the Central Registry of Insured Persons, as referred to in Article 192, paragraph 2 of this Act shall, from the date of entry into force of this Act, amount to HRK 2.50 monthly per pension fund member.

(2) In 2014, the fee referred to in Article 191, paragraph 2, of this Act that the depositary is entitled to receive shall amount up to 0.1 % per annum.

Members of the board of directors of a pension company

Article 241

(1) A person who has obtained approval from the Agency to perform the function of a member of the board of directors of a pension company pursuant to the provisions of the Mandatory and Voluntary Pension Funds Act shall be deemed to have approval to perform the function of a member of the board of directors of a pension company issued pursuant to the provisions of Article 34 of this Act, but only for a term of office not exceeding five years from the date of appointment. In the case where more than five years have passed from the date of appointment of a member of the board of directors, the pension company shall ensure that the candidate member of the board of directors submits to the Agency an application for the issuance of approval to perform the function of a member of the board of directors within six months from the date of entry into force of this Act.

(2) The person referred to in paragraph 1 of this Article shall fulfil the requirements of Article 31, paragraph 1, item 8 and Article 32 of this Act within six months from the date of entry into force of this Act.

Compliance report

Article 242

(1) The pension companies referred to in Article 237, paragraph 1 of this Act shall submit to the Agency a compliance report within 30 days after the expiry of the time limit referred to in Article 237, paragraph 1 of this Act.

(2) The compliance report referred to in paragraph 1 of this Article shall be accompanied by:

1. information about the members of the board of directors of the pension company;
2. information about the identity of the shareholders or members of the pension company and information about the size of their holdings in both absolute and relative amounts;
3. a list of related persons of the pension company and a detailed description of the nature of their relatedness;
4. a detailed overview of the organisational structure of the pension company, including a statement on the manner in which the requirements of this Act and regulations made under this Act have been met.

(3) If a pension company fails to act in accordance with the provisions of paragraphs 1 and 2 of this Article, the Agency may revoke the decision by which the pension company was

granted authorisation to conduct business. In that case, the pension company shall cease to perform the activities in respect of which the authorisation was granted and shall remove these activities from the court register. The pension company may not submit a new application for authorisation in accordance with the provisions of this Act until one year has elapsed from the date on which the decision granting authorisation was revoked.

Compliance of depositaries and of the Central Register of Insured Persons

Article 243

Depositaries and the Central Register of Insured Persons shall bring their business into compliance with the provisions of this Act within six months from the date of entry into force of this Act.

Agency procedures

Article 244

Proceedings initiated before the Agency prior to the date of entry into force of this Act shall be completed in accordance with the provisions of the Mandatory and Voluntary Pension Funds Act (Official Gazette 49/99, 63/00, 103/03, 177/04, 140/05, 71/07, 124/10, 114/11 and 51A/13).

Adoption of implementing regulations

Article 245

(1) Within six months from the date of entry into force of this Act, the Agency shall adopt regulations for the implementation of this Act, when empowered to do so by this Act.

(2) By way of derogation from paragraph 1 of this Article, implementing regulations referred to in Article 58, Article 64 paragraphs 3 and 4, Article 66 paragraph 3, Article 139 paragraph 1, Article 141 paragraph 3, Article 143 paragraph 3, Article 146 paragraph 2 and Article 172 paragraph 2 of this Act shall be adopted by the Agency within one year from the date of entry into force of this Act.

(3) Pending the adoption of regulations pursuant to this Act, the regulations adopted pursuant to the Mandatory and Voluntary Pension Funds Act (Official Gazette 49/99, 63/00, 103/03, 177/04, 140/05, 71/07, 124/10, 114/11 and 51A/13) shall apply accordingly, unless they are contrary to the provisions of this Act in the part relating to the operation of mandatory pension companies and mandatory pension funds.

Legislation ceasing to have effect

Article 246

On the date of entry into force of this Act, the Mandatory and Voluntary Pension Funds Act (Official Gazette 49/99, 63/00, 103/03, 177/04, 140/05, 71/07, 124/10, 114/11 and 51A/13) shall cease to have effect.

Entry into force

Article 247

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette.

Class: 022-03/13-01/274

Zagreb, 31 January 2014

THE CROATIAN PARLIAMENT

The President of
the Croatian
Parliament

Josip Leko, m. p.

PROVISIONAL TRANSLATION