

**THE GOVERNMENT OF
THE REPUBLIC OF CROATIA**

**COMPULSORY AND VOLUNTARY
PENSION FUNDS
ACT**

CHAPTER I
GENERAL DISPOSITIONS

Article 1.

This Act regulates establishing and operating of compulsory and voluntary pension funds as a part of compulsory pension insurance, based on individual capitalized savings and of voluntary pension insurance based on individual capitalized savings; establishing and operating of pension companies for administering pension funds, establishing of Central Registry of Insured Persons and establishing the Agency for Supervision of Pension Funds.

Article 2.

In this Act the following terms have the following meanings:

1. Pension Company - means a voluntary pension company or a compulsory pension company;
2. Compulsory Pension Company - means a joint - stock company or a public liability company managing compulsory pension fund;
3. Voluntary Pension Company - means a joint - stock company or a public liability company managing a voluntary pension fund;
4. Pension Fund - means a compulsory pension fund or a voluntary pension fund;
5. Compulsory Fund - means a compulsory pension fund established and operated by a pension company for managing compulsory pension funds;
6. Voluntary Fund - means a voluntary pension fund managed by a company for managing voluntary pension funds;
7. Fund Member - means an insured person registered in a compulsory fund, or a person that has joined a voluntary pension fund by entering into a contract;
8. Transfer of Accounts - means a transfer of assets belonging to a member of a fund from one fund to another;

9. Voluntary Pension Scheme - a statement of an insurer by which he or she undertakes to provide pensions and other sorts of pension annuities of voluntary pension insurance to the members of a voluntary pension fund; such statement shall contain a procedure for determination of pension benefits, frequency and duration of the benefits, compensation for discontinuation of membership in a pension scheme, as well as other information on the pension scheme that are important for an individual's decision to join a voluntary pension scheme;

10. Sponsor of a Voluntary Pension Fund - a legal or a physical person, including trade unions and employers, who in any way participates in establishing of a voluntary pension fund (a sponsored fund), in payment of contributions to a voluntary pension fund or in selecting a voluntary pension fund (a sponsored scheme) on behalf of the members;

11. Withdraw - means to transfer the amount standing to an individual account of a member for the purpose of payment of pension annuity;

12. in relation to a legal or physical person, according to this Act (hereinafter referred to as: Subject), an affiliated person is:

- a shareholder or a group of stockholders holding more than 5% of issued stocks or owners' shares or, although a smaller they possess a percentage smaller than this, can influence, directly or indirectly, the decisions made by such subject;

- any subject in which the first subject possesses, directly or indirectly, more than 15% of issued stocks or owners' shares or, although possessing a smaller percentage than this, may directly or indirectly influence the decisions that such a body makes;

- any subject in which the first subject possesses, directly or indirectly, more than 5% of issued stocks or owners' shares or who, although possessing a smaller percentage than this, may influence, directly or indirectly, the decisions made by such body;

- any other subject in which a stockholder or an owner of a share possesses, directly or indirectly, more than 5% of stocks or owners' shares, if at the same time this stockholder or shareholder possesses, also directly or indirectly, more than 5% of stocks or owners' shares in the first subject;

- any physical person or persons who may, directly or indirectly, influence the subject's decisions;

- any member of management board or of supervisory board or other body of a subject who makes decisions and does the supervision;

- in relation to any person mentioned above, any spouse or a relative (including twice - removed relatives).

13. custodian bank - a bank entrusted with the assets of a pension fund by a pension company, with which it made a contract on keeping these assets

14. Escrow account is an amount on a separate account opened in a **custodian bank**, where a pension company must keep one million kuna for every 10,000 members above 100,000 members of a compulsory fund.

15. Agency - means Agency for Supervision of Pension Funds and Insurance.

Article 3.

In the issues not regulated by this Act, the provisions of Companies Act and Investment Funds Act relating to an open fund (except the provisions of Articles 9, 10 and 26 of this Act), shall be applied to pension companies and compulsory pension funds in an appropriate way.

CHAPTER II

PENSION COMPANY

Article 4.

(1) A pension company is a company in terms of Companies Act, established as a private joint - stock company or a public liability company.

(2) If a pension company has been established as a joint - stock company, it may only issue registered shares and they may not convert into bearer shares.

(3) A pension company may not issue preferential shares.

(4) A pension company shall treat all stockholders and shareholders equally and shall not award any additional rights or privileges to certain shareholders or limit their rights or impose on them additional responsibilities.

Article 5.

(1) The name of a pension company shall contain the words “company for managing compulsory pension fund” in case of compulsory pension fund or “company for managing voluntary pension fund” in case of voluntary pension fund.

(2) Only pension companies established in accordance with this Act are entitled to use in their names the words indicated in paragraph 1 of this Article.

(3) If a Pension Company does not submit an application to the Agency for obtaining approval for establishing a pension fund and for administering a pension fund in accordance with this Act within six months after registration on a commercial court,

or if, after it has been registered, the approval for establishing and administering of a pension fund is not awarded by the Agency, or if such approval is revoked by the Agency, the Pension Company shall change its name so as to remove the words “company for administration of compulsory pension fund” and “company for administration of voluntary pension fund”, respectively.

Article 6.

(1) The exclusive object of activities of a pension company shall be establishing of a pension fund and managing that fund, as well as the activities directly related to the managing of the pension fund.

(2) A Pension Fund may only establish and manage one Fund.

Article 7.

A Pension Company administers a fund for a remuneration calculated in accordance with Articles 60 and 61 of this Act.

Article 8.

(1) Minimum capital of a compulsory pension company shall be 40 million kuna and of a voluntary pension company 15 million kuna.

(2) The capital of a pension company may not be increased by public subscription.

Article 9.

(1) The capital of a pension company may only be paid up in cash (kunas).

(2) The capital of a Pension Company must be paid up in total prior to the registration of that Company on a commercial court.

Article 10.

The capital of a Pension Company may neither come from loans or credits nor it may be encumbered in any manner.

Article 11.

(1) A Pension Company shall be under an obligation at all times to maintain paid - up capital in the amount of no less than a half of the minimum share capital specified by this Act.

(2) A Pension Company shall notify the Agency without delay of any reduction in its own capital below the level specified in paragraph 1 of this Article.

(3) If the capital is not increased to the required level within a period specified by the Agency, which shall be no less than 3 months and no more than 12 months, the Agency shall revoke the operating license from the pension company.

Article 12.

The same legal or physical person may be a shareholder or have a share in only one pension fund.

Article 13.

(1) The consent of the Agency must be obtained prior to any transaction of shares or a change in ownership structure. Any transaction where this requirement is violated will be considered null and void.

(2) A Pension Company shall make a request for obtaining the consent specified in paragraph 1 of this Article on behalf of the subject intending to make a transaction of stocks or owners' shares.

(3) The Commission and the Agency must award their consent for transactions with stocks or owners' shares within sixty days after submission of the request, provided that the subject meets the requirements set by this Act.

(4) If the Agency, within the period specified in paragraph 3 of this Article, does not make a decision on giving its consent for transactions with stocks or owner's shares, than it shall be considered as the consent has been given.

Article 14.

(1) The bodies of a pension fund shall be: management, supervisory board and assembly.

(2) A member of management or supervisory board of a pension company shall be a person who satisfies the requirements of Companies Act , as well as the following requirements:

- has a university degree;

- has expert knowledge necessary for managing a pension company and experience in managing companies of comparable size and type of business.

(3) Member of management of the pension fund can only be a person with the required education and who has obtained state certificate for vocation of authorized pension fund manager.

(4) On the basis of the acquired vocation mentioned in paragraph 3 of this article, or the OECD license for the same vocations, the Agency may issue the license for operating of a pension fund.

(5) The license has to be renewed every two years. After ten years spent in performing the activities of an authorized pension fund manager, it is not necessary to renew the license.

(6) The length of education, as well as the program of the education and examination for acquiring the vocation of an authorized pension fund manager, shall be regulated by the Agency.

(7) All members of the management must have full - time employment in the pension company.

(8) Besides the members of the management mentioned in paragraph 7 of this Article, a pension company must employ an analyst and an accountant, who may at the same time be members of the management of the pension company.

Article 15.

(1) A member of management or supervisory board shall not be a person who is a member of management or supervisory board:

1. of any other Pension Company
2. of the **custodian bank** keeping the Fund's assets;
3. of any Affiliated Person in relation to the subjects specified in clauses 1 to 2 of this Article.

(2) A member of supervisory board of a pension company may not be a member of any other supervisory board.

(3) A member of management board or supervisory board can not be a person:

- who has been sentenced for a crime of causing a bankruptcy, violation of the obligation of keeping business records, inflicting damage to creditors, favourizing creditors, abuse in a procedure of compulsory settlement or of bankruptcy, unauthorized disclosure and obtaining business or production secret or fraud specified in the Penal

Code, within five years after finality of the sentence, serving the sentence not inclusive, or

- against whom a preventive measure of prohibition to perform the profession which is fully or partially included in the company's business during the period of the prohibition, who has been sentenced for an offense or for a crime by Securities Act.

(4) The prohibition referred to in paragraphs **1, 2 and 3** of this Article also applies to persons who are in a relationship of employment, commission or other relationship of a similar nature with entities listed in that paragraph.

Article 16.

(1) A Pension Company shall be liable to a pension fund members for damages resulting from any failure to perform, or from inadequate performance, of its obligations relating to the administration of the relevant Fund, unless the non - performance or improper performance is due to circumstances for which the Pension Company is not liable and for which it could not have been liable even though exercising the highest degree of diligence.

(2) A Fund shall not be liable for damages resulting from any failure to perform, or from inadequate performance, of the tasks of a Pension Company specified in paragraph 1 of this Article.

(3) Entrusting third parties with the performance of certain obligations of a Pension Company shall not limit the liability of that Pension Company.

Article 17.

A Pension Company may not use its assets to:

1. acquire or take up any stocks, owners' shares, securities or other interest in any other entity save where it acquires another Pension Company in accordance with Article 19 of this Act;

2. grant any loans and provide any guarantees or sureties;

3. contract any loans or credits, including the issue of bonds, with a total value in excess of a percentage, determined in regulations of the Agency, of the value of its own capital.

Article 18.

A Pension Company shall keep, in the form of an archive, all documents and other records relating to the funds managed by it.

Article 19.

(1) A pension company may acquire a part or all of the owner's share of another pension company with the prior written consent of the Agency and subject to the Competition Act.

(2) The consent of the Agency for an acquisition shall be given unless the Agency considers:

1. that it is not in the interest of the pension fund members governed by the pension company;

2. that the pension companies will not comply with the requirements of this Act or other acts;

(3). A contract on purchase of a part of or a whole of another pension company's owner's share without prior consent mentioned in Paragraph 1 of this article shall be null and void.

CHAPTER III

AUTHORIZATION AND ESTABLISHING OF A PENSION COMPANY AND OPERATING LICENSE FOR PENSION COMPANY

Article 20.

Prior to enrollment of a pension company in register of companies, the founders of the company shall have to obtain authorization for establishing of a pension company (hereinafter referred to as: authorization) from the Agency, after which the Agency shall issue separate license for establishing a pension fund and for managing a pension fund (hereinafter referred to as: operating license).

Article 21.

The authorization application must be submitted by the founders of the pension company along with the following documents:

1. pension company's statute with the document serving as a basis for the statute - if the pension company is established as a joint - stock company, or company contract or

declaration of establishment of the company - if the pension company is established as a public liability company.

2. list of founders with the information whether they are affiliated persons and on the nature of their relations, as well as documents certifying the legal status and origin of financial assets collected for the pension company's capital,

3. list of members of management board and supervisory board with declaration of their acceptance to perform their duty and that there are no circumstances contrary to the provision of Article 15, paragraph 3 of this Act, as well as the list of their qualifications and professional experience,

4. an organizational and financial plan for the Pension Company's activities for the next five years,

5. such other documents as required by regulations of the Agency.

Article 22.

(1) During a maximum period of fifteen days starting with the date of reception of the authorization application, the Agency may request from the founders supplementary documents and information which the founders must submit to the Agency within a maximum of fifteen days.

(2) The Agency may, if it considers it necessary, investigate any matters relating to the authorization application. In doing so it may:

- use other competent regulatory authorities
- collect documents and information from other sources.

Article 23.

The Agency shall analyze the authorization application made in accordance with Articles 21 and 22 of this Act and shall within fifteen days of the date of the receipt of the last set of documents and information, either give approval to the authorization application, or refuse the application.

Article 24.

(1) The Agency shall grant the authorization application if the following conditions are satisfied:

1. it appears, from the documentation received, that the proposed pension company would comply with the paid up capital requirement;

2. it appears from the information received that the founders of the company, members of management and supervisory board and any Affiliated Persons of which it is aware, are fit and proper persons to perform these tasks;

3. the founders demonstrate that they have or, before commencing the carrying on of pension management, will have made satisfactory arrangements for financial accounting and auditing of the Pension Company;

4. that proposed name of the Pension Company is not likely to mislead members, prospective members or anyone else likely to have dealings with it;

5. that the proposed pension company performs only the activities specified in Article 6 of this Act.

(2) The Agency shall refuse to grant an authorization if it appears to it that:

1. the conditions set out in paragraph 1 of this article are not satisfied;

2. the business of the Pension Company will not be conducted in accordance with sound and prudent pension fund management and business practice;

Article 25.

(1) If the Agency refuses the authorization application, it shall explain its reasons in the decision.

(2) The decision of the Agency is incontestable.

(3) An administrative lawsuit may be initiated against the Agency's decision.

Article 26

If the authorization application is granted, the founders may establish the Pension Company by making application for enrollment of the company into the register of

companies in accordance with the documents set out in the authorization application and following the general procedures stipulated in Companies Law. The application for enrollment shall be submitted not later than six months after receiving notice of authorization, following which such authorization lapses. Authorization to establish a Pension Company does not guarantee obtaining of operating license.

Article 27

(1) Application for issuing the operating license shall be submitted to the Agency, not later than six months after the day of registration on a commercial court, along with the following documents:

1. copies of the latest version of the documents specified in Article 21 of this Act,
2. statute of the pension fund,
3. agreement with custodian bank in accordance with the provision of Article 79 of this Act,
4. estimating of the dynamics of joining of members, projected to join the fund in the first two years and their structure, based on market research, as well as the way of achieving such number,
5. other documents required by regulations of the Agency.

(2) If changes occurred against the documents specified in paragraph 1, clause 1 of this article, the Agency may apply the procedure specified in Article 22 of this Act. If no such changes occur and if the Agency is not aware of any reason specified in Article 24 of this Act, which would suggest rejection of the operating license, then the Agency shall be obliged to issue the license. The operating license must be issued within a period of 15 days upon receipt of the last document and information obtain in accordance with this article. The notification of decision shall be immediately delivered to the pension company and to Central Registry of Insured Persons..

Article 28.

If a Pension Company proposed a change in documents and information specified in Article 21 of this Act prior to the awarding of an operating license, it shall require the approval of the Agency, except where such change is outside the control of the Pension Company and it has used reasonable endeavors to prevent the change. The Agency shall consider such change in accordance with the provisions of Article 22 of this Act.

Article 29.

The Agency shall refuse to grant an application for issuing an operating license, if it appears to it that:

1. the application does not comply with the requirements of this Act;

2. the operation and organization of the proposed Fund would not comply with the requirements of this Act;

3. any of the documents submitted in accordance with Article 27 of this Act contain information which have the effect of threatening the interests of the Fund Members of the Pension Fund or fail to adequately protect the interests of the Fund Members.

Article 30

(1) If the Agency rejects the application for granting an operating license, it shall give the reasons for the rejection in its decision.

(2) An administrative lawsuit may be initiated against the Agency's decision to reject the application for granting an operating license.

Article 31

(1) The Agency shall withdraw operating license from a Pension Company:

1. for the same reasons that it shall refuse an application pursuant to Article 24, paragraph 2 of this Act,

2. for obvious violation of the provisions of this Act,

3. if the number of members of the fund falls below determined minimum for a period longer than six months.

Article 32.

(1) Before withdrawing an operating license, the Agency shall offer the Pension Company the opportunity to rectify a breach, unless it considers that to do so would be contrary to the interest of the Fund Members.

(2) The Agency must notify the Pension Company and **Central Registry of Insured Persons** immediately of its decision to withdraw the operating license.

(3) The Pension Company may initiate administrative lawsuit against the Agency's withdrawal of an operating license.

Article 33.

1) The Agency shall temporarily take over the activities of management of a pension fund as of the day the decision on withdrawing of operating license in accordance with Article 31 of this Act has been made.

(2) When the decision on withdrawal of the operating license becomes final, the Agency shall **within three days** publicly invite all pension companies managing pension funds to submit **within 15 days** the offer for managing a pension fund which is temporarily being administered by the Agency. Upon expiry of the above specified period, the Agency shall, within seven days, award a license for operating such fund to the selected pension company.

(3) The Agency shall regulate the criteria for the selection of the best pension company mentioned in Paragraph 2 of this Article. Paying fees or any other sort of remuneration shall not be considered as a criterion for the selection of the best pension company.

(4) The Agency shall dissolve the pension fund as of the day when the operating license mentioned in Paragraph 2 of this Article is awarded.

(5) Within a period of not more than one year, the members of the pension fund taken over by the Agency shall be allowed to join the other fund in which they shall transfer all of their assets. The fee for joining the other fund, specified in Article 42, paragraph 2 of this Act, shall not be required.

(6) If no pension company takes part in the invitation to bid mentioned in Paragraph 2 of this Article, the Agency shall specially inform the members of the pension fund about the need for choosing another fund and shall set up the term by which they should join the new fund. The members of the fund who do not make this choice within given deadline shall be allocated to another fund by Central Registry of Insured Persons, in the way determined by the regulations of the Agency, in accordance with Article 40, paragraph 7 of this Act.

CHAPTER IV.

PENSION FUNDS

Article 34.

(1) Pension Funds are:

1. Compulsory Pension Fund where the persons insured pursuant to provisions of Pension Insurance Act and another act take compulsory insurance for old age based on individual capitalized savings.

2. Voluntary Pension Fund where persons are insured voluntarily pursuant to this Act and to statute of a Fund, based on individual capitalized savings.

Article 35.

(1) The pension fund mentioned in Article 34 of this Act shall be **a fund of a special kind**, a separate property without status of legal person; it shall be established for the purpose of collecting money by payment of contributions of the fund members and by investing such assets for the purpose of increasing the value of the assets of the fund, in order to provide payment of pension benefits to the members of the fund in accordance with the provisions of the law.

(2) A Fund is owned by its Members whose individual right of ownership is determined as per the amount of assets on their accounts. Within deadlines determined by the Agency, Central Registry of Insured Persons shall provide the Pension Fund Members with a document presenting the share showing the number of accounting units on an account, as stipulated in Chapter VI of this Act. The document on the share serves as an evidence of ownership in the Pension Fund.

Article 36

(1) A Compulsory Fund must have at least 80,000 members.

(2) A Voluntary Fund must have at least 2,000 members.

(3) The provision in paragraphs 1 and 2 of this Article shall not be applied in the first two years after establishment of the Pension Fund.

Article 37.

(1) A pension company shall manage a pension fund in accordance with the statute of the fund and with this Act.

(2) The assets of a pension fund shall be kept separately from the assets of a pension company.

Article 38.

The registered name of a Compulsory Fund shall contain the words “compulsory pension fund”, whereas the registered name of a Voluntary Fund shall contain the words “voluntary pension fund”.

Article 39.

(1) A Pension Fund shall have a statute determining:

1. name of the pension fund,
2. basic principles and limitations of investments,
3. maximum amount of a Fund’s assets that may be kept in cash deposits,

4. minimum amount of a Fund's assets that may be kept in cash,
5. basis for calculating remuneration to pension company and to custodian bank, to be paid from the pension fund's assets
6. the Pension Fund's business year, accounting system, reporting on the Fund's development and portfolio and the place and mode of publishing these facts.
7. other issues of importance for the pension fund.

(2) The Agency shall approve the statute if the conditions specified in paragraph 1 of this Article are fulfilled.

CHAPTER V

MEMBERSHIP AND CONTRIBUTIONS TO COMPULSORY PENSION FUNDS

Article 40

(1) The insured persons who are compulsorily insured as per Pension Insurance Act and who are below the age of 40, shall be compulsorily insured on the basis of individual capitalized savings in a compulsory fund of their own choice; they shall become members of such fund.

(2) The insured persons mentioned in Paragraph 1 of this Article who are in the age of 40 or above, but who are below the age of 50, may by their own choice insure themselves on the basis of individual capitalized savings in a compulsory fund of their own their own choice; they shall become members of such fund.

(3) Compulsory pension insurance based on individual capitalized savings, mentioned in Paragraph 1 of this Article, shall be established as of the day when compulsory pension insurance is established, in accordance with Pension Insurance Act and the freedom of choice of a compulsory fund shall be enjoyed as of that day.

(4) The contributions for compulsory pension insurance based on individual capitalized savings shall be paid by insured persons mentioned in paragraphs 1 and 2 of this Article, **while employers shall pay for their employees; all the contributors determined as such by Pension insurance Act, shall be obliged to pay contributions.**

(5) The insured persons mentioned in Paragraph 2 of this Article shall have the right to join a compulsory fund of their choice within six months after the day when their compulsory pension insurance has been established in accordance with Pension Insurance Act.

(6) The insured persons mentioned in Paragraph 1 of this Article who have not made their choice of a compulsory pension fund within three months since the day of establishing of their compulsory pension insurance, shall be allocated to one of compulsory funds by Central Registry, mentioned in Article 86 of this Act, as of the day of the establishment of their compulsory pension insurance in accordance with Pension Insurance Act.

(7) The insured persons shall be allocated in the funds as per Paragraph 6 of this Article in such way that a proportional number of persons, depending on number of fund members, is allocated to each fund.

(8) The agency specifies by its regulations the way of allocating insured persons, the way of notifying such persons of allocation to certain funds, the way of ensuring the contributions to be paid before delayed joining, the way of notifying of the death of a fund member and other issues that it considers necessary.

Article 41.

(1) Selection of a compulsory fund shall be made by an application to Central Registry by which one becomes member of such fund.

(2) Central Registry shall forward one copy of the application mentioned in Paragraph 1 of this Article to a pension company which manages the selected fund, in order to enter changes in its records on members of the fund.

(3) Central Registry shall use identical form of application for adherence to a fund for all cases of adherence.

(4) The Agency shall specify the form of adherence document to be used by all compulsory funds.

(5) Membership in a compulsory fund may not be denied, unless a person submitting the application for adherence does not fulfill the conditions established by this Act.

(6) Insured person may be a member of only one compulsory fund at the same time and may only have one account in that fund.

Article 42.

(1) A Member of a Compulsory Fund shall pay contributions to the Fund at the rate specified by the law.

(2) All contributions shall be paid through the Central Registry as specified by law and by regulations of the Agency.

Article 43.

(1) If a Member of a Compulsory Fund (“the Former Fund”) wishes to join another Compulsory Fund (the “New Fund”), he or she shall be under an obligation to notify the Central registry of insured persons that he or she has agreed to adhere to a New Fund and provide the Former Fund with a copy of that adherence document.

(2) In the case specified in paragraph 1 of this Article, the Former Fund shall calculate and deduct from the total amount on an individual account **of the fund member** the consideration for separation in the amount of 5% in the first year of membership, 2.5% in the second year of membership, 1.25% in the third year of membership, 0.62% in the fourth year of membership and 0.31% in the fifth year of membership.

(3) As an exception to paragraph 2 of this article, in the first calendar year after the day of application of this Act, every member of the compulsory fund shall have the right on one transfer to another fund without compensation. The provisions of the paragraph 2 of this article shall be applied for every next transfer.

Article 44.

(1) Transfer of the account of a member of a pension fund shall be made on the day of the transfer of membership from the former fund to the new fund.

(2) Transfer of the account shall include the amount standing against the account of the member on the day of prior valorization, from which all deductions are subtracted in accordance with Article 60 of this Act.

(3) Central Registry of Insured Persons shall inform the new fund on contributions paid by the member to the former fund and on acquired benefits, on the transfer of payment received from this member and the contributions paid by the member to funds whose member he has been.

(4) The Agency shall set out the regulations on the way of transferring accounts.

Article 45.

If a Fund Member temporarily ceases to contribute to a Fund he shall remain a full Member of the Fund to which he was contributing and shall have the same rights as other Fund Members under this Act.

Article 46.

(1) A member of a compulsory fund shall withdraw total capitalized assets from his/her individual account and transfer them to a pension insurance company when he or she acquires the right to old age pension or early retirement pension in accordance with Pension Insurance Act.

(2) Membership in the compulsory fund shall be discontinued by withdrawing the assets as specified in paragraph 1 of this Article.

Article 47.

(1) If a member of a compulsory fund develops disability with the right to disability pension due to general disability for work according to Pension Insurance Act, the total capitalized assets on the individual account of the fund member shall be transferred by the compulsory fund to Croatian Institute for Pension Insurance, which will determine the amount of disability pension for the member, based on his/her total qualifying period pursuant to the provisions of Articles 74 to 82 of Pension insurance Act, as if he was insured only within the system of compulsory pension insurance based on the generation solidarity.

(2) The provision of paragraph 1 of this article shall not be applied if the monthly amount of disability pension (increased for the amount of basic disability pension specified in paragraph 3 of this article), that a compulsory fund member would be entitled to as per the pension insurance company's scheme on the ground of the total of the assets capitalized by the day of his/her disability, amounts more than average monthly disability pension, determined by application of paragraph 1 of this article. In this case, the assets from the compulsory fund member's account shall be transferred to a pension insurance company of his/her choice, which shall provide him/her permanent monthly disability pension in accordance with its scheme and pursuant to a separate law.

(3) In the event of application of paragraph 2 of this article, disability pension within the system of a compulsory pension insurance based on generation solidarity, shall be determined for an insured person as a basic pension, pursuant to Articles 83 and 84 of Pension Insurance Act. A part of this disability pension based on acquired years of working experience, shall be determined by application of Article 84 of Pension Insurance Act.

Article 48

(1) If a compulsory fund member dies before acquiring the pension right in accordance with Articles 46 or 47 of this Act and if his/her family members are entitled to family pension pursuant to Pension insurance Act, the compulsory fund shall transfer the total capitalized assets from that member's account to Croatian Institute for Pension insurance, which shall determine the amount of family pension based on total qualifying period of the deceased insured person, pursuant to the provisions of Articles 74 to 82 of Pension Insurance Act, as if the deceased insured person was insured only within the compulsory pension insurance system based on generation solidarity.

(2) The provision of paragraph 1 of this article shall not be applied if, on the ground of the total capitalized assets of the deceased member of compulsory fund, the monthly amount of family pension that the family members would be entitled to within pension insurance company's scheme (increased for the amount of basic family pension specified in paragraph 3 of this article), would amount more than average amount of a family pension determined by application of paragraph 1 of this article. In such case, the total capitalized assets shall be transferred from the deceased compulsory fund member's account to a pension insurance company selected by the family members, which shall

provide them permanent monthly family pension within its scheme and pursuant to a separate law.

(3) In the event of application of paragraph 2 of this article, the family pension within the system of compulsory pension insurance based on generation solidarity shall be determined from the pension that the deceased insured person would be entitled to by application of Articles 83 and 84 of Pension Insurance Act. A part of the family pension based on acquired years of working experience shall be determined by application of Article 84 of Pension Insurance Act.

Article 49

If a compulsory fund member dies and his/her family members are not entitled to family pension in accordance with Pension insurance Act, the total capitalized assets on the deceased compulsory fund member's account shall constitute the object of inheritance in accordance with Inheritance Act.

CHAPTER VI

INDIVIDUAL ACCOUNTS MANAGEMENT AND ASSETS VALUATION

Article 50

(1) The contributions paid to a Fund as well as transfer payments shall be credited on behalf of individual accounts on a Member's name. The amount standing to the account of a Compulsory Fund Member represents personal assets of that person. The right on receiving any part that is on the account may not be realized before retirement and shall be subject to the provisions of this Act.

(2) The amount standing to a Member's account may not be subject to execution of a Court's order and may not be a part of a Fund's bankruptcy estate, nor it may be a part of bankruptcy estate of custodian bank.

(3) No amount standing to a Compulsory Fund Member's account may not be mortgaged or be transferred to any one else but the Fund Member. Each such action shall be considered **null and void**.

Article 51

(1) The contributions paid to a Pension Fund as well as transfer payments received by the Fund shall be converted into accounting units.

(2) Each accounting unit shall represent, for valuation purposes, a proportionate share in total assets of the Fund.

- (3) The total value of accounting units of a Fund shall always be equal to the total value of that Fund's net assets, calculated in accordance with Article 53 of this Act.
- (4) Contributions and transfer payments received may be converted into fractions of accounting units and into the value of the pension fund assets, and the value of assets standing to a Member's account may be expressed in such fractions.
- (5) The value of the assets of a Fund and the value of an accounting unit shall be determined in accordance with the valuation principles applicable to the assets and liabilities of the Fund.
- (6) The Agency shall issue regulations defining detailed principles for valuing the assets and liabilities of the Fund.

Article 52.

- (1) The contributions and transfer payments received by a Fund shall be converted into accounting units on determined dates (hereinafter referred to as: "Conversion Dates"), according to the value of the accounting units on that date. The method of determining the Conversion Dates shall be set out in regulations of the Agency.
- (2) The starting value of an accounting unit shall be determined by the Agency.

Article 53.

- (1) The value of net assets of a Fund shall be calculated on each valuation date according to Article 55 of this Act and notified to the Agency forthwith.
- (2) On each valuation date the value of an accounting unit shall also be calculated.
- (3) The calculations referred to in paragraphs 1 and 2 of this Article shall be made by a custodian bank and audited by an independent auditor who shall not be an Affiliated Person of the Fund, the Pension Company or the custodian bank.

Article 54.

- (1) A Pension Company which governs a Fund which has been accepting contributions for at least 12 months shall at the end of the last month of each quarter determine the return for the last 12 months, in accordance with paragraph 2 of this Article. The rate of return shall be notified to the Agency forthwith.
- (2) The return of a Fund shall be the percentage rate of return of the difference between the average value of an accounting unit on the last working day of the last month of current quarter and the value of that unit on the last working day of the month ending 12 months previously.

Article 55.

- (1) The valuation dates for pension funds shall be determined by the Agency and they shall not take place less than once a month.
- (2) The Agency shall issue regulations specifying:
 1. rules relating to the computation of the return of Funds, including the principles of rounding - up those values;
 2. the date when a Pension Company is to notify the Agency of the value of its Fund's net assets, the value of an accounting unit, its Fund's return, as well as the method of such notification.

Article 56.

- (1) A pension company shall be obliged **to increase its capital** for the escrow account for every 10,000 members above one hundred thousand members.
- (2) Escrow account shall be kept on a separate account in custodian bank.
- (3) Approval of the Agency shall be required for every increase or decrease of the escrow account.
- (4) The escrow account specified in paragraph 1 of this article shall be adjusted by the Agency in the first quarter every year in accordance with the cost of living in the previous year.

Article 57

The assets of escrow account shall not be subject to execution of Court's order and may not be a part of bankruptcy estate of custodian bank

Article 58

- (1) Each member of a compulsory pension fund shall be guaranteed a return in the amount of one third of the reference amount established by the Agency, but not more than the discount rate of Croatian National Bank, if the reference return has been positive during a period of one calendar year.
- (2) Each member of a compulsory pension fund shall be guaranteed a return in the amount of triple reference return established by the Agency, if the reference return has been negative during a period of one calendar year.
- (3) If the return of the compulsory pension fund, calculated as per Article 54 of this Act, is lower than the guaranteed return, as specified in paragraphs 1 and 2 of this article, the

difference up to the guaranteed return shall be paid to individual accounts of the fund members from the escrow account or, if this is not sufficient, from the share capital of the pension company up to 20% of the share capital of the company per year, while the remaining amount shall be paid from the state budget.

Article 59.

(1) Book - keeping and accounting of a Pension Company and Fund must be in accordance with the international accounting standards.

(2) The Agency shall set out a rule book on maintaining of records and accounting of pension companies.

CHAPTER VII

FINANCING OF PENSION COMPANY'S ACTIVITIES

Article 60

In order to cover pension company's costs, a Pension Company may only charge fees in the following manner:

1. by deducting not more than 0.8% from the contributions paid,
2. by deducting not more than 0.8% per year from the net assets of the pension fund in the year 2000, while the highest percentage for every next year shall be regulated by the Agency, but not more than the specified percentage in the first year. The calculation shall be made for each date of valuation of the assets of the Fund and shall be payable in accordance with the regulations of the Agency.
3. by charging a fee for separation from a compulsory fund, unless the separation takes place after five years of investing to the same Fund.

Article 61

(1) For successful business operations, the pension company shall be entitled to 25% of annual real return, after deduction of the costs accounted to the fund's assets.

(2) 75% of the amount for successfulness specified in paragraph 1 of this article, shall be paid on escrow account for a three - year period.

Article 62

Any costs related to the performance of transactions for the acquisition or transfer of a compulsory fund's assets, shall be covered by the pension company.

Article 63

Operating costs of a fund which are not covered directly from its assets shall be covered by the Pension Company.

CHAPTER VIII.

MARKETING OF PENSION FUNDS

Article 64.

- (1) A pension company may not offer any benefits to a person for the purpose of persuading that person to join a particular Fund or remain its Member.
- (2) A pension company may not offer any benefits to an employer or Affiliated Person of the employer for the purpose of inducing or rewarding that employer to persuade or require its employees to join a particular Fund.
- (3) A pension company may not offer any benefits to a trade union or other collective entity or Affiliated Persons of such union or subject for the purpose of inducing or rewarding that body to persuade or require its members to join a particular Fund.
- (4) In terms of paragraphs 1 to 3 of this article, benefits shall mean any benefits such as cash incentives, payment of early termination penalties to other Funds or gifts of physical property other than benefits which flow naturally and directly from Fund Membership.

Article 65.

- (1) No entities mentioned in paragraph 3 of this Article may make any claims or statements, either orally, in advertisements, other promotional material or in written information distributed to Members, those who are eligible to be Members or those who may be eligible at a future date about a Compulsory Fund, or its managing Pension Company, which may give misleading or false impression or convey false information.
- (2) No entities mentioned in paragraph 3 of this Article, may make any claims, statements or predictions relating to the future investment performance of a Fund, to

Fund Members or those who may be eligible at a future date, except by making a statement in a form and manner specified in regulations of the Agency.

(3) Entities referred to at paragraphs 1 and 2 of this Article are:

1. any Pension Company;
2. any Affiliated Person in relation to entities listed in clause 1 of this paragraph;
3. any agents or employees of the persons listed at clauses 1 and 2 of this paragraph.

(4) Any advertisement or promotional material published by or on behalf of a Pension Company must have the prior written approval of the Agency.

(5) The Agency shall **regulate** what should not be contained in the information specified in paragraph 4 of this Article

(6) If the Agency considers that the information referred to in paragraph 4 of this Article is or may be misleading, it may ban its publication, or distribution, and order that an appropriate correction is published or distributed by a specified deadline.

Article 66.

(1) A Pension Company which by the use of personal contact of its employee, representative or agent of the Pension Company or an Affiliated Person persuades a person to cease Membership of a Compulsory Fund and become a Member of a Compulsory Fund managed by this Company, must be able to demonstrate that at the time of persuasion to move to the Fund managed by the Pension Company, it primarily kept in mind the interest of that person.

(2) In paragraph 1 of this Article “Personal Contact” means any meeting, telephone conversation or personally addressed correspondence between the employee, representative or agent of the Pension Company and the person concerned or any Affiliated Person of the person concerned.

Article 67.

The Agency may issue regulations specifying further requirements in relation to the selling and marketing of Compulsory Pension Funds.

CHAPTER IX.

INVESTMENTS OF PENSION FUND’S ASSETS

Article 68

(1) The assets of a Fund shall be invested in accordance with the provisions of this Act and in order to maximize the general return resulting from the investment solely for the benefit of Fund Members subject to ensuring the following:

- the security of the Pension Fund's assets;
- diversity of investment;
- maintenance of adequate liquidity.

(2) The Supervisory Board of a pension company shall determine the investment principles which shall constitute part of the statute of the pension fund and shall conform with the principles set out in paragraph 1 of this Article, which shall be in accordance with the requirements of the Agency.

(3) The investment principles shall set out in particular:

- the way in which the requirements of paragraph 1 of this Article shall be satisfied;
- the types of assets in which a pension fund's assets may be invested;
- the bodies of the pension company responsible for decisions as to making and realizing investments; and the procedures for making those decisions; and
- the method of revising the investment principles.

(4) The Supervisory Board of a Pension Company shall regularly review the investment principles and, if necessary, amend it.

Article 69.

Subject to the provisions of this Act and to regulations on investment in foreign countries, a Fund may only invest in the following classes of assets:

1. short - term bills and other short - term securities issued by the Republic of Croatia and by Croatian National Bank, as well as short - term bank deposits, in a manner specified by regulations of the Agency;
2. long- term bonds and other long - term securities issued by the Republic of Croatia and by Croatian National Bank;
3. long - term bonds and other securities issued by local self - government and administrative units;
4. long - term bonds or other long - term securities, issued by joint - stock companies registered in the Republic of Croatia, which are traded in Zagreb Stock Exchange or on other organized capital markets in the Republic of Croatia, provided that these securities meet the Agency's criteria;

5. stocks, issued by joint - stock companies registered in the Republic of Croatia **and shareholdings in domestic open investment funds**, traded in the first admission in Zagreb Stock Exchange or in other organized markets in the Republic of Croatia
6. long - term bonds or other long -term securities issued by other states, traded in organized capital markets in OECD countries, provided that these securities meet the criteria of the Agency;
7. long - term bonds or other long - term securities issued by foreign non - state entities, traded in organized capital markets in the OECD countries, provided that these securities meet the Agency's criteria;
8. stocks, issued by foreign joint - stock companies, traded in organized capital markets in the OECD countries, provided these securities meet the Agency's criteria;
9. stocks and shareholdings of **domestic open funds or foreign closed or open** investment funds, being aware that these funds primarily invest in the securities of the OECD countries;
10. any other form of investment specified by regulations of the Agency, except the investments specified in Article 72 of this Act.

Article 70.

The Agency shall release **detailed** regulations on the limitations and guidelines for investment of pension funds.

Article 71.

Investments in particular classes of assets referred to in Article 69, paragraph 1, clauses from 1 to 10 of this Act are subject to the following restrictions:

1. more than 15% of a Fund's assets may not be invested in assets outside the Republic of Croatia,
2. in the case of the assets specified in Article 69, clause 1 of this Act, not more than 5% of the value of the Fund's assets may be invested;
3. not less than 50% of the value of the Fund's assets must be invested in the assets specified in Article 69, clause 3 of this Act,
4. in the case of the assets specified in Article 69, clauses 3, 4 and 5 of this Act, not more than 30% of the assets of a pension fund may be invested in individual types of these assets,

5. in the case of the assets specified in Article 69, clause 6 of this Act, not more than 15% of the fund assets may be invested,

6. in the case of the assets specified in Article 69, clauses 7 and 8 of this Act, not more than 10% of the pension fund assets may be invested in individual types of these assets,

7. in the case of the assets specified in Article 69, clause 9 of this Act, not more than 5% of the pension fund assets may be invested,

8. not more than 5% of the pension fund assets may be invested in securities of a single issuer or totally in securities of two or more issuers who are affiliated persons, except for the assets specified in Article 69, clauses 2 and 3 of this Act.

9. if overall investments in investment funds exceed 5% of total assets of a pension fund, than total compensation that investment funds charge may not exceed 0.4% of the value of the investments.

Article 72

The assets of a Fund may not be invested in:

1. shares, bonds and other securities that are either unlisted or not publicly traded in organized markets;
2. assets which are not capable of alienation by law;
3. physical assets which are not quoted on organized markets and for which valuation is uncertain including, for the sake of example, antiques, works of art and motor vehicles;
4. real estate
5. shares, bonds and other securities issued by:
 - any shareholder of a Pension Company;
 - the custodian bank of the Fund;
 - any person who is an Affiliated Person in relation to the entities listed in clauses 1 and 2 of this paragraph.
6. options and time purchases,
7. such other assets specified by the Agency.

Article 73.

(1) If the restrictions set out in Articles **69 to 72** of this Act are breached as a result of:

- a change in market prices constituting a basis for valuation of the assets and liabilities of a Pension Fund;
- changes in foreign currency rates;
- changes in organizational or economic relations between entities in which the pension fund's assets were invested;
- any other circumstances beyond the immediate control of the Pension Company;

than the Pension Company shall be under an obligation to take measures aimed at adjusting the Fund's investment activities to the requirements specified by the Law.

(2) The adjustment of investment activities to the requirements specified in the Law shall be completed no later than six months after the date on which the breach of the provisions occurred, or when a valuation of Fund assets indicates that there had been such a violation, whichever of the above occurs **earlier**.

(3) Upon the request of the Pension Company, submitted no later than thirty days after the date when a breach occurred or was ascertained, the Agency may extend the time limit referred to in paragraph 2 of this Article to a period of 12 months, if it is justified by the need to protect the interests of the Members.

Article 74.

A Pension Company shall be prohibited from:

1. selling the Fund's assets to:
 - members of management and supervisory board of the Pension Company;
 - custodian bank holding the Pension Fund's assets;
 - an Asset Manager of the Fund;
 - any person who is an Affiliated Person in relation to any of the entities specified in clause 1 of this article.
2. purchasing assets from any of the entities listed in clause 1 of this Article;
3. issuing loans and guarantees to any of the entities listed in clause 1 of this Article.

Article 75.

(1) A Pension Company may delegate the management of the Fund's assets outside the Republic of Croatia to an Asset Manager or Managers which, on the basis of the Law of the state in which the assets are located, are entitled to manage someone else's

securities upon the approval and which hold license of the Agency for the conduct of such activities.

(2) A Pension Company based on a resolution of the supervisory board and in accordance with paragraph 1 of this Article shall select an Asset Manager or Managers which shall manage part or all of the foreign assets of the Fund, on the basis of the relevant contract with the Pension Company and according to the statement of investment principles contained in the rules of the Fund.

(3) In the event referred to in paragraph 1 of this Article, the Pension Company shall define the terms on which it delegates the management of its foreign assets.

(4) The Pension Company shall notify the Agency of any change of Assets Manager.

(5) The Pension Company may not delegate decisions regarding the investment strategy of the Fund in the Republic of Croatia, nor responsibility for maintaining the statement of investment principles.

Article 76.

(1) A pension company may borrow money only on money markets.

(2) The total amount of money borrowed by a Fund may not at any time exceed a percentage of the value of Fund assets as specified by the Agency.

(3) A contract or another covenant mentioned in Paragraph 1 of this Article relating to a loan outside of money market, shall be deemed null and void.

Article 77.

The Agency shall specify the method, terms and notification of the valuation of Pension Fund assets.

Article 78.

The Agency may issue regulations providing for additional restrictions relating to investments with regards to the protection of the interests of the Fund Members.

CHAPTER X.

CUSTODIAN BANK

Article 79.

(1) A Pension Company shall be under an obligation to select a custodian bank for holding the assets of the Fund and with which it shall make a contract on **custody of assets**.

(2) The custodian bank shall not be Affiliated Person to any pension company or pension insurance company.

(3) The choice of a custodian bank, as well as changing of such bank, shall be approved by the Agency.

Article 80.

(1) The activities of the custodian bank of the assets of a pension fund shall be:

1. depositing and keeping the pension fund's assets on a separate account

2. valuation of the pension fund's assets and reporting to the Agency, pension company and Central Registry of Insured Persons on the applied procedure of the valuation, and on the valuation of the assets of the pension fund, as well as on the amount on the separate account,

3. notifying the public of the value of the accounting unit through daily papers, not less than once a month,

4. reporting on payment of dividend, payment of vouchers or on maturity of other instruments,

5. reporting on annual meetings of stockholders and on rights related to assets of pension funds, as well as on execution of a pension company's orders regarding realization of these rights,

6. providing voting services on annual stockholders' meetings

7. other services related to a pension fund's assets, agreed between the pension fund and custodian bank

(2) The Agency may set special regulations for performing the activities of custodian bank of the pension funds' assets.

(3) The custodian bank may, with prior consent of the Agency, delegate a part of its activities to some other legal subject, which does not terminate the responsibility of the custodian bank.

(4) The custodian bank may perform activities for several Pension Funds, provided that the assets, activities and records of each Fund are fully separated, both from each other and from the custodian bank.

(5) Custodian bank shall have a separate internal organizational unit which shall perform the activities related to custody.

(6) The requirements and appropriate qualifications of the employees performing the activities related to custody shall be determined and supervised by the Agency.

Article 81

(1) The assets of a pension fund shall be kept on a separate account in custodian bank.

(2) The assets kept in the custodian bank on a separate account may be used only for executing orders of the pension company.

(3) Custodian bank shall be obliged to keep the entrusted assets of the pension fund separate from its own assets, as well as from the other clients' assets.

Article 82

(1) In the event that a contract **between a pension company and a custodian bank** is terminated, a written notification must be delivered not less than six months in advance, except in the events specified in Article 83 of this Act. The party giving the notification on termination of contract shall immediately inform the Agency on that as well as on its reasons for so doing.

(2) New custodian bank shall be selected by the Pension Company only with the prior written consent of the Agency and in order to obtain this consent the relevant Pension Company shall submit to the Agency the information on the proposed custodian bank

(3) Every change of custodian bank shall be performed in such way that continuing performance of the custodian bank's activities regarding the Fund's assets is ensured.

(4) In the event of termination of the contract, **the former custodian bank** shall hand over the Fund's assets that it has held, as well as complete documentation relating to performance of its duties, to the new custodian bank within 30 days upon termination of the contract.

Article 83.

(1) In the event that bankruptcy proceedings or liquidation are initiated against the custodian bank, a pension company shall:

1. immediately notify the custodian bank of termination of the contract and notify the Agency about it;

2. immediately select new custodian bank and request appropriate approval from the Agency;

(2) If the Pension Company fails to undertake the measures specified in paragraph 1 of this Article, the Agency **shall decide that the custodian bank is changed, in which case Article 82, paragraphs 3 and 4 of this Act shall be applied as appropriate.**

(3) The Agency may order the Pension Company to change its custodian bank if the financial or organizational structure of the bank has become substantially impaired, thus representing a potential threat to the security of the assets of a pension fund.

(4) The custodian bank shall immediately notify the Agency of everything that it considers an omission in the pension company's operations or an omission which might constitute violation of the law, the regulations of the Agency, or of the Fund's statute or represent a threat to the interests of any of its Members.

(5) Croatian National Bank shall notify the Agency of every case that, by Croatian National Bank's criteria, could substantially impair the financial or organizational structure of a custodian bank.

Article 84

The assets of a pension fund entrusted to custodian bank pursuant to the provisions of this Act may not be subject to execution of a Court's order related to the custodian bank's obligations, nor it may be a part of its bankruptcy estate.

Article 85.

(1) custodian bank shall be obliged to perform the activities for which it is authorized pursuant to contract with a pension company and with the highest degree of diligence.

(2) For the custody activities specified in Article 80 of this Act, the custodian bank shall have the right to annual compensation of 0.1% of the total assets of the pension fund in the year 2000, whereas for each following the maximum percentage shall be regulated by the Agency, but not exceeding the above specified percentage in the first year.

(3) custodian bank shall be responsible to the pension company for any inflicted damage resulting from non - performing or inappropriately performing the activities specified in the contract from Article 79, paragraph 1 of this Act.

CHAPTER XI.

CENTRAL REGISTRY OF INSURED PERSONS

Article 86.

(1) Central Registry of Insured Persons shall perform:

- collecting contributions from pension fund members,
- keeping records on individual accounts of pension fund members,
- executing the members' orders on transfer of contributions, transfer of accounts and transfer of assets,
- controlling payment of contributions,
- collecting monthly documentation from employers on paid contributions for individual members,
- updating fund members on the assets on their accounts,
- **reporting to pension companies on the structure of their members,**
- and other activities determined by internal regulations and by statute.

(2) In order to control the correctness of accounting and of payment of contributions, Central Registry of Insured Persons shall have the right to control business records, financial documentation and other evidence of contribution payers.

(3) Central Registry cooperates with custodian banks, Bureau for Money Transfers, Croatian Institute for Pension Insurance and other bodies, in order to provide efficient collection of contributions and reporting.

(4) Central Registry of Insured Persons is an institution established by the order of the Government of the Republic of Croatia.

(5) Financial assets for the functioning of Central Registry of Insured Persons shall be provided from the state budget, from other founders' deposits, as well as from other sources.

Article 87

(1) Central Registry of Insured Persons shall, not less than once a year, deliver to each member of a pension fund written information on the assets on his or her account, on dates of payment of contributions and transfer payments that he or she had during particular period.

(2) At the fund member's request, Central Registry for Insured Persons shall deliver to that member a notification on cash value of the assets on his or her account. The Registry may charge a fee for such notifications which do not arise from paragraph 1 of this article, but it may not be higher than the cost of providing such notification.

CHAPTER XII.

OBLIGATIONS OF REPORTING AND NOTIFYING ON LIABILITIES

Article 88.

(1) A Pension Fund shall no later than 31 March each year publish an information prospectus containing information true and correct as at 31 December of the previous year.

(2) The information prospectus of a Pension Fund shall contain in particular:

1. information on the pension fund,

2. information on the pension company,

3. information on the custodian bank,

4. information specified in Article 89 of this Act,

5. such other information as required by regulations of the Agency,

(3) The information on the pension fund, in terms of paragraph 2, clause 1 of this article, shall include the following information:

1. name of the fund

2. date of establishment of the fund,

3. information on the method of accounting of compensations for the pension company and custodian bank

4. the portfolio of the fund

(4) The information on the pension company, in terms of paragraph 2, clause 1 of this article, shall include the following information:

- 1. name of the company, its legal form, head office of the pension company and its management office, if different from its head office,**
- 2. name and duties of the members of management and supervisory board of the pension company,**
- 3. detailed determination of responsibility in making investment decisions,**
- 4. the amount of the capital of the pension company, and the names and addresses of stockholders or shareholders, as well as the amount of their shareholdings,**
- 5. information of the auditor of the pension company,**
- 6. annual financial reports of the pension company, audited by the authorized auditor,**
- 7. principles and strategy of investment.**

(5) The information on the custodian bank, in terms of paragraph 2, clause 1 of this article, shall include the following information:

- 1. the name of the custodian bank's company, its legal form, head office of the custodian bank and its management office, if different from the head office,**
- 2. activities of the custodian bank,**
- 3. the amount of the capital of the custodian bank.**

(6) The information shall be published in a brochure format and in at least two daily newspapers sold on the whole territory of the Republic of Croatia.

(7) The form of the report shall be determined by regulations of the Agency.

(8) A Pension Company shall make its information prospectus available for inspection by any person who applies for membership in the Fund **managed by that Company;**

(9) The Pension Company shall provide its information prospectus to any Fund Member who so requests it.

(1) At least once a year, a pension company shall deliver to Central Registry of Insured Persons the information on the value and the amount of the fund's assets invested in particular types of assets, including the information on issuers of particular securities, as on the last valuation date of the last month of each annual period.

(2) The obligation to provide data on the issuers of particular securities shall only apply to investments representing at least 1% of the value of the Fund.

(3) Pension Company shall be obliged to publish its quarterly financial reports in one daily paper.

Article 90.

(1) A Pension Company shall be required to submit the following information to the Agency:

1. annual statements of assets and liabilities, income and expenses, audited by an independent accounting firm and signed by a certified public accountant;
2. balance sheet with a profit and loss account;
3. information on sales and newly acquired assets of the Fund, including the class of the assets, the day of the transaction, the price for which the transaction was done and the broker engaged;
4. information on brokerage fees, fees to the custodian bank and other matters designated by the Agency;
5. details of the stockholders or shareholders of the Pension Company including their names and addresses;
6. the names and remuneration paid to the Members of the management and supervisory board and of the salaries of employees in a Pension Company.
7. information prospectus mentioned in Article 88 of this Act;
8. such other information as the Agency may require.

(2) The information specified above shall be submitted on at least an annual basis and at such shorter intervals as specified in regulations of the Agency. The Agency shall also regulate deadlines for submission of such information and a format in which it shall be issued.

CHAPTER XIII.

SUPERVISION OF OPERATIONS OF PENSION COMPANIES AND PENSION FUNDS

Article 91.

- (1) The Agency for Supervision of Pension Funds and Insurance shall be established for the purpose of supervision of the operation of pension companies and pension funds.
- (2) The Agency shall have the status of legal person.
- (3) The head office of the Agency is in Zagreb.
- (4) In performing the activities determined by this Act the Agency shall be independent and subject to the Government of the Republic of Croatia **and the Croatian State Parliament.**

Article 92.

- (1) The major task of the Agency shall be protecting interests of Fund Members and of participants in voluntary pension schemes.
- (2) In performing its tasks the Agency shall particularly:
 1. set out regulations on implementation of this Act when authorized for that,
 2. grant and withdraw the authorization from a Pension Company;
 3. grant and withdraw the operating license from a Pension Company;
 4. implement supervision of business operations of pension companies, pension funds, Central Registry, in particular: financial operations of pension companies, all activities of the companies related to complying with investment limits according to this Act, procedure of foreign investments in cooperation with Croatian National Bank, procedure of registration of members of compulsory pension funds and procedure of transfer of members from one compulsory fund into another, transfer of contributions into compulsory pension funds on personal accounts of the members of a compulsory fund, transfer of assets from a personal account in a fund to an account of a pension insurance company selected by an insured person, actuary calculations and their application at the occasion of assessment of pension benefits in pension insurance companies, advertising procedure and expenses, voluntary pension fund in connection with schemes offered and connections with a voluntary pension insurance company.

5. promote, organize and enhance the development of the pension fund system in the Republic of Croatia;

6. create and develop public awareness of the purposes and operating principles of Pension Companies and Funds;

7. keep business records and registers in accordance with the provisions of this Act;

8. makes initiatives for amendments to laws related to pension companies and funds;

9. performs other activities provided by this Act.

(3) The Agency shall be publicly authorized to perform the activities within its jurisdiction, specified in paragraph 2, clauses 1 to 4 of this Article.

(4) The by - laws provided in paragraph 2, clauses 1 to 3 of this Article, shall be published in "Narodne Novine" (National Gazette).

Article 93.

(1) The Agency may, without limitations, review business records and documentation of pension companies and Central Registry of Insured Persons relating to their business operations.

(2) If the Agency establishes irregularities in business operation or in keeping of business records, it shall make a decision ordering that the established irregularities be corrected within reasonable time.

(3) A pension company shall be obliged within the term mentioned in paragraph 2 of this Article to eliminate irregularities and to deliver to the Agency a report on elimination of the irregularities, with attached evidence on elimination or correction of the irregularities. The Agency may withdraw the operating license from a pension company, if the pension company does not eliminate defects and irregularities within the given time frame.

(4) If the Agency determines during supervision that there are activities or acts in the business operation of a pension company and in a pension fund management which are punishable by law, director of the Agency or a person authorized by him shall report it to the competent state body.

Article 94.

(1) A pension company shall be obliged to notify the Agency on:

1. change of a firm, main office or statute,
2. change of name of a pension fund,
3. every stockholder or member of the company known to have more than **5%** of stocks or shares in the company,
4. every change of capital of the pension company,
5. decision of a pension company to terminate its activities.

(2) The report mentioned in Paragraph 1 of this Article shall be delivered by a pension company to the Agency not later than eight days after the changes in the company have occurred.

Article 95.

(1) Managing Board of the Agency shall set out the Statute which is to be confirmed by **the Croatian State Parliament**, make annual operating program of the Agency and follow up its execution, confirm reports submitted by the Agency to the Government of the Republic of Croatia **and the Croatian State Parliament**, decide on authorization of functioning of Pension Companies, grant operating licenses **to compulsory and voluntary pension funds** and it shall also decide on other issues specified by the Statute of the Agency.

(2) The Agency shall regulate its internal organization and operation with its statute.

(5) If any of the members of Managing Board stops holding the duty before expiry of his mandate, another person shall be appointed on his position until the end of the mandate of the members who is being replaced.

Article 96.

(1) The Managing Board of the Agency shall consist of seven members appointed and acquitted by the Government of the Republic of Croatia.

(2) A Croatian citizen with a university degree and with work experience relevant for pension companies in the field of economy, accounting, investment, business management, actuary science or law may be appointed as a member of Managing Board.

(3) The mandate of members of Managing Board shall last seven years. The members of the Managing Board can be re-appointed. The members of the Managing Board can be acquitted before the end of their mandate.

(4) As an exception to the provision of paragraph 3 of this Article, three members are appointed for three years, two members are appointed for five years and two members are appointed for seven years in the first mandate of constituting of Managing Board.

(5) If any of the members of Managing Board stops holding the duty before expiry of his mandate, another person shall be appointed on his position until the end of the mandate of the members who is being replaced.

Article 97.

(1) A director, appointed and relieved at the proposition of the Government of the Republic of Croatia **by the Croatian State Parliament**, shall manage the work of the Agency.

(2) The director of the Agency shall be appointed for the period of seven years and may be re-appointed.

(3) The provisions of Obligations and Rights of State Officials Act shall be applied to the director of the Agency.

Article 98.

The director shall represent the Agency and shall be responsible for its work and, within rights and duties stipulated by this Act, shall organize and ensure legal and efficient performance of the Agency's activities, proposes to Managing Board passing of by - laws within its jurisdiction and executes the decisions of Managing Board, as well as performs other such activities that he is authorized to perform by this Act, the statute or other by - law of the Agency.

Article 99.

The Government of the Republic of Croatia can recall the director of the Agency or a member of Managing Board in the event of:

- member's persona request to be acquitted,
 - final verdict for a criminal action,
 - failure to meet conditions specified in Article 96 of this Act,
 - general incompetence for work.
- in the event that the director does not comply with regulations or by - laws of the Agency, **or if the director** unjustifiably fails to execute the decisions of the Managing Board or if he/she acts contrary to such decisions,
- in the event that the director, due to his unprincipled or inappropriate actions, causes substantial damage to the Agency, creating or making a possibility for creation of substantial obstruction for the Agency's activities

Article 100.

(1) The Agency shall have its expert team.

(2) General labor regulations shall be applied to persons employed in the expert team.

Article 101.

(1) During their mandate, the director of the Agency, the members of Managing Board and the employees of the expert team must not:

1. accept any consideration, position or employment, as well as offer services or have shares in relationship with:

- a Pension Company and the Fund managed by it;
- custodian of assets of certain Fund;
- custodian bank of certain Fund;
- any Affiliated Person of the above listed entities.

2. be selected or appointed on a duty in the state bodies, local government and administrative units, or accept candidacy for any function.

(2) Limitations specified in paragraph 1, clause 1 of this Article shall be applied on director and members of Managing Board of the Agency within the period of **two years** after the cessation of the duty in the Agency.

Article 102.

The Agency shall be under obligation to submit a report to the Government of the Republic of Croatia and the Croatian Parliament by 30 June for the previous year on pension markets in the Republic of Croatia, with information on market, evaluation of functioning of pension funds legislation, evaluation of the operation of the Agency and all other such issues relating to pension funds or functioning of voluntary pension schemes in the Republic of Croatia.

Article 103.

(1) The budget of the Agency shall be determined annually by the Agency and approved by the Government of the Republic of Croatia.

(2) The budget of the Agency shall comprise the assets from the state budget and the Agency's own revenues from levies charged by the Agency for its services, based on the approval of the Government of the Republic of Croatia.

CHAPTER XIV.

PAYMENT OF PENSIONS

Article 104.

(1) By realizing the right to retirement, the assets standing to the account of a Compulsory Pension Fund Member shall be transferred to a Pension Insurance Company at the Member's choice, which shall make life payments of pension to the Member, in accordance with the assets transferred, which shall be regulated by a separate law.

(2) By realizing the right to retirement, the assets standing to the account of a Voluntary Pension Fund Member shall be transferred to a Pension Insurance Company at the Member's choice, which shall make life payments **or temporary payments of pension annuities** to the Member, in accordance with a special pension scheme.

(3) Establishing and operating of pension insurance companies shall be regulated by a separate law.

CHAPTER XV.

VOLUNTARY PENSION FUNDS AND SCHEMES

Article 105.

(1) This Chapter determines the principles relating to Voluntary Pension Schemes and voluntary pension schemes.

(2) Voluntary pension Schemes may be obtained from Voluntary Pension Funds managed by Voluntary Pension Companies.

(3) All provisions of this Act shall be applied on Voluntary Pension Funds and Voluntary Pension Companies, except the provisions which expressly determine Compulsory Fund and Compulsory Pension Company.

(4) Voluntary pension schemes are designed and offered by authorized pension insurance companies, in accordance with law.

(5) Voluntary pension fund may be an open pension fund, in which case it accepts requests for membership from any person with residence in the Republic of Croatia and of age, as well as who accepts voluntary pension scheme.

(6) Voluntary pension fund may be of a closed kind, established for the needs of employers and trade unions, must be administered by a voluntary pension company and must be directing to one or more of voluntary pension schemes, in accordance with the provisions of this Act.

(7) One voluntary pension fund may organize a voluntary pension scheme of one or more pension insurance companies.

Article 106.

A voluntary pension fund shall organize a pension scheme in such way that it collects contributions on individual accounts of members, administered until activating of a pension scheme for each member.

Article 107.

(1) A pension scheme resulting from membership in a voluntary pension fund may not be acquired before the age of 50.

(2) As an exception to the paragraph 1 of this Article, pensions may be acquired in the event of death or disability even earlier, under the conditions set out in relevant pension scheme.

Article 108.

(1) Pension insurance company, voluntary pension company or a sponsor of a voluntary pension fund may establish a voluntary pension fund.

(2) A voluntary pension fund shall be managed by a voluntary pension company in accordance with the provisions of this Article.

(3) Since voluntary pension fund has been established as a closed pension fund, it can accept requests for membership only from the persons who are:

- employees of an employer who is a sponsor of voluntary pension fund
- members of a trade union which is a member of a voluntary fund

Article 109.

(1) A person joins a Voluntary Pension Scheme by making contract with the selected voluntary pension fund.

(2) Membership in voluntary pension fund shall be established by opening of an individual account in a voluntary pension fund.

(3) Membership in a voluntary pension fund shall mean obligation of paying contributions to that fund.

(4) If a member of a voluntary pension fund temporarily stops paying contributions for certain pension scheme, he shall remain to be a member of that fund.

Article 110

(1) A member may withdraw from membership in a voluntary pension fund in accordance with adopted voluntary pension scheme and with payment of remuneration for discontinuation of membership in the pension fund.

(2) A member may withdraw from voluntary sponsored fund in the case when the conditions for membership in this fund are not met any more, in accordance with the provision of Article 108, paragraph 3 of this Act.

Article 111.

A person may at the same time join one or more voluntary pension funds.

Article 112.

A voluntary pension scheme sponsored by employers shall not be in discrepancy with collective contract between employers and trade unions.

Article 113..

(1) Access to a voluntary pension fund sponsored by employer shall not be limited to any person and all employees of that employer or a special expert category of employees should be offered that.

(2) Access to a voluntary scheme shall not be a precondition for employment or for membership in trade union, nor can a contribution from salary be deducted from salary for that scheme without the employee's written approval.

Article 114.

An employer or a trade union which sponsors a pension scheme shall restrict the membership in this scheme only to employees, former employees and members of their families who may use this scheme in the event of death of the member.

Article 115.

(1) The Agency shall approve every pension scheme, simultaneously with issuing operating license to a voluntary pension company. The Agency shall issue regulations for each type of pension scheme and approve the rules and amendments to the rules of each voluntary pension scheme.

(2) Rules of every pension scheme shall be presented to the persons before entering membership in the respective fund, whereas the members should be informed on amendments to the rules within eight days.

(3) Amendments to the rules may not create a doubt in the content of the existing rules of pension schemes, especially regarding the amount that members have on their accounts or on offered pension benefits of voluntary pension insurance within the offered scheme.

Article 116

(1) Stimulating assets shall be granted to a voluntary pension company for the members of a voluntary pension fund from the state budget, on the basis of documented data on contributions collected in the previous calendar year.

(2) The stimulating assets shall be 25% of the contribution paid by individual fund members in the previous calendar year, but not above the deposit amount of 5,000.00 kuna per fund member during one calendar year.

Article 117

(1) A voluntary pension company shall be obliged to make and submit to Ministry of Finance, not later than by 1 October of current year, a detailed plan of requests for allocation of stimulating assets in the forthcoming calendar year.

(2) The plan of requests for allocation of stimulating assets shall be made on the basis of contributions collected from fund members in the first eight months of the current year and of the estimate of the inflow of contributions by the end of the current year.

Article 118

(1) A voluntary pension company shall have an obligation to submit to Ministry of Finance by 1 march of the current year, a written request for payment of stimulating assets in that year for all members of the voluntary pension company.

(2) Ministry of Finance shall be obliged to pay to the voluntary pension company, not later than one month after the day of submission of the request mentioned in paragraph 1 of this article, one fourth of the total annual amount of stimulating assets. The remaining three fourths shall be allocated on a monthly basis in identical amounts during the year.

(3) A voluntary pension company shall be obliged to enter the received amount of stimulating assets in its business records and enter it to

Article 119

(1) A voluntary pension company shall be obliged to include in the request specified in Article 118 of this Act:

1. number of members of the voluntary pension fund for whom the request for granting stimulating assets is made;

2. total amount of contributions collected in the previous year;
3. number of members of the voluntary pension fund who made a contract with the voluntary pension fund in the previous year;
4. number of members of the voluntary pension fund whose membership in that fund expired in the previous year.

(2) In addition to the request specified in paragraph 1 of this article, a voluntary pension company shall be obliged to enclose a list of the fund members (name and family name and ID number), as well as the amount on their individual accounts and the amount of the stimulating assets granted to them by 31 December of the previous year.

Article 120

Stimulating assets shall be kept on the individual account of a member of a voluntary pension fund in such manner that their amount can be determined any moment and that they represent a fund member's individual assets, managed by a voluntary pension company, as well as that they form an integral part of the individual account of the member of the voluntary pension fund.

Article 121.

Stimulating assets shall be granted for membership in only one voluntary pension fund.

CHAPTER XVI.

PENALTY CLAUSES

Article 122

- (1) A pension company shall make a violation:
1. if it performs activities other than specified in Article 6 of this Act,
 2. if it appoints a member of managing board or supervisory board contrary to Articles 14 and 15 of this Act,
 3. if it buys stocks, grants a loan, makes a warranty or make a loan or credit contract contrary to Article 17 of this Act,

4. if it starts managing a pension fund before obtaining operating license specified in Article 27 of this Act,

5. if it charges a fee contrary to Articles 60 and 61 of this Act,

6. if it offers privileges, makes claims or statements, publish an advertising or a promotional material and if it uses personal contacts contrary to the provisions of Articles 64 to 66 of this Act,

7. if it sells or buys assets or grant a credit or a guarantee contrary to Article 74 of this Act,

8. if it lends money outside money market, contrary to Article 76 of this Act,

9. if it fails to fulfill the obligation of reporting the Agency, according to Article 90 of this Act,

10. if it fails to notify the Agency on changes in the company as per Article 94 of this Act,

11. if it fails to notify members of the fund on pension scheme rules in accordance with the provision of Article 115, paragraph 2 of this Act,

12. if it withdraws stimulating assets contrary to the provisions of Article 116 of this Act,

13. if it fails to submit, or is late with submission, of the plan of requests, or a request for stimulating assets, or if a request is made on the basis of incorrect or incomplete information (Articles 117, 118 and 119),

14. if it fails to enter the received amount of stimulating assets to individual accounts of a voluntary pension fund members on time and in a manner regulated by Article 118, paragraph 3 of this Act,

15. if it does not keep stimulating assets on individual accounts of a voluntary pension fund members or if it does not include them in the return (Article 120),

16. if it allows using of stimulating assets contrary to the provisions of Article 121 of this Act,

(2) For the violation specified in paragraph 1 of this article, a pension company shall be fined with the amount of 20,000 to 100,000 kuna.

(3) For the violation specified in paragraph 1 of this article, a responsible person (member of a board or a director) shall be fined with the amount of 10,000 to 50,000 kuna.

(4) In the event of repeated violation specified in paragraph 1, clauses 1, 3, 8, 9 and 10 of this article, operating license shall be revoked from a pension company (Article 32).

5. Besides the penalty specified in paragraph 1, clause 2 of this article, the related person shall be banned from performing duties of a member of a management or supervisory boards.

6. The persons sentenced for violation specified in paragraph 1 of this article may not assume duties of responsible persons in a pension company (a member of management or a director), for two years after the sentence was carried out.

Article 123

A legal person illegally using the name specified in Article 5 of this Act shall be fined with the amount of 1,000.00 to 10,000.00 kuna, whereas a responsible person in that legal person shall be fined with 2,000.00 to 10,000.00 kuna.

Article 124

Former custodian bank which, within the deadline specified in Article 83, paragraph 2 of this Act fails to hand over the assets and documentation of a pension fund to the new bank, shall be fined with the amount of 10,000.00 to 100,000.00 kuna, whereas the responsible person in the banks shall be fined with the amount of 1,000.00 to 10,000.00 kuna.

CHAPTER XVII.

TRANSITIONAL AND FINAL PROVISIONS

Article 125

(1) The insured persons that are compulsorily insured on **1 July** 2000 as per the provisions of Articles 10 to 16 of Pension Insurance Act (Narodne Novine no. 102/98) and who are below the age of 40, shall be compulsorily insured on the basis of individual capitalized savings in a compulsory pension fund of their own choice and shall become members of that fund.

(2) The insured persons specified in paragraph 1 of this article, who have not selected a compulsory pension fund by **30 September** 2000, shall be officially distributed to one of compulsory pension funds by Central Registry of Insured Persons in accordance with Article 108 of this Act; these insured persons shall become members of such fund as of **1 July** 2000.

(3) Distribution of insured persons to the funds, in accordance with paragraph 2 of this Article, shall be done in accordance with Article 40, paragraphs 7 and 8 of this Act.

Article 126

(1) The insured persons that were compulsorily insured on **1 July 2000**, as per the provisions of Articles 10 to 16 of Pension Insurance Act (Narodne Novine no. 102/908) and who shall have more than 40 and less than 50 years of age, shall be allowed to insure themselves at their own choice on the basis of individual capitalized savings in a compulsory pension fund of their own choice, and they shall become members of such fund.

(2) The insured persons specified in paragraph 1 of this article shall have the right to admission to a selected pension fund until **30 September 2000**.

Article 127

(1) **At the proposition of the Government of the Republic of Croatia, The Croatian State Parliament** shall within 30 days of enactment of this Act appoint a managing board and director for the Agency for Supervision of Pension Funds and insurance.

(2) Managing board of the Agency shall within 60 days from the day of enactment of this Act submit its statute to **the Croatian State Parliament** for approval.

(3) Within 90 days after the day of enactment of this Act, the Agency shall issue an internal document on implementation of this Act, when it is authorized by this Act.

Article 128.

The Government of the Republic of Croatia shall, within 90 days after enactment of this Act, bring forth an internal document on establishing of Central Registry of insured persons.

Article 129

This Act shall be enacted on the eighth day after its first publication in "Narodne Novine" (National Gazette), besides the provision of Articles 40 to 63 and Article 104 of this Act, which shall be enacted as of **01 July 2000**.

Class: 402-09/98-03/05
Zagreb, 07 May 1999

**CHAMBER OF DEPUTIES OF
THE CROATIAN STATE PARLIAMENT**

**Deputy Chairman
of the Chamber of Deputies**

**of the Croatian State Parliament
Vladimir Seks**