

**REPUBLIC OF LITHUANIA**

**LAW**

**AMENDING**

**LAW ON PENSION FUNDS**

3 June 1999, No. VIII-1212

Vilnius

(As amended 4 July 2003, No. IX-1692)

**Article 1. New Version of the Law of the Republic of Lithuania on Pension Funds**

The Law of the Republic of Lithuania shall be amended and shall be set forth to read as follows:

**“REPUBLIC OF LITHUANIA**

**LAW**

**ON THE SUPPLEMENTARY VOLUNTARY ACCUMULATION OF  
PENSIONS**

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1. Scope**

1. This Law shall regulate the terms and conditions of organising and the arrangement for a supplementary voluntary accumulation of pensions at the pension funds managed by a management enterprise. Its purpose is to set the necessary supervisory standards and rules of the management of pension funds in order to protect the interests of the participants of the pension funds.

2. The Law shall apply to all management companies operating in the Republic of Lithuania, managing the pension funds of supplementary voluntary accumulation under a licence issued by the Securities Commission. This Law shall apply to the enterprises managing pension funds where a portion of the state social-security contribution is accumulated to the extent provided by the laws regulating these relations.

3. This Law shall not regulate the relations arising on the basis of insurance and relating to the pension provision for the population, with the exception of the relations referred to in Article 38.

4. The Law on Companies shall apply to management companies unless this Law provides otherwise.

## **Article 2. Definitions**

For the purpose of this Law:

1. **Qualifying holding** shall mean 10 per cent or more of all the shares or of the voting rights of the management company of pension funds or such an amount of shares or voting rights which makes it possible to exercise a significant influence over the management of the management company. In determining the qualifying interest, account shall be taken of the votes held by a person under Article 16 of the Law on the Securities Market.

2. **Unit of account** shall mean standard measure of the value of pension assets belonging to a member of a pension fund.

3. **Depository** shall mean a commercial bank having the right to provide investment services, having its registered office or a branch in the Republic of Lithuania, the Central Securities Depository of Lithuania, or central securities depositories of the Member States of the European Union entrusted with the right for safe custody of funds.

4. **Subsidiary** shall mean a subsidiary as defined in the Law on the Securities Market.

5. **European Union country** shall mean an EU Member State or an EEA country.

6. **Close links** shall mean close links as defined in the Law on the Securities Market..

7. **Net assets** shall mean the difference between the value of the assets and long-term and short-term liabilities of an appropriate pension fund other than the liabilities of the pension fund to the participants of the pension fund.

8. **Investment portfolio** shall mean a set of investment instruments.

9. **Investment instruments** shall mean securities referred to in paragraph 26 of this Article and investment instruments referred to in paragraphs 2-6, Article 3 of the Law on the Securities Market.

10. **Investment derivatives** shall mean investment instruments the value of which depends on one or several investment instruments.

11. **Control** shall mean control as defined in the Law on the Securities Market.

12. **Persons of sufficiently high repute** shall mean persons as defined in the Law on the Securities Market.

13. **Activities of supplementary accumulation of pensions**, hereinafter “**pensions accumulation activities**”, shall mean financial activities involving, under pension accumulation agreements, collection of funds, their investment or reinvestment into a diversified investment portfolio, payment of pension benefits according to the terms and conditions specified in this Law and the pension fund to the persons participating in the accumulation as well as any related activities.

14. **Pension annuity**, hereinafter “**annuity**” shall mean a periodic pension benefit paid to a pension fund participant for life, with the full risk of its payment borne by the payer of the annuity, i.e. an insurance company effecting life insurance.

15. **Pension fund** shall mean pension assets, held by the right of joint ownership by natural persons, who are accumulating pensions on a voluntary basis and paying pension contributions to a pension fund, the management of which has been transferred to a management company of the pension fund and which are invested under the pension fund rules.

16. **Participant of a pension fund**, hereinafter “**a participant**”, shall mean a person with whom or for whose benefit a pension accumulation agreement has been concluded and in whose name a personal pension account has been opened.

17. **Pension fund rules** shall mean a document stipulating terms and conditions of payment of pension contributions and benefits, the strategy of pension assets investment as well as other rights and obligations of the pension contributors, participants of the pension fund and the pension fund management company.

18. **Pension fund management company**, hereinafter “**a management company**”, shall mean a company licensed by the Securities Commission to engage in the pension accumulation activities.

19. **Pension contributor** shall mean a participant of a pension fund, his employer or any third party who pays pension contributions or a portion thereof.

20. **Pension account** shall mean a personal account of a pension fund participant opened under a pension accumulation agreement, in which the units of account of the pension fund assets due to the participant are entered in his name.

21. **Pension assets** shall mean the amount of assets received in exchange for the pension contributions, including the temporarily non-invested portion of said funds and investment income/ return from these assets/funds.

22. **Periodic report** shall mean a document addressed to the participants of the pension fund and the general public, providing information about the major events of the reference period.

23. **Money market instruments** shall mean liquid debt investment instruments which are normally traded on money markets and the precise value of which may be determined at any time.

24. **Initial capital** shall mean a minimum amount of own capital to be accumulated by the management company of pension funds.

25. **Foreign supervisory authority** shall mean an institution which, in a foreign country performs functions related to licensing and supervision of management companies equivalent to the functions of the Securities Commission.

26. **Securities** shall mean:

- 1) shares of companies and shares receipts of the depository;
- 2) debt securities;
- 3) other transferable securities giving the right to acquire securities referred to in subparagraphs 1 and 2 of this paragraph by subscription or exchange.

## **CHAPTER TWO**

### **LICENSING OF THE MANAGEMENT COMPANY AND ITS OPERATION**

### **Article 3. Right to Engage in the Business of Pension Accumulation**

1. A private company or a company, hereinafter a “company”, holding a licence issued by the Securities Commission in accordance with the procedure set out in this Law, shall have the right to engage in the business of pension accumulation. Only a company holding said licence shall have the right to include in its name and advertising material the words “*pensiju fondu valdymo įmonė*” (pension fund management company) or other combinations or derivatives of these words.

2. Management companies authorised to manage investment funds and investment companies with variable capital which meet the requirements stipulated in this Law shall also have the right to engage in the business of pension accumulation following the procedures set out in this Law.

3. A management company may commence pension accumulation activities subject to the approval of the appropriate pension fund rules by the Securities Commission in the manner determined by it.

4. The licence of a management company referred to in paragraph 1 of this Article shall grant it the right to engage in the business of pension accumulation, management of investment funds, investment companies with variable capital, investment portfolios of other persons, also to provide the following additional services, where they are covered in the licence:

- 1) advising on issues relating to investment into investment instruments;
- 2) custody and administration of investment units of investment funds or shares of investment companies with variable capital.

5. The management companies specified in paragraphs 1 and 2 of this Article shall also have the right to manage pension funds engaged in the accumulation of a portion of the state social insurance contribution provided for in the Law of Pension Accumulation, if these management companies meet the requirements set in the Law on Pension Accumulation.

6. Management companies specified in paragraph 1 of this Article may not engage in activities other than those specified in this Article.

### **Article 4. Licence Issuing Procedure**

1. A company wishing to carry on the business of the accumulation of pensions must file an application with the Securities Commission. The application shall be accompanied by the information about the company, a programme of its activity and

development, shareholders, members of the management bodies, the initial capital, the authorised capital, as well as other documents and information a detailed list of which shall be determined by the Securities Commission in the licensing rules.

2. The Securities Commission may refuse to issue a licence where:

1) the application does not meet the prescribed requirements, the documents are untrue to fact or incomplete and the company's information or the action plan are insufficiently substantiated;

2) the company's initial capital or authorised capital is below the minimum amount specified in Article 7 of this Law or the management company's capital adequacy requirements are not met;

3) the holders of a the company's qualifying holding either do not meet the requirements set out in this Law or fail to provide information about their participants, their activities and the financial position;

4) at least one of the company's employees is an employee of the stock exchange, the Securities Commission or the Central Securities Depository of Lithuania;

5) a member of the company's board, the head or deputy head of the administration are of insufficiently good repute, their qualifications or work experience do not meet the requirements established by the Securities Commission;

6) a member of the board of the company's depository, the head or deputy head of the depository's administration are of insufficiently good repute, their qualifications or work experience do not meet the requirements established by the Securities Commission;

7) the company's registered office is situated outside the territory of the Republic of Lithuania;

8) close links existing between the company and any other person might prevent the Securities Commission from exercising effective supervision;

9) the company has close links with a person from a country which is non-member country of the European Union whose laws governing the activities of this person, or difficulties involved in their enforcement might prevent the effective exercise of supervision.

3. The Securities Commission must inform the applicant about its consent or refusal to issue a licence within 3 months of the submission of all the relevant documents, information and explanations. The time period for the consideration of the application shall be calculated from the day of submission of complete documents and information.

Reasons for the refusal to issue a licence must be motivated in writing and may be appealed in court.

4. The Securities Commission must communicate the fact of issuance or revocation of a licence to the administrator of the Register of Legal Persons and make it public in the supplement “*Informaciniai pranešimai*” of “*Valstybės žinios*” (*Official Gazette*).

### **Article 5. Management Bodies of Management Companies**

Apart from the management bodies which, under the Law on Companies, are obligatory for a public and a private company, a board must be formed at the management company.

### **Article 6. Requirements for the Activities**

A management company must:

- 1) act in good faith in the best interests of the participants and market credibility;
- 2) act with due care, skill and safety;
- 3) have and employ the necessary means and procedures;
- 4) in dealings with a participant, disclose to him information relating to and necessary for him;
- 5) try to avoid conflicts of interest and, where they cannot be averted, ensure that participants are treated fairly;
- 6) ensure that its administrative procedures and accounting books and records systems are reliable making it possible to know the parties, the contents, time and venue of each and any transaction and to determine whether investment of assets is effected in compliance with the prescribed terms and conditions and the appropriate legislation;
- 7) exercise internal control and monitor, following the internal control procedure stipulated by the Securities Commission, transactions in securities entered into by its chief executive officers and employees;
- 8) retain documents of the executed transactions for at least 10 years from the date of the executed transaction, unless other legal acts provide for longer periods;
- 9) be structured in such a way as to avoid conflicts of interest between the management company and participants, and between the participants;
- 10) ensure that the qualification and experience of persons making decisions about assets management meet the qualifications and experience requirements set by the Securities Commission.

## **Article 7. Capital Requirements for a Management Company**

1. Neither the initial nor authorised capital of a management company may be less than EUR 150, 000. When the value of the investment portfolios managed by a management company exceeds EUR 250, 000, 000, the management company must increase its own capital by no less than 0.02% of the amount by which the value of the managed investment portfolios exceeds EUR 250, 000, 000. With the growth of the value of the managed investment portfolios, such a ratio of managed and own capital must be maintained continuously until the amount of own capital reaches EUR 10, 000, 000.

2. The authorised capital of the management company shall be comprised of the capital set forth in the articles of association, fully paid up and registered according to the procedure established by law. Only fully paid up authorised capital shall be registered.

3. Property contributions may not make up more than 20 per cent of the authorised capital of the management company. Only real estate necessary for the performance of the direct operations of the management company may constitute a property contribution.

4. At least EUR 125, 000 of own capital of a management company must be invested in a diversified investment portfolio subject to the requirements specified in Articles 46, 47, and 49 of this Law. The remaining part of own capital shall be managed by the management company at its own discretion in accordance with the procedure prescribed by laws and other legal acts.

5. The management company must meet the capital adequacy requirements established by the Securities Commission.

## **Article 8. The Guarantee Reserve**

1. Where a management company assumes an obligation to guarantee to the pension fund participants a certain rate of profitability, a guarantee reserve must be formed. The procedures for the formation, investing and use of this reserve must be agreed with the Securities Commission. The Commission shall have the right to instruct a company to amend and/or supplement the procedure for the formation, investing and use of the guarantees.

2. The guarantee reserve shall be invested into a diversified investment portfolio subject to the requirements set out in Articles 46, 47, and 49 of this Law.

## **Article 9. The Rights of the Securities Commission**



The Securities Commission shall have the right to determine:

- 1) the procedure for safe-keeping of confidential information;
- 2) the procedure for carrying out internal control;
- 3) the procedure for submitting and contents of periodical and other reports, news releases, and communications to the Securities Commission as well as the procedure for releasing any other information;
- 4) the capital adequacy requirements for management companies;
- 5) the procedure for and principles of calculating the initial capital and net assets;
- 6) the procedure for calculating the risk of a party to a transaction when inspecting the compliance with the diversification requirements;
- 7) the procedure for transferring the management of pension funds, the abolition of pension funds and sale of assets of the abolished pension funds.
- 8) the requirements for opening, handling and closing of pension accounts and for accounting of account units;
- 9) any other additional requirements for converting pension contributions and funds which are being transferred to any other pension fund into account units (and vice-versa);
- 10) the procedure for the approval of pension fund rules;
- 11) the procedure for the issuance of authorisations and licenses referred to in this Law.

#### **Article 10. The Right of the Management Company to Delegate a Number of its Functions to Another Management Company**

1. With a view to enhancing its management efficiency, a management company shall have the right to delegate to another company which is authorised to provide equivalent services the performance of a part of its functions relating to pension fund management subject to a prior consent from the Securities Commission.

2. The delegation of a part of the functions shall be permitted provided that:

- 1) this will not impede supervision of the management company and will not violate the interests of the participants;
- 2) the Securities Commission has concluded an agreement on exchange of information with the supervisory authority of a non-member State of the European Union, in which the management company, to which a number of functions have been delegated, is licensed;

3) the administration of the management company may monitor, at any time, the activities of the company to which the mandate has been given;

4) the management company may give further instructions to the company to which functions are delegated or to withdraw the mandate when it is necessary in the interest of the participants;

5) the company to which a mandate is given is adequately qualified and capable of undertaking the functions in question;

6) the pension fund rules shall list the functions which the management company has been permitted to delegate.

3. A management company shall not be permitted to delegate to other persons functions to the extent that it becomes a letter box company. It shall be prohibited to delegate a portion of the functions to the depository which has custody of the assets of pension funds managed by the management company (this prohibition shall not apply to the functions of the pension accounts management and conclusion of pension accumulation agreements when representing the management company) or to other persons whose interests may be contradictory to the interests of the management company or the participants.

4. Delegation of part of functions to other persons shall not exempt the management company from liability.

#### **Article 11. Acquisition of a Qualifying Holding of a Management Company**

1. Any person willing to acquire a qualifying holding in a management company or to increase the holding he already has so as to reach the proportion of the voting rights held by that person or the share of the authorised capital held to the threshold of 1/5, 1/3 or 1/2 or so as to make the company his subsidiary (in cases when the acquirer is a legal person) must obtain a prior authorisation of the Securities Commission. The votes held by a person shall be calculated in accordance with the procedure prescribed in Article 16 of the Law on Securities Market.

2. A person referred to in paragraph 1 of this Article must file with the Securities Commission an application of a form set by the latter and the Securities Commission must, within 3 months of the date of the receipt of the application, inform the applicant of its decision either to grant an authorisation for the acquisition of a qualifying holding or refuse to grant such an authorisation.

3. The Securities Commission may refuse to allow the acquisition of a qualifying holding where:

1) the natural person (or, the executive officers or controllers of a legal person) is not of sufficiently good repute;

2) the natural person cannot prove the lawfulness of the assets or funds for the purchase of shares;

3) the natural person is an employee of the stock exchange, the Securities Commission or the depository which has custody of the assets of pension funds managed by the management company in question;

4) the legal person has not provided any information about its participants, activities or its financial position;

5) the issuance of the licence would result in close links between persons, which would constitute the grounds for the refusal to issue the licence.

4. The refusal to allow the acquisition of a qualifying holding must give reasons in writing and may be appealed to court. Where the Securities Commission agrees to allow the acquisition of a qualifying holding, it must set a deadline for the realisation of the intention.

5. A person, before reducing his qualifying holding to the extent that the proportion of the voting rights or of the capital held by him falls below the thresholds of 1/10, 1/5, 1/3, or 1/2 or that the management company ceases to be its subsidiary (for legal persons), must also notify the Securities Commission

6. Where it comes to the notice of the management company that an acquisition or transfer of a qualifying holding has taken place, due to which the threshold referred to in this Article has been exceeded, it shall promptly communicate the fact to the Securities Commission. Information about persons having qualifying holdings and the value of these holdings shall be submitted to the Securities Commission on an annual basis following the procedure specified by it.

7. Where a person acquires shares without a prior permission from the Securities Commission if such a permission is obligatory, the voting rights attaching to the shares held by that person shall be suspended at the general shareholders meeting until said permission is obtained.

## **Article 12. Authorisations Granted by the Securities Commission**

1. The Securities Commission shall grant prior authorisations for the following:

- 1) change of a depository;
  - 2) delegation of the management of pension assets to another management company;
  - 3) conclusion and revision of an agreement with the depository;
  - 4) reorganization or restructuring of a management company;
  - 5) liquidation of a management company by a decision of the general shareholders meeting;
  - 6) acquisition or increase of a qualifying holding in a management company;
  - 7) winding up of a pension fund;
  - 8) delegation of a number of administration functions to another company.
2. The Securities Commission may refuse to grant an authorisation only where this might contradict the provisions of legal acts or violate the interests of participants.

### **Article 13. Audit of a Management Company**

Audit of a management company shall be subject to the requirements set out in the Law on Audit and the Law on Financial Institutions.

### **Article 14. Prohibition to Transfer of Pension Assets**

1. Pension assets may not be transferred to the management company managing it, the managing director, members of the board, the supervisory board or the employees (and their spouses) of such a company. It shall also be prohibited to acquire assets from the persons referred to in this paragraph using the funds of a pension fund.

2. Pension assets may not be lent, given as a collateral or used as a guarantee or surety for obligations of other persons. However, it shall not constitute a prohibition to acquire not fully paid up securities, money market instruments or other investment instruments referred to in Article 46 of this Law.

3. It shall be prohibited to use the funds of a pension for transactions on the sale of securities, money market instruments or other investment instruments that the company does not possess.

4. A management company operating with the funds of a pension fund may not borrow, with the exception of loans constituting up to 10 percent of the value of the net assets for a period of up to three months, which are necessary for maintenance of liquidity. It shall not constitute a prohibition to borrow foreign currency for purchasing securities or money market instruments, provided that the repayment of the loan is guaranteed by

transferring to the loan grantor the amount in any other currency, equal to the borrowed amount (back-to-back loan).

### **Article 15. Offer and Advertising of Services**

1. Any promotional material about pension accumulation activities may include only the information provided in the pension fund rules and periodic reports. For promotional purposes a management company may develop and disseminate a short version of the pension fund rules providing only the information which is contained in the pension fund rules registered with the Securities Commission.

2. The contents and the form of promotional material published by a management company, persons authorised by it or related to it in other ways shall be subject to a prior agreement with the Securities Commission. The Securities Commission must prohibit publication of promotional material which is misleading or incomplete, and must order that such promotional material, which has been already published be negated or supplemented.

3. A management company shall be responsible for a proper recruitment and training of the persons responsible for providing the information about on the pension accumulation activities and/or conclusion of pension accumulation agreements and must ensure that these persons have qualifications adequate for such an activity.

4. Provision of the information on the pension accumulation activities and/or conclusion of pension accumulation agreements on behalf of the management company may be performed only by persons who:

- 1) are of a sufficiently good repute;
- 2) have a good knowledge of legal acts regulating the pension accumulation activities.

### **Article 16. Measures Involving Penalties Against Management Companies**

The Securities Commission shall have the right to take the following measures against management companies:

- 1) warning about shortcomings and violations of their activities and imposing a deadline rectify them;
- 2) imposing administrative penalties or fines set forth in this Law on the managers or employees;
- 3) suspension of the licence;
- 4) withdrawal of the licence;

- 5) restriction of the right to invest money;
- 6) obligation of the management company to transfer the management of the pension fund to another management company;
- 7) appointment of a temporary representative of the Securities Commission for supervision of the activities.

#### **Article 17. Reasons for Measures Involving Penalties**

1. Measures provided in this Law may be applied where at least one of the following grounds is present:

- 1) a management company has provided false information to the Securities Commission;
- 2) the information or documents necessary for supervision have not been provided to the Securities Commission;
- 3) the conditions under which the licence has been granted are no longer met;
- 4) the laws or other legal acts of the Republic of Lithuania have been violated;
- 5) the management company is not able to meet its obligations to the participants or there is evidence that it will not be able to do that in the future.

2. The choice of a measure shall depend on the character of a violation for which it is applied, the impact of the violation and the consequences of the application of the measure on the company, the participants' interests and security of the financial system. The issue of application of a measure shall be considered following a prior notice to the management company and a possibility to present explanations shall be provided to it. Failure of a representative to attend the hearing or to present explanations, shall not prevent adoption of a decision concerning the application of appropriate measures.

3. A decision to apply measures involving penalties may be taken provided that no more than 2 years have passed from the date when the violation was committed, while in cases of a continuing violation – no more than 2 years have passed from the date of the commission of the last acts.

#### **Article 18. Temporary Representative for Supervision of Activities**

1. In cases of urgency, with a view to protecting pension assets from depreciation or any other loss, the Securities Commission shall have the right to delegate its temporary representative for the supervision of the activities of the management company in question.

2. The managers of the management company, before taking the actions specified in the decision of the Securities Commission on the appointment of a temporary representative for the supervision of the activities, must obtain consent of the temporary representative for the supervision of the activities.

3. The temporary representative shall be recalled in the following cases:

- 1) upon establishing that the company can function effectively;
- 2) where bankruptcy proceedings have been instituted against the company;
- 3) where the licence of the management company has been withdrawn.

### **Article 19. Withdrawal of a Licence**

The Securities Commission shall have the right to withdraw the licence of a management company where:

- 1) such a measure is imposed on the company in accordance with the procedure provided in this Law;
- 2) the holder of the licence has applied in writing for the withdrawal of the licence;
- 3) the holder of the licence fails, within 12 months of the date of granting of the licence, to commence the activities of pension accumulation or suspends such activities for more than 6 months.

### **Article 20. Reorganisation or Restructuring of a Management Company**

1. Prior to the adoption of a decision on the reorganisation or restructuring of a management company, an authorisation must be obtained from the Securities Commission.

2. The conditions of the reorganisation of a management company must specify, in addition to other information stipulated in the Civil Code and the Law on Companies, the number of pension funds and their participants, provide information about the pension funds which are being transferred or taken over for management and their assets, own assets of the management company, the depository, the terms and conditions of transferring and taking over of the management company's obligations, property and non-property rights of the participants of the pension funds after the reorganisation, and the time limit for acquiring these rights and obligations. The conditions of the reorganisation must be approved by the general shareholders meeting of the management company undergoing reorganisation and the Securities Commission.

4. The management company must announce the reorganisation or restructuring following the procedures established by the Securities Commission.

5. Management companies, which will operate after the reorganisation or restructuring, must obtain a new a licence from the Securities Commission. Where a management company, which will operate after the reorganisation or restructuring, fails to obtain a licence, the resolution of the general shareholders meeting about the reorganisation shall be held invalid.

6. The information about the course and the time period of reorganisation or restructuring must be provided upon request to every shareholder of the management company, a participant of the pension fund, and the Securities Commission.

7. Upon receiving permission from the Securities Commission and in accordance with the procedure determined by the Securities Commission, a management company undergoing reorganisation may transfer the management of pension funds to another management company without the consent of the participants of the pension funds, provided that the receiving management company assumes all the obligations to the participants of the pension funds stipulated in the pension funds' rules and pension accumulation agreements.

#### **Article 21. Bankruptcy Procedure of a Management Company**

1. The bankruptcy procedure of a management company may be carried out only as a legal process.

2. The Securities Commission shall have the right to file a petition with the court for the initiation of bankruptcy proceedings against a management company.

3. Within 15 days of the receipt of the petition, the court must adopt a ruling whether to initiate bankruptcy proceedings or to refuse to do so. Upon adopting a ruling to initiate bankruptcy proceedings, the court or the judge must communicate it forthwith to the Securities Commission.

4. The administrator of the management company shall organise, following the procedure prescribed by the Securities Commission, the transfer of the pension funds management to another management company. The administrator shall have the right to transfer the pension fund management to another management company without the consent of the participants provided that the receiving management company assumes all the obligations to the participants.

5. The claims of the participants against the management company arising from the pension fund management relations must be satisfied from the management company's own assets by satisfying, as a matter of priority, in accordance with the prescribed



procedure, the claims of a mortgage creditor, before meeting the claims of the other creditors of the management company.

#### **Article 22. Liquidation Procedure of a Management Company**

1. A management company may be liquidated by a decision of the general shareholders meeting only where it has transferred the management of all the pension funds to another management company following the procedure prescribed by the Securities Commission or where, subject to an authorisation of the Securities Commission and in accordance with the procedure prescribed by it, it has abolished all pension funds, intending to liquidate the management company. The management company may transfer the management of a pension fund to another management company without the consent of the participants provided that the receiving management company assumes all the obligations to the participants.

2. Within three days after the adoption by the general shareholders meeting of a decision to liquidate the management company the decision must be communicated in writing to the Securities Commission and the administrator of the register of legal persons, accompanied by the information about the appointed liquidator.

3. The management company must announce its liquidation in accordance with the procedure prescribed by the Securities Commission. The information about the course and time limits of the liquidation must be provided, upon request, to every shareholder of the management company, every participant of the pension fund managed by it, and to the Securities Commission.

4. The liquidator of a management company undergoing liquidation shall be responsible for distribution of the pension assets of a pension fund the management of which has not been transferred to other management companies.

5. A liquidated management company may be cancelled from the register of legal persons only upon completing the distribution of the pension assets of pension funds managed by it.

### **CHAPTER THREE**

#### **PENSION FUND AND ITS PARTICIPANTS**

#### **Article 23. Formation of a Pension Fund and Pension Fund Rules**

1. The pension accumulation in pension funds managed by a management company shall be governed by the rules of a pension fund.

2. The rules of a pension fund shall be approved by a decision of the board of the management company. The management company may start accepting contributions of the participants to a pension fund only after the approval of the rules of a pension fund by the Securities Commission following a prescribed procedure.

3. The rules of a pension fund shall specify the following:

1) the name of the pension fund (which must state expressly that the fund is a supplementary voluntary pension accumulation fund);

2) the terms and conditions of and the procedure for joining a pension fund, withdrawal from it or any other termination, suspension, and renewal of participation in a pension fund;

3) the rights and obligations of the pension fund participants;

4) the rights and obligations of the management company;

5) the forms of payment of pension benefits and the possibilities of their choice, the procedure for payment of pension benefits, the eligible age for entitlement to a supplementary pension;

6) the rules for the calculation of the pension fund's net assets and the value of the unit of account as well the procedure for their publication;

7) the procedure for converting of pension contributions and the transfer of the funds belonging to a pension fund participant which are being transferred to another pension fund or pension accumulation company, into units of account, as well as the rules of conversion of units of account into money and payment of money to persons entitled to receive it;

8) the investment strategy of a pension fund;

9) the procedure for opening, keeping and closing of pension accounts and the procedure for accounting of account units in those accounts;

10) the methodology of calculation of remuneration to the management company and the depository; amounts to be paid and the payment procedure thereof; a complete list of other costs to be covered from the pension assets and the calculation methodology thereof;

11) the forms of and procedure for submitting to pension fund participants, in cases specified under this law, of reports on the performance of the pension fund management

activity carried out by the management company and on pension account statements as well as other communications of the pension fund to the pension fund participants;

12) the conditions of and procedure for concluding, revising and terminating pension accumulation agreements;

13) the procedure for transfer to a pension fund managed by the same or any other management company and the time period, no longer than 3 working days, during which the management company must transfer the funds belonging to the participant;

14) the name, office address, rights and obligations of the depository;

15) the conditions of and procedure for changing the depository;

16) the procedure for amending the pension fund rules;

17) the conditions of and procedure for the abolition of a pension fund and the procedure for the distribution of the assets of the abolished pension fund;

18) other terms and conditions and information established by the Securities Commission.

4. The pension fund rules may also contain other provisions which are not in contradiction to this Law and the requirements established by the Securities Commission.

5. The management company must provide the rules of the pension fund and their amendments approved by the Securities Commission available to any person.

6. The management company must inform in writing every participant of a pension fund managed by it about the amendments to the rules of the respective pension fund at least 20 days before the amendments become effective. The amendments to the rules of a pension fund shall become effective within 30 days of their approval by the Securities Commission.

#### **Article 24. Investment Strategy of a Pension Fund**

1. The investment strategy of a pension fund must provide for investment procedure and investment choices of the pension assets, the risk assessment methods, the risk management principles, the procedures for and ways of risk management to be applied, the strategic distribution of the pension assets by time periods of validity and nature of obligations under the pension accumulation agreements.

2. At least once every three years the management company must review the investment strategy and amend it where necessary.

## **Article 25. Pension Fund Participant**

A person shall become a participant of a pension fund after the coming into effect of the pension accumulation agreement.

## **Article 26. The Rights of a Pension Fund Participant**

1. A pension fund participant shall have the following rights:

- 1) to terminate the pension accumulation agreement;
- 2) to receive as determined by law information relating to the management company's activity;
- 3) to receive information about the condition of his pension account, the investment strategy of the funds and the investment return received under this strategy, as well as the auditor's opinion about the financial activity of the management company and other information set out in this Law;
- 4) to receive pension benefits provided for in this Law;
- 5) to postpone payment of pension benefits following the procedure stipulated in this Law;
- 6) to bequeath his share of the pension assets;
- 7) to enjoy other rights provided for by law, the pension fund rules and the pension accumulation agreement.

2. The rights set out in paragraph 1 of this Article shall also be enjoyed by the participant in cases when he himself does not pay contributions or contributions are not paid on his behalf.

## **Article 27. The Pension Accumulation Agreement**

1) The pension accumulation agreement shall be an agreement between a management company and a contributor/s, under which the management company assumes obligations to a participant under the rules of the respective pension fund, while the contributor assumes an obligation to pay pension contributions. Before concluding a pension accumulation agreement, all persons for whose benefit the agreement is being concluded, must be provided access to the rules of the pension fund the participants of which they are going to become upon coming into effect of the pension agreement. The pension fund rules shall constitute a part of the pension accumulation agreement.

2. The pension accumulation agreement must be concluded in writing.

3. The pension accumulation agreement must provide for the right of a participant to terminate the pension accumulation agreement unilaterally.

4. The management company shall have no right to terminate a pension accumulation agreement without the consent of the participant, except in cases provided for in this Law.

5. The management company shall administer the lists of pension funds' participants and beneficiaries. The information contained on those lists shall be confidential. The lists of each pension fund shall be processed separately. The rules of processing of the lists and of their contents shall be determined by the management company, and must be approved by its board. The rules and the contents of the lists must be approved by the board of the management company.

6. The pension accumulation agreement shall come into effect from the moment of its conclusion and payment of the first contribution unless the agreement provides a later date for coming of the agreement into effect.

7. Upon conclusion of a pension accumulation agreement, the management company shall open a personal pension account for each participant of the pension fund.

#### **Article 28. Contents of the Pension Accumulation Agreement**

1. The pension accumulation agreement shall specify the following:

1) the number of the agreement, the date and venue of its conclusion;

2) the parties (the name, code and address of the management company's office, the number of the licence issued by the Securities Commission, and the name and family name of the representative; the name, family name, ID number of the pension contributor, the date of birth and address of residence (where the contributor is a legal person – the name, code, address of the registered office, and the name and family name of the representative);

3) the subject matter of the agreement;

4) the name of the pension fund, the registration number of the pension fund rules approved by the Securities Commission, and the date of approval;

5) the rights and duties of the parties, including the duty to give notice to each other in the event of a change in any of the particulars (place of residence or the head office, name, family name, number of the bank cash account, etc.);

6) the amount, ways, procedure for and terms of payment of pension contributions;

7) terms and conditions of the payment of pension benefits;

- 8) liability of the management company for failure to fulfil its obligations;
- 9) terms and conditions of and procedure for amending the pension agreement;
- 10) the procedure for and terms and conditions of termination of the pension agreement, including the right of the pension contributor (if the contributions are paid not by the participant) or the participant to terminate the pension accumulation agreement at any time;
- 11) the procedure for settling disputes between the parties;
- 12) the period of validity of the agreement and grounds for its expiry;
- 13) a reference that the pension fund rules under which the pension accumulation agreement has been concluded, constitutes an indispensable part of this agreement;
- 14) the particulars of the parties.

2. The pension accumulation agreement may contain provisions other than those indicated in paragraph 1 of this Article provided that they do not contradict the Civil Code, this Law, other laws and legal acts of the Republic of Lithuania, the requirements established by the Securities Commission, the articles of association of the management company, and the rules of the pension fund under which the pension accumulation agreement is being/has been concluded.

3. The parties to a pension accumulation agreement may not provide in the agreement conditions which would worsen the position of a pension fund participant in comparison with the position provided in this Law and other laws of the Republic of Lithuania.

## **Article 29. Pension Contributions**

1. Pension contributions shall be paid only in cash.
2. Employers may pay the whole contribution or only its part for the benefit of an employee.
3. Termination of the payment of contributions or other payment violations may not be a cause for the cancellation of the pension accumulation agreement or for the restriction of the property right of the participants to the pension assets. In such a case the participant shall enjoy all the rights stipulated in paragraph 1 of Article 26 of this Law.
4. Where pension contributions are paid not by a pension fund participant, such contributions shall become the property of the participant from the moment of recording in the pension account of the contributions converted into account units.

5. If a contributor, who is not a participant of the pension fund, fails to pay the agreed contributions on time, the management company must notify in writing the pension fund participant within 7 days from the date of the first violation.

6. It shall be prohibited to pay, at one and the same time, pension contributions and receive pension benefits on behalf of the same participant.

### **Article 30. Pension Accounts**

1. A management company must open for every participant a personal pension account. Only one pension account shall be opened for every participant of a pension fund. Information about the pension accounts shall be confidential.

2. Pension accounts shall be opened, managed and closed, and the units of account shall be recorded in the accounts in accordance with the procedure set out in the pension fund rules. The Securities Commission shall design the principles governing the opening, managing and closing of accounts as well and the accounting of the account units.

### **Article 31. Pension Assets**

1. Pension assets shall belong to the participants by the right of common several ownership. A participant's share in common ownership shall be determined by the amount of the account units recorded in his personal pension account.

2. A management company shall manage, use, and hold the pension assets on trust.

3. The pension assets of each pension fund shall be entered in the accounts separately from own assets of the management company and the pension assets of any other pension fund managed by the same management company.

4. It shall be prohibited to levy execution against the assets of a pension fund to ensure performance of the obligations of the management company and the participants of the pension fund.

5. Upon the death of a participant, the pension assets belonging to him shall be inherited following the procedure established by law. When the portion of the assets of the pension fund belonging to the deceased is inherited by another pension fund participant, the units of account belonging to the portion of assets recorded in the pension account shall not be converted into cash unless the pension fund participant claims otherwise in writing.

6. Only transactions specified in this Law may be carried out in respect of pension assets.

7. The value of net assets of each pension fund must be calculated in order to determine the value of account units of the pension fund.

8. The value of the net assets of a pension fund must be calculated and the value of units of account of a pension fund must be set every working day in the manner laid down in the rules of the pension fund. The average value of the units of account shall be calculated on a monthly basis for the previous month. The Securities Commission shall have the right to lay down the procedure and principles of calculation of a pension fund's net assets.

### **Article 32. Termination of Participation in a Pension Fund**

1. Participation in a pension fund shall terminate when:

- 1) the management company discharges its obligations to the pension fund participant;
- 2) the participant withdraws from the pension fund;
- 3) the participant transfers to another pension fund;
- 4) a participant dies;
- 5) the pension fund is abolished.

2. Termination of the pension accumulation agreement, concluded for the benefit of the pension fund participant shall not terminate participation of that person in a pension fund without the consent of the participant when such a consent is not obligatory. In this case the beneficiary of the pension accumulation agreement shall retain all the rights and duties provided for in the pension fund rules, and neither the rights nor the duties of the pension contributor shall pass to him.

3. The following shall be considered withdrawal of a participant from a pension fund:

- 1) termination of a pension accumulation agreement on the initiative of the participant without transferring to another pension fund;
- 2) termination of a pension accumulation agreement on the initiative of the pension contributor, when contributions or part of them are paid not by the participant, with the consent of the participant unless he chooses not to continue his participation in the pension fund and unless he transfers to another pension fund.

4. The pension fund rules may provide for a prohibition to withdraw from the pension fund prior to reaching the retirement age, they may also provide a term of a



minimum mandatory participation in the pension fund before the expiration of which the person shall not have the right to withdraw from the pension fund.

5. A pension fund participant withdrawing from a pension fund must be paid the amount obtained after converting the units of account recorded in his pension account into money. The management company may charge a fee for the participant's withdrawal from the pension fund amounting to up to 10% of the sum being withdrawn where this is provided in the pension fund rules.

6. The management company, its shareholders, and the pension contributor shall be prohibited from restricting, directly or indirectly, the right of a participant of the pension fund to withdraw from the fund, with the exception of the case specified in paragraph 4 of this Article.

### **Article 33. Participant's Transfer to Another Pension Fund**

1. A participant shall have the right, following the procedure set out in this Law, to transfer to another pension fund managed either by the same or any other management company.

2. Transfer of a participant from one pension fund to another must be made in accordance with the terms and conditions provided for in the rules of the pension fund from which a transfer is being made and the rules of the pension fund to which a participant is transferring. The management company may charge a fee for the participant's transfer to another pension fund amounting to up to 10% of the sum being transferred where it is provided for in the pension fund rules. The fee may be deducted from the funds belonging to the participant which are being transferred to another pension fund or may be charged in other ways specified in the pension fund rules. At least once during a business year, a participant shall have the right to transfer to another pension fund managed by the same management company free of charge/without any deductions; where he transfers to a pension fund managed by another management company, he shall cover only the expenses of the management company from the pension fund of which the transfer is being made, incurred as a result of the transfer of a person to another pension fund.

3. Where a management company intends to delegate management of pension assets to another management company, a participant of the pension fund which intends to delegate management of the pension fund shall be transferred to another pension fund of

his choice free of charge/without any deductions within three months of the adoption of the above decision.

4. It shall be prohibited for the shareholders or the contributors of the management company, to restrict, directly or indirectly, the right of a participant of a pension fund managed by the management company where he expresses a wish to transfer to another pension fund.

5. The management company a participant of a pension fund managed by which transfers to a pension fund managed by another management company shall transfer to the receiving management company the amount obtained by converting the units of account recorded in the pension account of the participant into money and after deduction of the fee provided for in the pension fund rules for the transfer into another pension fund. The amount left after deduction of the fees provided for in the rules of the pension fund to which the participant is transferring shall be converted into units of account of that pension fund. Money must be converted into units of account no later than on the working day following the day when the money was received by the receiving management company. The money shall be converted at the value of the units of account of the pension fund to which the participant is transferring on the day of the receipt of the money by the receiving fund. Where a participant of a pension fund managed by one management company transfers to a pension fund managed by another management company, the first management company shall transfer the funds belonging to the participant to the receiving management company only after the participant submits the pension accumulation agreement concluded with the receiving management company to the management company managing the pension fund from which the participant is transferring.

6. If a participant transfers to another pension fund managed by the same management company, the funds belonging to the participant shall be transferred, in the manner specified in paragraph 2 of this Article, to the pension fund to which the participant transfers. For a participant moving to another pension fund managed by the same management company a new pension accumulation agreement shall be concluded.

#### **Article 34. Abolition of a Pension Fund**

1. A pension fund may be abolished by a decision of the board of the management company or a court decision.

2. A pension fund may be abolished by a decision of the board of the management company for at least one of the following reasons:

1) the management company has discharged all the obligations to the participants of a pension fund managed by it;

2) all the participants of a pension fund managed by the management company transfer to another pension fund;

3) the management company is liquidated or reorganised.

3. The management company may abolish a pension fund without the consent of the participants only in the case specified in paragraph 4 of this Article, also if it has transferred management of the assets of the pension fund and its obligations stemming from pension accumulation agreements to another management company following the procedure established by the Securities Commission.

4. If the management company abolishes a pension fund with the permission of the Securities Commission and following the procedure prescribed by it pursuant to a resolution of the general shareholders meeting to liquidate or to reorganise the management company, the consent of the participants shall not be necessary for the abolition of the pension fund.

5. Where the court declares the management company bankrupt and rules to liquidate it on the grounds of bankruptcy, the pension funds the management of whose pension assets and obligations assumed under the pension accumulation agreements have not been transferred to another management company before the ruling on the liquidation was adopted, shall be declared abolished by a court ruling.

6. Where a participant of a pension fund expresses a wish to transfer to a pension fund of another management company within 3 months of the date of the adoption of the ruling to abolish the pension fund, the transfer of the participant to another pension fund must be effected free of charge, without making any deductions.

7. The management company must, no later than within 5 working days of the adoption of the decision, notify the participants of the pension fund, its contributors, and the Securities Commission about the decision to abolish the pension fund.

8. If a pension fund is abolished and the management of its assets and its obligations under the pension accumulation agreements is not transferred to another management company, the assets of the abolished pension fund shall be distributed among the participants of the pension fund in proportion to the amount of the units of account recorded in their pension accounts, taking into account its position on the day when a decision to abolish the pension fund was adopted or on the day when the court ruled to liquidate the bankrupt pension fund. All the assets of the abolished pension fund must be

sold and settlement with the participants of the pension fund must be effected using the proceeds from the sale of those assets. The pension assets of the abolished pension fund must be sold through the stock exchange or by auction in accordance with the rules set forth by the Securities Commission.

### **Article 35. Units of Account and Their Conversion**

1. The units of account of a pension fund shall be an expression of a share of the pension assets belonging to a participant of a pension fund.

2. The pension contributions as well as the funds transferred to another pension fund to which a participant transfers must be converted into units of account which shall be entered in the pension account. The funds shall be converted into units of account no later than on the working day following the date of receipt of the funds by the management company. The money must be converted into account units at the value of account units of the relevant pension fund on the day of receipt of the money by the management company.

3. Every pension fund must have its own units of account.

4. Account units/their parts shall have no nominal value. The value of a unit of account/its part shall be expressed in the currency of the Republic of Lithuania – the Litas. The value of each unit of account shall be determined by dividing the value of the net assets of the pension fund by the aggregate number of the units of account of the pension fund. The total value of all the units of account of the pension fund shall always be equal to the value of the net assets of the pension fund. The value of the units of account/their parts must be calculated to four decimal places and rounding shall be done using standard mathematical rounding conventions.

5. If in the cases specified in this Law or any other laws of the Republic of Lithuania, the funds accumulated by the participant or a part of these funds must be paid or transferred, the management company, upon receiving an appropriate document, shall, no later than on the following working day, convert the units of account recorded in the pension account of the pension fund's participant into money at the value of the account units on that day and pay or transfer the money.

6. Units of account may be divided into sub-units, and the value of the amounts in the pension account of a participant as well as the value of the net assets of the pension fund may be expressed in sub-units of the account units.

7. The procedure for the conversion of pension contributions and other funds belonging to a pension fund participant, which are transferred to another pension fund, into

units of account as well as the rules of conversion of units of account into money and payment of the money to their owners shall be set forth in the pension fund rules. When converting funds into units of account, the amount of units of account may be expressed in whole numbers or in decimal fractions pursuant to the pension fund rules. The Securities Commission shall have the right to set additional requirements for the conversion of to be transferred to another pension fund into units of account and the conversion of units of account into money.

### **Article 36. Pension Benefits**

1. The entitlement to pension benefits shall be acquired by a participant of a pension fund upon reaching the retirement age set out in the pension fund rules. It may not be shorter by more than 5 years than the statutory retirement age entitling to a state social insurance retirement pension.

2. A pension fund participant who is recognised by the State Medical and Social Expert Examination Commission a person of the 1<sup>st</sup> or 2<sup>nd</sup> category of disability shall be entitled to receive pension benefits from the date of recognition of his disability.

3. A participant of a pension fund shall have the right to defer the payment of pension benefits. For this purpose, the pension fund participant must file a written application with the management company requesting deferral in writing at least 3 months before reaching the retirement age as set forth in the pension fund rules. A participant of the pension fund shall have the right to revoke in writing at any time the deferral of the payment of pension benefits. In this case payment of pension benefits must start at least 2 months after the date of filing the application in writing to revoke the deferral of the payment of benefits.

4. Payment of pension benefits must start no later than within 3 months of the submission to the management company of documents confirming the right of a participant of the pension fund to pension benefits.

5. No other payments other than those set forth in this Law may be made from the pension account.

### **Article 37. Ways and Procedure of Payment of Pension Benefits**

1. Pension benefits may be paid to a pension fund participant, according to his choice, in any of the following ways of payment:

- 1) as a lump sum;

2) by periodically converting in portions the units of account recorded in the pension account into money and paying it, provided that such a form of payment of pension benefits is stipulated in the pension fund rules;

3) by purchasing an annuity from a life insurance company.

2. Where a pension fund participant is not entitled to a pension from the budget of the state social insurance fund or a pension from the state budget, the lump sum from the pension account may be paid only after a pension annuity has been purchased from a life insurance enterprise on behalf of a pension fund participant. The amount of the annuity must not be smaller than the basic state social insurance pension.

3. The way of payment of benefits shall be chosen by a pension fund participant at least three months prior to the moment when payment of benefits starts. The management company must inform the participant in a timely manner about the necessity to choose the way of payment of pension benefits to him.

#### **Article 38. Annuity**

1. An annuity shall be purchased from a life insurance company of the pension fund participant's choice for the sums calculated in his pension account.

2. A pension annuity shall be acquired upon signing by a pension fund participant of an insurance agreement with the payer of the pension annuity. Only a life insurance company may be the payer of a pension annuity.

#### **Article 39. Deductions from Pension Assets**

1. Remuneration to the management company for the management of the pension fund and to the depository for its services shall be paid from the pension assets which shall also be used to cover other expenses related to the pension fund management.

2. Only the expenses related to the management of the pension fund and provided for in the pension fund rules may be paid from the pension assets. The amount of these expenses may not exceed the limits established in the pension fund rules. All the other expenses, which are not provided for in the fund rules or which exceed the established limits, must be covered from the funds of the management company.

#### **Article 40. Confidential Information and Its Protection**

1. Information about a participant's contributions, benefits, the amount of units of account in his account and any other information related to the participant the disclosure of

which may cause harm to him shall be confidential. Employees of the management company or the depository as well as any other persons who have the right to have access to this information may disclose it only in cases specified in this Law.

2. Confidential information may be disclosed only to a pension fund participant himself, a person authorised by him, and to state institutions which need this information for the performance of their functions and access to which is provided for in the laws regulating their activities.

## **CHAPTER FOUR DEPOSITORY**

### **Article 41. Duty to Transfer Pension Assets to a Depository**

1. Pension assets must be entrusted to one depository for safe-keeping.
2. A depository shall have the right to delegate its functions or part or them to other depositories, which, however, will not exempt it from liability.

### **Article 42. Duties of a Depository**

1. A depository must act in the interest of the participants of a pension fund and:
  - 1) carry out instructions of the management company unless they conflict with the law and the pension fund rules;
  - 2) ensure that proceeds for the transferred pension assets are remitted to the pension fund within the set time limits;
  - 3) ensure that proceeds of the pension fund are used in accordance with the requirements of the law and the pension fund rules.
2. A depository must inform the Securities Commission and the supervisory board or board (where the supervisory board is not formed) of the management company about any violations of the law and the pension fund rules which come to his notice.
3. Remuneration for the services rendered by a depository may not exceed an amount stipulated in the pension fund rules.
4. A depository shall be liable for any loss sustained by the pension fund participants as a result of the depository's failure to perform its obligations or for performing them unsatisfactorily.

### **Article 43. Transfer of Management of Pension Assets to a Depository**

Where the authorisation of the management company to manage a pension fund expires and where the pension fund has not been transferred to another management company, the management of the pension assets shall be temporarily taken over by the fund's depository. In such a case the depository shall have all the rights and duties of the management company unless the law or the pension fund rules provide otherwise. The depository must transfer the management of the pension assets to another management company within three months after taking the management over. Where within three months the management of pension assets has not been transferred to another management company, the pension fund must be abolished and the pension assets must be distributed among its participants following the procedure set out in this Law (paragraph 8 of Article 34) and established by the Securities Commission.

#### **Article 44. Separation of a Management Company from a Depository**

1. No single company shall act as both a management company and a depository, with an exception of the case stipulated in Article 43 of this Law.
2. The manager of the administration of a management company, a member of its board or an employee may not hold the position of the manager, a member of the board, of the supervisory board or an employee of the depository to whom safe-keeping of the assets of the pension fund managed by that company have been entrusted.
3. The manager, members of the board, the supervisory board or employees of the depository which has custody of the pension assets may not make up more than  $\frac{1}{4}$  of the supervisory board of the management company managing that pension fund.

#### **Article 45. Replacement of a Depository**

1. A management company may replace a depository subject to the approval of the Securities Commission.
2. Where a depository fails to comply with the statutory requirements, perform its obligations or performs them improperly, the Securities Commission, with a view to protecting the rights of the participants of the pension fund, may instruct the management company to choose another depository.

## **CHAPTER FIVE INVESTMENT RULES**



## **Article 46. Objects of Investments**

1. The pension assets may consist solely of:

1) securities or money market instruments dealt in on markets which, under the Law on Securities Market, are regarded as regulated markets, operating in the Republic of Lithuania or a European Union Member State;

2) securities or money market instruments which are admitted to official listing on a stock exchange of a country other than a Member State of the European Union or which are dealt in on a regulated market situated in that country, recognised and open to the public and operating in accordance with the prescribed rules, provided that this stock exchange or the market is indicated in the pension fund rules;

3) recently issued securities, provided that the terms of issue set out the obligation of official listing on the stock exchange or on the trading list of a regulated market and that these securities are admitted to official listing within one year of their issuance (where this stock exchange or market is situated in a country referred to in subparagraph 2 of this paragraph, it must be indicated in the pension fund rules);

4) deposits with credit institutions with an up to 12 month maturity which may be withdrawn on demand provided that those credit institutions have their registered office in the Republic of Lithuania, a Member State of the European Union or another country subject to prudential rules which are no less stringent than those effective in the European Union;

5) money market instruments referred to in paragraph 2 of this Article;

6) investment units or shares of the entities of collective investment referred to in paragraph 1, Article 49 of this Law.

2. Investments into money market instruments which are not traded on a regulated market shall be allowed only on condition that the issue or the issuer of such instruments are regulated with a view to protecting investors and their savings and that these instruments have been:

1) issued or guaranteed by the government, regional or local authority, or the central bank of a Member State of the European Union, the European Central Bank, the European Union or the European Investment Bank, a non-member State or, in the case of a Federal State, by one of the members making up the federation or by an international body to which at least one Member State of the European Union belongs;

2) issued by an undertaking whose securities are dealt in on regulated markets referred to in subparagraphs 1 and 2, paragraph 1 of this Article;

3) issued or guaranteed by an undertaking which is subject to and complies with prudential rules in accordance with the criteria defined by Community law or the criteria which are at least as stringent as those laid down by Community law;

4) issued by a company meeting the criteria set by the Securities Commission, which has capital and reserves amounting to at least EUR 10 million, presents consolidated accounts and performs the function of financing of a group of companies which includes at least one company listed on a stock exchange, or which is used for the financing of securitisation vehicles (which benefit from a banking liquidity line) and the investments into such instruments are provided at least the same level of protection as that referred to in subparagraphs 1 to 3 of this paragraph.

3. The pension assets may not be invested into real estate, precious metals or certificates representing them.

4. Pension assets may be invested into derivative investment instruments solely for the purpose of risk management. A management company shall have the right to use derivative investment instruments only where the pension fund rules specify what derivative investment instruments the management company intends to use and for what purposes. Each derivative investment instrument must be based on a concrete investment transaction/investment position. Such a transaction and a derivative investment instrument used for the management of the risk thereof must be indicated in periodical reports of the management company.

#### **Article 47. Diversification of the Investment Portfolio**

1. No more than 5 percent of net pension assets may be invested into the securities or money market instruments issued by the same issuer, except in cases provided for in paragraphs 2, 5, and 6 of this Article.

2. More than 5 percent but no more than 10 percent of the net assets may be invested into the securities or money market instruments issued by the same issuer, provided that the amount of such investments does not exceed 40 percent of the net assets (this limit shall not apply to deposits).

3. Investments into deposits with one credit institution may not amount to more than 20 percent of net pension assets.

4. The total amount of investments into the securities and money market instruments issued by the same issuing body or deposits may not exceed 20 percent of net pension assets.

5. Investments into the securities or money market instruments of the Republic of Lithuania, a Member State of the European Union or their local authorities, any other state or an international body to which at least one Member State of the European Union belongs, issued or guaranteed by a single body, may not exceed 35 percent of net pension assets. The Securities Commission may also permit the investment of a higher portion of the net assets into the securities or money market instruments referred to in this paragraph, provided that the investors' interests remain duly protected and investments are made into the securities or money market instruments from at least 6 different issues, and investments into securities from any one issue do not account for more than 30 percent of the total net assets.

6. Investments into bonds issued by a credit institution which has its registered office in a Member State of the European Union and is subject, under the law, to special public supervision designed to protect the interests of bond-holders and provided that a sum generated by issuance of those bonds is invested in assets which, during the whole period of validity of the bonds, would be capable of covering claims attaching to the bonds and which, in the event of a failure of the issuer, would be used on a priority basis for the reimbursement of the principal and payment of the accrued interest may not exceed 25 percent of the net assets. When more than 5 percent but no more than 25 percent is invested in such bonds issued by one issuer, the total value of those investments may not exceed 80 percent of the value of the net assets.

7. The securities and money market instruments referred to in paragraphs 5 and 6 of this Article shall not be taken into account when calculating the investments which are subject to the maximum limit of 40 percent referred to in paragraph 2 of this Article. The limits provided for in paragraphs 1 to 6 of this Article may not be combined, thus the total sum of investments into securities, money market instruments issued by the same body, and deposits may under no circumstances exceed in total 35 percent of net pension assets.

8. Investments into securities and money market instruments issued by companies which are included in the same group for the purposes of consolidated accounts may not exceed 20 percent of the net assets.

#### **Article 48. Prohibition to Acquire Significant Influence over an Issuer**

1. Shares of any one issuing body held by a management company together with the shares of that issuer held by the pension funds managed by that company may not carry more than 1/10 of the total voting rights at the issuer's general shareholders meeting.

2. A pension fund may, with its own funds, acquire more than:

- 1) 10 percent of the total non-voting shares of a single issuing body;
- 2) 10 percent of the total debt securities of a single issuing body;
- 3) 10 percent of the money market instruments issued by a single issuing body.

3. The limits laid down in subparagraphs 2 and 3 of paragraph 2 of this Article may be disregarded at the moment of acquisition if, at that moment, the gross amount of the securities or money market instruments is not known.

4. The limits laid down in subparagraphs 2 and 3 of paragraph 2 of this Article shall not apply to securities or money market instruments issued or guaranteed by the state or local authorities.

#### **Article 49. Investment into Collective Investment Undertakings**

1. It shall be allowed to invest into the units of investment and shares of collective investment undertakings which meet the following criteria:

1) the undertakings are licensed in the Republic of Lithuania or in a country where supervision criteria are at least as stringent as those applied in the European Union and the Securities Commission co-operates with the respective foreign supervisory authority;

2) the rights, including regulation of property segregation, borrowing, lending, and uncovered transfer of property, of the participants of undertakings are provided no less protection than stipulated in this Law;

3) the undertakings submit half-annual and annual reports about their activities allowing assessment of their property and obligations, profit and operations during the reference period;

4) no more than 10 percent of their assets may be invested into the units of investment and shares of other collective investment undertakings;

5) the investment strategy of undertakings complies with the investment portfolio diversification requirements stipulated in Articles 46 - 48 of this Law.

2. No more than 20 percent of the net assets of a pension fund may be invested in each of the undertakings specified in paragraph 1 above.

3. Collective investment undertakings which are managed by the same management company or management companies in which more than a half of the members of the management bodies are the same persons or which are controlled by the same person or if one of those companies holds over 10 percent of votes at the general shareholders meeting of the other management company shall be deemed having a link.

Investment units or shares of linked collective investment undertakings may be acquired only at the value of the net assets.

#### **Article 50. Temporary Derogation from Investment Rules**

1. A pension fund may derogate from the investment limits laid down in this Chapter when it exercises pre-emptive rights attaching to the securities or money market instruments held by it. In such cases as well as when the provisions of the investment rules are violated due to reasons beyond the control of a management company, the derogation must be eliminated without delay, at least within 6 months.

2. The investment portfolio of a newly established pension fund may derogate from the requirements laid down in Articles 46 to 49 of this Law for six months after the approval of the pension fund rules.

### **CHAPTER SIX**

#### **COMMUNICATION OF INFORMATION**

#### **Article 51. Information Provided to Pension Fund Participants**

1. Pursuant to the procedure set forth in the pension fund rules, at least once every calendar year, the management company must inform in writing or in any other manner (if requested by the participant) every participant of a pension fund managed by it about the amount of the pension assets calculated in his pension account (the number of units of account recorded in the pension account and their value), the investment return, and the amount of the deducted taxes.

2. The management company must ensure that at any time, periodical statements, the pension fund rules should be made available to the participants upon request (the management company must provide, upon the participant's request, copies of statements and rules for a fee not exceeding their production costs) and that participants receive accurate and complete information about the amount of the assets accumulated in their individual pension accounts, the payment of contributions, the conclusions of audit of the company's financial activities, the choice of investment possibilities, the current investment portfolio, investment-related risks and costs, as well as any other information specified in paragraph 1 of this Article.

3. A pension fund participant, upon reaching the retirement age or when he becomes entitled to benefits under any other statutory provisions, the management

enterprise must supply to him detailed information about the available options of benefit choice.

#### **Article 52. Announcement of the Value of the Account Unit**

The management company must announce each day the value of the unit of account of each pension fund following the procedure established by the Securities Commission.

#### **Article 53. Information Provided to the Securities Commission**

1. The management company must draw up and file with the Securities Commission, following the procedure prescribed by it, the following regular reports about its activities and financial status:

1) an annual report of each financial year - within 4 months of the end of the reference period;

2) a report of the first six months of each financial year (hereinafter – “a half-yearly report”) – within 2 months from the end of the reporting half-year.

2. At the request the Securities Commission, the management company must draw up financial reports for the specified period and submit them to the Securities Commission following the procedure prescribed by it.

3. The accounting data contained in the annual report must be audited. The auditor’s qualified opinion must be submitted in the form of an annex to the annual report. The auditor’s opinion must state whether the value of the net assets is being calculated, whether the assets have been invested in accordance with the pension fund rules, and must also enumerate all the violations of this Law and other legal acts that have been established. At the request of the Securities Commission, the management company and/or the auditor must submit to it the full audit report as well as the explanations concerning financial statements of the pension fund.

4. Every month the management company must provide to the Securities Commission information about the structure of the property of each pension fund, the number of its participants, the contributions paid, the profit and its balance sheet.

5. The Securities Commission shall establish other requirements for the contents of periodic reports and the procedure of their filing with the Securities Commission, and shall have the right to include in the rules other mandatory periodical reports and documents and

to give a more detailed description of the rules for provision of information specified in this Article.

#### **Article 54. Information Provided to the Public**

A management company must publish its annual report in a national daily newspaper indicated in its articles of association no earlier than on the 15th calendar day and no later than on the 30th calendar day after submitting the annual report to the Securities Commission.

### **CHAPTER SEVEN**

#### **STATE SUPERVISION OF THE ACTIVITIES OF PENSION FUND MANAGEMENT COMPANIES AND DEPOSITORIES**

#### **Article 55. Accounting and Financial Statements**

1. The procedure for financial accounting and financial statements of management companies' own assets and pension assets shall be established by the Government or an institution authorised by it.

2. The depository with which the management company has concluded an agreement on safe-keeping of assets must provide to the management company all the documents necessary for drawing up of financial statements.

#### **Article 56. The Securities Commission**

1. The activities of management companies and depositories shall be supervised by the Securities Commission.

2. The Securities Commission shall perform the supervisory functions in accordance with this Law and the Law on Securities Market and shall assume the rights and duties provided for in this Law and other laws.

3. Acts or omissions committed by the Securities Commission may be appealed against in accordance with the procedure laid down in the Law on Administrative Proceedings.

#### **Article 57. Functions of the Securities Commission Relating to Supervision of the Activities of Management Companies and Depositories**

1. The Securities Commission shall perform the following functions:
  - 1) draft, approve, amend or repeal legal acts provided for in this Law;
  - 2) provide official explanations and recommendations on the issues relating to the activities of management companies;
  - 3) issue or withdraw licences for management companies;
  - 4) approve pension fund rules and amendments thereto;
  - 5) monitor, analyse, inspect and supervise in any other way the activities of management companies and depositories;
  - 6) issue mandatory instructions to management companies and depositories on the elimination of violations of legal acts, and apply any other sanctions provided for in this Law and other laws;
  - 7) have the right to receive data, in accordance with the procedure set forth in the law, about persons who, under this Law, are subject to the requirement of sufficiently good repute;
  - 8) co-operate with foreign supervisory institutions and exchange with them information necessary for carrying out supervisory functions;
  - 9) perform other functions set out in this Law and other laws.
2. The Securities Commission, acting in the interests of the participants of the pension fund, shall have the right to apply to the court for the protection of the public interest.

#### **Article 58. The Right of the Securities Commission to Carry out Inspections**

1. The Securities Commission, with a view to determining compliance of management companies and depositories with this Law and the subordinate legislation enacted on its basis, shall have the right to organise and carry out inspections.
2. During an inspection, the employees of the Securities Commission shall have the right:
  - 1) to receive explanations in writing or orally from persons involved in the violations under investigation and request them to arrive to the office premises of the person carrying out inspection in order to give explanations;
  - 2) upon producing their service card and a reasoned decision of the Securities Commission or a person authorised by it, to carry out an inspection/audit, freely enter the premises of management companies, depositories, and other legal persons related to the alleged violations, inspect the documents, record books, and other sources of information



needed for the inspection and, on the basis of the collected evidence, to receive expert opinion from appropriate institutions;

3) to require copies of the accounting documents, agreements, orders and other documents which are considered by the Securities Commission as important for the investigation;

4) to temporarily take away documents of management companies and depositories undergoing inspection that may be used as evidence of violations, leaving a motivated decision for removing the documents and a list of documents that have been taken away;

5) upon producing a motivated decision of the Securities Commission, to obtain from banking institutions data, certificates and copies of documents of financial operations related to the matter under investigation.

3. For the purpose of exercising the rights stipulated in paragraph 2 of this Article the Securities Commission may be accompanied by police officers.

#### **Article 59. Financial Fines for Violations of the Law**

In observance of the procedure set out in Article 62 of the Law on Securities Market, the Securities Commission, shall have the right to impose fines on:

1) legal persons acting as management companies without having the licence specified under this Law - in the amount of up to LTL 500, 000;

2) management companies which conclude pension accumulation agreements without having the approved pension fund rules - in the amount of up to LTL 100, 000;

3) management companies for violation of the procedure for the investment of pension fund assets provided in this Law, where property interests of the participants are exposed to risks - up to LTL 300, 000;

4) management companies for breaches of the provisions of this Law regulating the procedures of offering of services and advertising - in the amount of up to LTL 100, 000.”

*I promulgate this Law passed by the Seimas of the Republic of Lithuania.*

PRESIDENT OF THE REPUBLIC

ROLANDAS PAKSAS