

# **Act on Retirement Pension Saving**

The full wording of Act No. 43/2004 Coll. dated 20 January 2004 on retirement pension saving, as amended by Act No. 186/2004 Coll., Act No. 439/2004 Coll., Act No. 43/2004 Coll., Act No. 721/2004 Coll., Act No. 747/2004 Coll., Act No. 310/2006 Coll., Act No. 644/2006 Coll., Act No. 677/2006 Coll., Act No. 209/2007 Coll., Act No. 519/2007 Coll., Act No. 555/2007 Coll., Act No. 659/2007 Coll., Act No. 62/2008 Coll., Act No. 434/2008 Coll., Act No. 449/2008 Coll., Act No. 137/2009 Coll., Act No. 572/2009 Coll., Act No. 105/2010 Coll., Judgement of the Constitutional Court No. 355/2010 Coll., Act No. 543/2010 Coll. and Act No. 334/2011 Coll. (included provisions shall become effective from 1 November 2011)

The National Council of the Slovak Republic has adopted the following Act:

## **SECTION I**

### **PART ONE GENERAL PROVISIONS**

#### **DIVISION ONE Basic provisions**

#### **ARTICLE 1 Scope of the Act**

(1) This Act defines retirement pension saving, the scope of retirement pension saving, the legal relations under which retirement pension saving is conducted, the organization of retirement pension saving, the funding of retirement pension saving, and the supervision of how retirement pension saving is conducted.

(2) This Act does not apply to members of the Police Force, the Fire Brigade and Rescue Corps, the Mountain Life-Saving Service, the Slovak Intelligence Service, the National Security Office, the Court Guards and Prison Wardens Corps, the Railways Police, or customs officers<sup>1</sup>, nor to members of the Armed Forces serving in a professional capacity<sup>2</sup>.

#### **ARTICLE 2 Retirement pension saving**

For the purposes of this Act, "retirement pension saving" shall mean saving the purpose of which is, in combination with retirement insurance as defined by a separate regulation<sup>3</sup>, to ensure an income for the saver in retirement and for his survivors in the event of his death.

**DIVISION TWO**  
**Definitions**

**ARTICLE 3**  
**Gainful activity**

For the purposes of this Act, "gainful activity" shall mean:

1. the activity of an employee;
2. the activity of a self-employed person who is covered by mandatory pension insurance in accordance with a separate regulation.<sup>3</sup>

**ARTICLE 4**  
**Employee**

For the purposes of this Act, "employee" shall mean an employee as defined by a separate regulation.<sup>4</sup>

**ARTICLE 5**  
**Self-employed person**

For the purposes of this Act, "self-employed person" shall mean a self-employed person as defined by a separate regulation.<sup>5</sup>

**ARTICLE 6**  
**Saver**

For the purposes of this Act, "saver" shall mean a natural person who has concluded with a pension fund management company a retirement pension saving contract that is entered in the Register of Retirement Pension Saving Contracts (hereinafter "the Register of Contracts") in accordance with Article 64a(2). A saver under this Act shall also mean the beneficiary of a retirement pension or an early retirement pension as the disposable surplus in the meaning of Article 32.

**ARTICLE 7**  
**Legal capacity for retirement pensions savings**

The legal capacity of a natural person in regard to retirement pension saving shall mean the legal capacity of a natural person in regard to social insurance as laid down in a separate regulation.<sup>6</sup>

**ARTICLE 8**  
**Pension beneficiary**

"Pension beneficiary" shall mean a natural person who is paid a retirement pension, an early retirement pension, or a survivor's pension in accordance with this Act.

**ARTICLE 9**  
**Ban on discrimination**

(1) The rights of a saver in regard to retirement pension saving shall not be subject to any restriction or discrimination, direct or indirect, on grounds of sex, marital or family status, race, colour, language, age, health condition, beliefs or religion, political or other opinions, trade union activity, social origin, membership of a national or ethnic group, property status, ancestry, or other status, unless otherwise provided by law.

(2) The conduct of retirement pension saving must not involve establishing the sexual orientation of a saver or a pension beneficiary of retirement pension saving.

(3) For the purpose of the principle of equal treatment as referred to in paragraph (1), direct discrimination shall be taken to occur where a natural person under paragraph (2) is treated less favourably than another natural person is, has been, or could be treated in a similar situation. Indirect discrimination shall be taken to occur where an action puts a natural person under paragraph (2) at a disadvantage against another natural person by drawing a distinction based on any of the discriminatory grounds mentioned in paragraph (1) while an apparently equal approach is taken towards both natural persons. Indirect discrimination shall also mean an instruction to discriminate.

(4) Discrimination shall be deemed to include unwanted conduct which has the purpose or effect of violating the dignity of a person and which creates for a natural person under paragraph (2) an intimidating, hostile, degrading, humiliating, or offensive environment.

(5) The application of rights and obligations under this Act shall be in accordance with good morals.

(6) Where a natural person considers himself wronged because a condition laid down in paragraphs (1) to (5) has not been complied with, he may go to court to exercise his rights and to claim appropriate damages for non-pecuniary injury. Where a natural person who considers himself wronged because the principle of equal treatment has not been applied to him establishes before a court facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the pension fund management company or the insurance company to prove that there has been no breach of the principle of equal treatment.

**ARTICLE 10**  
**Employer**

For the purposes of this Act, "employer" shall mean an employer as defined by a separate regulation.<sup>7</sup>

**ARTICLE 11**  
**Insurance company**

For the purposes of this Act, an insurance company or the branch of a foreign insurance

company (hereinafter "insurance company") shall mean an insurance company which, on the basis of a licence to perform insurance activities in accordance with a separate regulation,<sup>8</sup> may pay out a retirement pension, early retirement pension, or survivor's pension under this Act.

**ARTICLE 12**  
**Competent insurance company**

For the purposes of this Act, a competent insurance company shall mean an insurance company under Article 11 which a saver has designated in an application for the payment of a retirement pension or an early retirement pension as the insurance company that is competent to conclude with the saver a contract on the payment of the retirement pension, early retirement pension, or survivor's pension.<sup>9</sup>

**ARTICLE 13**  
**Term of retirement pension saving**

The term of retirement pension saving shall be the period for which the saver has participated in retirement pension saving, unless otherwise provided by this Act.

**PART TWO**  
**PERSONAL SCOPE OF RETIREMENT PENSION SAVING**

**ARTICLE 14**  
**Person participating in retirement pension saving**

(1) Unless otherwise provided by this Act, persons whose participation in the retirement pension saving is mandatory are as follows:

- a) an individual born after 31 December 1986, who has voluntarily decided to participate in the retirement pension saving within a period of six months after the date he/she became insured for pension purposes under a separate regulation<sup>3</sup> for the first time after 31 December 2007 for the reason of the pursuit of the activities of employee, for the reason of being a self-employed person compulsorily insured for pension purposes, or for the reason of being a person voluntarily insured for pension purposes, provided that such first pension insurance has existed continuously for at least 150 days; and
- b) an individual born after 31 December 1986, who has voluntarily decided to participate in the retirement pension saving within a period of six months after the date he/she became insured for pension purposes under a separate regulation<sup>3</sup> for the first time after 31 December 2008 for the reason of
  1. providing regular care to a child aged up to six years under a separate regulation<sup>11</sup>, or for the reason of providing regular care to a child who, having attained six years of age, has had a long-term adverse health condition under a separate regulation<sup>12</sup>; or
  2. receiving attendance allowance, or for the reason of acting as a personal assistant of a severely disabled individual under a separate regulation<sup>12a</sup>.

(2) A natural person who prior to 1 January 2005 was covered by pension insurance in accordance with a separate regulation<sup>3</sup> shall be required to participate in retirement pension saving if in the period from 1 January 2005 to 30 June 2006, he decided to participate in retirement pension saving and if he is:

- a) an employee;
- b) a self-employed person who is covered by mandatory pension insurance in accordance with a separate regulation,<sup>3</sup>
- c) a person covered by voluntary pension insurance under a separate regulation.<sup>3</sup>

(3) Participation in retirement pension saving shall be compulsory also for a natural person who prior to 1 January 2005 was covered by pension insurance under a separate regulation,<sup>3</sup> or who from 1 January 2005 to 30 June 2006 is included in the register of job seekers or is, having attained 16 years of age, in systematic occupational training in the form of studies at a secondary school or an institute of higher education, and who is at this time not covered by pension insurance under a separate regulation,<sup>3</sup> if such a person has voluntarily decided to participate in retirement pension saving not later than six months after the first pension insurance under a separate regulation<sup>3</sup> has been established after 30 June 2006 provided that such first pension insurance has existed continuously for at least 150 days.

(4) A person participating in mandatory retirement pension saving also means a natural person to whom an injury annuity is paid under a separate regulation,<sup>3</sup> if he was a saver before the creation of entitlement to an injury annuity.

(5) Participation in the retirement pension saving is open to a saver who is compulsorily insured for pension purposes

- a) for the reason of providing regular care to a child aged up to six years under a separate regulation<sup>11</sup>, or for the reason of providing regular care to a child who, having attained six years of age, has had a long-term adverse health condition under a separate regulation<sup>12</sup>;
- b) for the reason of receiving attendance allowance, or for the reason of acting as a personal assistant of a severely disabled individual under a separate regulation<sup>12a</sup>; or
- c) as employee or self-employed person for whom the pension insurance premium is paid by the State during the receipt of maternity allowance under a separate regulation<sup>12b</sup> ..

## **ARTICLE 15**

### **Establishment and termination of the first participation in in retirement pension saving**

The first participation in retirement pension saving shall be established to a natural person specified in Article 14 (1) and (3) from the first day of a calendar month following the calendar month when a Retirement Pension Saving Contracts is entered in the Register of Contracts, and shall terminate on the termination date of pension insurance under a separate regulation<sup>3</sup>.

**ARTICLE 16**  
**Establishment and termination of saver's mandatory participation  
in retirement pension saving after termination of the first participation in retirement  
pension saving**

A saver's mandatory participation in retirement pension saving shall be established after termination of the first participation in retirement pension saving as of the commencement date of his pension insurance under a separate regulation<sup>3</sup>, and shall terminate on the termination date of pension insurance under a separate regulation.<sup>3</sup>

**ARTICLE 17**  
**Establishment and termination of participation in retirement pension saving to a saver who  
cares duly of a child or receives attendance allowance**

A participation in retirement pension saving shall be established to a saver specified in Article 14 (5) from the commencement date of mandatory pension insurance for reasons specified in Article 14 (5)(a) or (5)(b), and shall terminate on the termination date of mandatory pension insurance for the reason specified in Article 14 (5)(a) or (5)(b).

**ARTICLE 17a**  
**Termination of the participation in retirement pension saving of a saver applying for the  
transfer of pension rights**

A saver, who applies for the transfer of pension rights acquired in the pension system of the Slovak Republic into the system of the European Union or its institution and agrees with this transfer, the participation of the saver in the retirement pension saving shall terminate on the day on which the notification on this agreement was delivered to the Social Insurance Agency by the European Union or its institution. The participation shall terminate retrospectively as of the day of the first participation.

**ARTICLE 19**  
**Suspension of mandatory participation in retirement pension saving**

(1) The mandatory participation of an employee or self-employed person in retirement pension saving shall be suspended for so long as the mandatory pension insurance of the employee or self-employed person is suspended in accordance with a separate regulation.<sup>19</sup>

(2) The commencement of a suspension of mandatory participation in retirement pension saving shall be deemed to constitute a termination of the mandatory participation therein, and the expiry of the suspension shall be deemed to constitute an establishment of the mandatory participation therein.

**PART THREE**  
**CONTRIBUTIONS TO RETIREMENT PENSION SAVING**

**ARTICLE 20**  
**Payers of contributions to retirement pension saving**

(1) Unless otherwise provided by this Act, contributions to retirement pension saving (hereinafter "contributions") shall be paid by:

- a) an employer on behalf of his employees;
- b) a self-employed person subject to mandatory participation in retirement pension saving;
- c) a person covered voluntarily by pension insurance under a separate regulation<sup>3</sup>, participating compulsorily in retirement pension saving;
- d) the State;
- e) the Social Insurance Agency.

(2) The State shall make contributions for a saver who participates in the retirement pension saving under Article 14(1)(b) and Article 14 (5).

(3) The Social Insurance Agency shall pay contributions on behalf of the saver referred to in Article 14(4) for whom it pays a retirement insurance premium in accordance with a separate regulation.<sup>3</sup>

**ARTICLE 21**  
**Method of determining contributions**

The amount of contribution shall be determined using a percentage rate of the assessment base attained for the relevant period.

**ARTICLE 22**  
**Rate of contributions**

The rate of contributions shall be:

- a) for an employer, 9% of the assessment base;
- b) for a self-employed person subject to mandatory participation in retirement pension saving, 9% of the assessment base;
- c) a person covered voluntarily by pension insurance under a separate regulation<sup>3</sup>) participating compulsorily in retirement pension saving, 9 % of the assessment base;
- d) for the State, 9% of the assessment base;
- e) for the Social Insurance Agency, 9% of the assessment base.

**ARTICLE 23**  
**Assessment base**

(1) The assessment base of an employer shall mean the assessment base of an employer for the payment of pension insurance premiums in accordance with a separate regulation.<sup>20</sup>

(2) The assessment base of a self-employed person subject to mandatory participation in retirement pension saving shall mean the assessment base of a self-employed person subject to mandatory pension insurance in accordance with a separate regulation.<sup>20</sup>

(3) The assessment base of a person voluntarily participating in pension insurance in accordance with a separate regulation<sup>3</sup> shall mean the assessment base of a person subject to voluntary pension insurance for the payment of pension insurance premiums in accordance with a separate regulation.<sup>20</sup>

(4) The assessment base in monthly terms shall not be less than the amount of the assessment basis in accordance with a separate regulation.<sup>20</sup>

(5) The assessment base of a self-employed person subject to mandatory participation in retirement pension saving, and the assessment base of a person voluntarily participating in pension insurance in accordance with a separate regulation<sup>3</sup> subject to mandatory participation in retirement pension saving, shall in its total monthly amount not exceed the assessment base from which these persons pay pension insurance premiums in accordance with a separate regulation.<sup>20</sup>

(6) If a saver performs more than one gainful activity or if a saver, in addition to performing a gainful activity or gainful activities, is covered by pension insurance voluntarily in accordance with a separate regulation<sup>3</sup>, is subject to mandatory participation in retirement pension saving, his obligations to pay contributions shall be ranked according to the order of his obligations to pay premiums under a separate regulation.<sup>20</sup>

(7) If participation in retirement pension saving has lasted for only part of a calendar month or periods pursuant to Article 25 are in a calendar month, the adjustment and rounding of the assessment base specified in paragraph (4) shall be carried out in the same way as the adjustment and rounding of the assessment base under a separate regulation.<sup>20</sup>

(8) The assessment base of a natural person mentioned in Article 27(5) shall mean the amount designated by him which is not less than the amount of the assessment base as laid down in paragraph (4), applicable on the date when the contributions are paid up.

(9) The assessment base from which the Social Insurance Agency pays contributions on behalf of the beneficiary of an injury annuity in accordance with a separate regulation,<sup>3</sup> shall mean the assessment base from which the Social Insurance Agency pays retirement insurance premiums on behalf of the beneficiary of an injury annuity in accordance with a separate regulation.<sup>20</sup>

(10) The assessment base from which the State pays contributions pursuant to Article 20(2) shall mean the assessment base from which the State pays retirement insurance premiums and invalidity insurance premiums in accordance with a separate regulation.<sup>20</sup>

(11) The assessment base shall be rounded down to the nearest euro cent.

#### **ARTICLE 23a**

##### **Determining the assessment base on income arising under an invalidly terminated legal relationship between an employee and employer**

Where a court has decided that the legal relationship between an employee and employer has been invalidly terminated, the assessment base for each calendar month of the invalidly terminated legal relationship shall be a part of the income from the invalidly terminated legal relationship which falls on each such calendar month; Article 23(1), (4), (6), (7) and (11) shall also apply.

#### **ARTICLE 24**

##### **Applicable period for determining the assessment base**

The applicable period for determining the assessment base of a self-employed person subject to mandatory participation in retirement pension saving and of an employer shall be the period applicable for determining the assessment base of such a self-employed person and an employer in accordance with a separate regulation.<sup>29</sup>

#### **ARTICLE 25**

##### **Exclusion of the obligation to pay contributions**

(1) A self-employed person subject to mandatory participation in retirement pension saving shall not be required to pay contributions for the period in which such a person is not required to pay premiums under a separate regulation.<sup>30</sup>

(2) A person covered by pension insurance according to a separate regulation<sup>3</sup> participating compulsorily shall not be required to pay contributions for the period in which such a person is not required to pay premiums under a separate regulation.<sup>31</sup>

(3) An employer shall not be required to pay contributions for the period in which his employee is not required to pay premiums under a separate regulation.<sup>32</sup>

#### **ARTICLE 26**

##### **Transfer of contributions**

(1) A natural person or legal person who is required to pay contributions shall be required to transfer the contributions, unless otherwise provided by this Act.

(2) The contributions paid by the State on behalf of the persons mentioned in Article 20(2) shall be transferred by the Ministry of Labour, Social Affairs and Family of the Slovak Republic (hereinafter "the Ministry").

## **ARTICLE 27**

### **Payment of contributions**

(1) Contributions shall be paid to the account of the Social Insurance Agency held at the State Treasury. The appreciation of temporarily free funds in the form of contributions shall not be subject to a separate regulation.<sup>33</sup>

(2) For each saver, the Social Insurance Agency shall transfer contributions to the current account maintained for the pension fund which he selected when concluding or amending the retirement pension saving contract or which the Social Insurance Agency has assigned him, and where this account is maintained at the pension fund's depository.

(3) The payment of contributions to the account of the Social Insurance Agency held at the State Treasury, in accordance with paragraph (1), shall be made for one calendar month in arrears, unless otherwise provided by this Act.

(4) If a saver's participation in retirement pension saving lasted for only part of a calendar month, his contributions shall be paid for that part alone. The assessment base for the payment of the contributions shall be determined subject to Article 23(7).

(5) Where a natural person can pay supplementary premiums for pension insurance in accordance with a separate regulation,<sup>34</sup> supplementary contributions may also be paid for the period covered by the premiums.

(6) A self-employed person subject to mandatory participation in retirement pension saving shall pay contributions from the assessment base as amended by a supplementary tax declaration or by a supplementary payment assessment, from the date when the self-employed person, covered by mandatory pension insurance, pays the premiums from the assessment base as amended by the supplementary tax declaration or by the supplementary payment assessment in accordance with a separate regulation.<sup>35</sup>

(7) Where a person covered voluntarily by pension insurance according to a separate regulation<sup>3</sup> compulsorily participating in retirement pension saving changes the assessment base, the contributions from the changed assessment base shall be paid from the first day of the calendar month following the month in which the Social Insurance Agency was notified of the change in the assessment base.

- (8) Contributions shall be paid:
- a) by non-cash transfer,
  - b) by postal order, or
  - c) in cash.

**ARTICLE 28**  
**Due date of contributions**

(1) Contributions shall fall due on the eighth day of the calendar month following the calendar month for which the contributions are to be paid, unless otherwise provided by this Act.

(2) The contributions to be paid and transferred by an employee shall fall due on the due date of the premium that the employer is to pay and transfer in accordance with a separate regulation.<sup>36</sup>

(3) Where the payment of contributions under Article 27(1) to the account of the Social Insurance Agency at the State Treasury is made with a delay, the contributions shall be deemed to have been paid on time if:

- a) for a payment by non-cash transfer, the transfer date is stated as the last due date of contributions as referred to in paragraph (1) or (2);
- b) for a payment by postal order, the contributions are remitted on their last due date as referred to in paragraph (1) or (2).

**ARTICLE 28a**  
**Return of contributions**

(1) If the Social Insurance Agency has transferred contributions to a pension fund management company in an excessive amount, the Social Insurance Agency shall deduct an amount equal to the difference between the transferred amount of contributions and the correct amount of contributions from the next contributions that it transfers after the discovery of this fact.

(2) Within five working days after learning of the death of a saver, the pension fund management company shall notify the Social Insurance Agency of this fact. Within 90 days after learning of the death of the saver, the Social Insurance Agency shall request the pension fund management company to return the contributions paid on behalf of the deceased saver without legal grounds, or the Social Insurance Agency shall report in writing to the pension fund management company that the contributions assigned without legal grounds are not recorded by the Social Insurance Agency. If a saver's participation in retirement pension saving terminates and his new participation in retirement pension saving is not established within one year of the termination and the Social Insurance Agency cannot make the transfer mentioned in paragraph (1), the Social Insurance Agency shall request the pension fund management company to return the contributions paid on behalf of the saver without legal grounds. Following delivery of the request of the Social Insurance Agency mentioned in the second sentence or the third sentence, the pension fund management company shall forthwith transfer from the pension fund's current account to the account of the Social Insurance Agency at the State Treasury an amount equal to the product of the number of pension units credited to the saver's personal pension account from the contributions transferred without legal grounds and of the current value of one pension unit on the day preceding the transfer date. If the number of pension units credited to a saver's personal pension account is lower than the number of pension units credited from the contributions transferred without legal grounds, the pension fund management company shall,

forthwith after delivery of the request of the Social Insurance Agency referred to in the second sentence or the third sentence, transfer from the pension fund's current account to account of the Social Insurance Agency at the State Treasury an amount corresponding to the current value of the personal pension account from the date preceding the transfer.

(3) Upon the lapse of 90 days from the day when the Social Insurance Agency learnt of the death of the saver, cannot request the pension fund management company to return the contributions assigned without legal grounds.

(4) If the Social Insurance Agency assigns contributions to the pension fund management company upon closing the personal pension account due to the death of the saver, the pension fund management company is obliged to transfer these contributions without undue delay from the current account of the pension fund to the account of the Social Insurance Agency in the Public Purse.

## **PART FOUR PENSIONS**

### **DIVISION ONE Material Scope of Retirement Pension Saving**

#### **ARTICLE 29 Material scope of retirement pension saving**

(1) Under the conditions laid down by this Act, the payment of a retirement pension out of retirement pension saving shall be made in the form of:

- a) a programmed withdrawal with life annuity, or
- b) a life annuity.

(2) Under the conditions laid down by this Act, the payment of an early retirement pension from retirement pension saving shall be made in the form of:

- a) a programmed withdrawal with life annuity, or
- b) a life annuity.

(3) Under the condition's laid down in this Act, the payment of a survivor's pension from retirement pension saving shall be made in the form of:

- a) a widow's pension,
- b) a widower's pension, or
- c) an orphan's pension.

**DIVISION TWO**  
**Pensions from Retirement Pension Saving**

**ARTICLE 30**  
**Conditions for the payment of a retirement pension as a programmed withdrawal  
with life annuity or as a life annuity**

A saver shall, in accordance with this Act, be paid a retirement pension as a programmed withdrawal with life annuity or as a life annuity provided that:

- a) he has attained at least the retirement age,
- b) he has completed at least 10 years of retirement pension saving.

**ARTICLE 31**  
**Conditions for the payment of an early retirement pension as a programmed withdrawal  
with life annuity or as a life annuity**

A saver shall, in accordance with this Act, be paid an early retirement pension provided that:

- a) he has been awarded an early retirement pension under a separate regulation,<sup>3</sup> and
- b) the current balance of his personal pension account at the date of the application for payment of the early retirement pension represents the amount required to pay this pension for the rest of his life in an amount not less than 0.6 times the subsistence minimum for one adult natural person as laid down by a separate regulation.<sup>37</sup>

**Modes of payment of retirement pensions and early retirement pensions**

**ARTICLE 32**  
**Programmed withdrawal with life annuity**

(1) A programmed withdrawal with life annuity shall be a mode of payment of retirement pensions and early retirement pensions under this Act, one whereby the pension fund management company with which a saver has concluded a retirement pension saving contract or which has been assigned the saver by the Social Insurance Agency (hereinafter "the competent pension fund management company") pays the retirement pension or early retirement pension as the disposable surplus for the term of the programmed withdrawal and the competent insurance company pays the retirement pension for life or the early retirement pension for life.

(2) The disposable surplus mentioned in paragraph (1) shall be calculated as at the date of the application for payment of the retirement pension or early retirement pension as the difference between the current balance of the saver's personal pension account at this date and the amount required to purchase the retirement pension for life, or the early retirement pension for life, paid by the competent insurance company.

(3) The competent pension fund management company shall transfer from the pension fund whose pension units were recorded in the saver's personal pension account at the date of the

application for payment of a retirement pension or an early retirement pension, to the competent insurance company with which the saver has concluded a preliminary contract on the payment of a retirement pension for life or an early retirement pension for life,<sup>38</sup> funds, or other assets so agreed with the insurance company (hereinafter "assets"), in the amount required to pay the retirement pension for life or the early retirement pension for life. Assets transferred in accordance with the previous sentence shall be sufficient so that the competent insurance company can pay the retirement pension for life or the early retirement pension for life in an amount not less than 0.6 times the subsistence minimum for one adult natural person as laid down by a separate regulation.<sup>37</sup>

(4) After acquiring the assets mentioned in paragraph (3), the competent insurance company shall conclude with the saver a contract on the payment of a retirement pension for life or an early retirement pension for life, in an amount not less than that stipulated under Annex 1.

(5) Along with the transfer of assets under paragraph (3), the pension fund management company shall write off from the saver's personal pension account a number of pension units of the respective pension fund so that the aggregate of the current values of pension units is equal to the value of the assets transferred under paragraph (3).

(6) The total current values of the balance of pension fund pension units in the saver's personal account following the transfer of assets under paragraph (3) and the write-off of pension units under paragraph (5) shall be equal to the initial value of the disposable surplus.

(7) Changes in the value of the disposable surplus during the programmed withdrawal shall be made:

- a) by the payment of monthly instalments under paragraph (9);
- b) on the basis of the situation mentioned in Article 95(3) which has arisen prior to the date of the application for a retirement pension or an early retirement pension;
- c) a change in the current values of the pension fund pension units.

(8) The current value of the disposable surplus at a given date shall correspond to the current value of the personal pension account at this date.

(9) The term of the programmed withdrawal, being not less than one month, shall be designated by the saver in the application for payment of a retirement pension or early retirement pension. The amount of the monthly payments shall be designated by the competent pension fund management company as the quotient of the disposable surplus at the date of the application for payment of a retirement pension or an early retirement pension and the number of calendar months of the programmed withdrawal. During the term of the programmed withdrawal, the pension fund management company may change the amount of the monthly payment in accordance with developments in the value of the pension unit of the respective pension fund, or it may with the saver's agreement extend or shorten the term of the programmed withdrawal.

(10) The disposable surplus shall cease to exist when the last monthly payment under paragraph (9) is made.

**ARTICLE 33**  
**Life annuity**

(1) A life annuity shall be a mode of payment of retirement pensions and early retirement pensions under this Act, one whereby the competent insurance company pays the retirement pension for life or the early retirement pension for life.

(2) The competent pension fund management company shall transfer from the pension fund whose pension units were recorded in the saver's personal pension account at the date of the application for payment of a retirement pension or an early retirement pension, to the competent insurance company with which the saver has concluded a preliminary contract on the payment of a retirement pension for life or an early retirement pension for life,<sup>38</sup> funds, or other assets so agreed with the insurance company, in the current value of the saver's personal pension account.

(3) After acquiring the assets mentioned in paragraph (2), the competent insurance company shall conclude with the saver a contract on the payment of a retirement pension for life or an early retirement pension for life,<sup>9</sup> in an amount not less than that stipulated under Annex 1.

**Survivor's pensions**

**ARTICLE 34**  
**Conditions for the payment of a widow's pension and a widower's pension**

(1) A widow shall be paid a widow's pension under this Act where her husband was at the date of his death the beneficiary of a retirement pension or an early retirement pension under this Act.

(2) A widow shall be paid a widow's pension for a period of one year following the death of her husband.

(3) Upon completion of the period mentioned in paragraph (2), the widow shall be paid a widow's pension provided that at the date when the period mentioned in paragraph (2) is completed:

- a) she is looking after a dependent child;
- b) she is an invalid because of a decline by more than 70% in her capacity to perform a gainful activity, as defined by a separate regulation;<sup>3</sup> or
- c) she has attained retirement age.

(4) The dependent child referred to in paragraph (3) shall be a dependent child in the meaning of a separate regulation.<sup>39</sup>

(5) The payment of the widow's annuity shall be terminated upon termination of the entitlement to the widow's annuity under a separate regulation<sup>39a</sup>.

(6) Paragraphs (1) to (5) shall likewise apply to the payment of a widower's pension following the death of a wife.

### **ARTICLE 35**

#### **The amount of a widow's pension and the amount of a widower's pension succeeding the beneficiary of a retirement pension or an early retirement pension paid as a programmed withdrawal with life annuity**

(1) A widow's pension succeeding the beneficiary of a retirement pension or an early retirement pension paid as a programmed withdrawal with life annuity shall be paid by the competent pension fund management company in the amount of a monthly payment of the disposable surplus, for the duration of the programmed withdrawal as at the date of the husband's death.

(2) The amount of a widow's pension succeeding the beneficiary of a retirement pension or an early retirement pension paid as a programmed withdrawal with life annuity shall be paid by the competent insurance company in the amount of 60% of the retirement pension for life or early retirement pension for life as at the date of the husband's death.

(3) The widow's pension under paragraphs (1) and (2) shall be paid simultaneously.

(4) Paragraphs (1) to (3) shall likewise apply to the payment of a widower's pension following the death of a wife.

### **ARTICLE 36**

#### **The amount of a widow's pension, a widower's pension succeeding the beneficiary of a retirement pension or an early retirement pension paid as a life annuity**

(1) A widow's pension succeeding the beneficiary of a retirement pension for life or an early retirement pension for life shall be paid by the competent insurance company in the amount of 60% of the retirement pension for life or the early retirement pension for life as at the date of the husband's death.

(2) Paragraph (1) shall likewise apply to the payment of a widower's pension following the death of a wife.

### **ARTICLE 37**

#### **Conditions for the payment of an orphan's pension**

(1) A dependent child shall be paid an orphan's pension under this Act following the death of the child's parent or adoptive parent who at the time of death was the beneficiary of a retirement pension or an early retirement pension under this Act.

(2) Following the death of the parent, an orphan's pension shall not be paid from the date of the adoption of a dependent child, nor, following the death of an adoptive parent, shall it be paid from the date of a subsequent adoption.

(3) The payment of the orphan's annuity shall be terminated upon termination of the entitlement to the orphan's annuity under a separate regulation<sup>39b</sup>.

### **ARTICLE 38**

#### **The amount of an orphan's pension succeeding the beneficiary of a retirement pension or an early retirement pension paid as a programmed withdrawal with life annuity**

(1) An orphan's pension succeeding the beneficiary of a retirement pension or an early retirement pension paid as a programmed withdrawal with life annuity shall be paid by the competent pension fund management company in the amount of a the monthly payment of the disposable surplus, for the duration of the programmed withdrawal as at the date of the parent's or adoptive parent's death.

(2) An orphan's pension succeeding the beneficiary of a retirement pension or an early retirement pension paid as a programmed withdrawal with life annuity shall be paid by the competent insurance company in the amount of 40% of the retirement pension for life or early retirement pension for life as at the date of the parent's or adoptive parent's death.

(3) The orphan's pension under Paragraph (1) and (2) shall be paid simultaneously.

### **ARTICLE 39**

#### **The amount of an orphan's pension succeeding the beneficiary of a retirement pension or an early retirement pension paid as a life annuity**

An orphan's pension succeeding the beneficiary of a retirement pension for life or an early retirement for life shall be paid by the competent insurance company in the amount of 40% of the retirement pension for life or early retirement pension for life as at the date of the parent's or adoptive parent's death.

## **DIVISION THREE**

### **Payment of retirement pension saving pensions to another natural person or legal entity and inheritance in retirement pension saving**

### **ARTICLE 40**

(1) If a saver or a beneficiary of a retirement pension as the disposable surplus and an early retirement pension as the disposable surplus under this Act has died, and there are no persons to be paid a widow's pension as the disposable surplus, a widower's pension as the disposable surplus or an orphan's pension as the disposable surplus under this Act, then the current value of the deceased's personal pension account as of the day preceding the payment date expressed in pension units, shall be paid to a natural person or a legal entity stipulated by the deceased in the retirement pensions savings contract concluded with the pension fund management company as the beneficiary of these assets.

(2) If the deceased did not stipulate a natural person or a legal entity in the retirement pensions savings contract concluded with the pension fund management company as the beneficiary of these assets, or if this person does not acquire the right to the payment of a monetary amount corresponding to the current value of the personal pension account of the deceased on the day preceding the payment date, then the deceased's spouse, or, if he/she does not exist, the deceased's children shall acquire the right to the payment of a monetary amount corresponding to the current value of the personal pension account of the deceased on the day preceding the payment date. If the persons stipulated in the preceding sentence do not exist, then the deceased's parents, or, if they do not exist, the persons living in the common household with the deceased for at least one year before his death, and who took care of the common household for that reason or their subsistence was reliant on the deceased; shall acquire the right to the payment of a monetary amount corresponding to the current value of the personal pension account of the deceased on the day preceding the payment date; or, if these persons do not exist, this right becomes the subject of inheritance. The Civil Code is not applicable to the inheritance.

(3) If the right to the payment of a monetary amount corresponding to the current value of the personal pension account on the day preceding the payment date is created to several persons, and the portions are not specified, then each of them shall have the same share.

(4) On the day that the pension fund management company learns of the death of the saver or the beneficiary of a retirement pension as the disposable surplus, it shall transfer the current value of the deceased's personal pension account, calculated at the day preceding the transfer date, to the conservative fund of the pension fund management company, unless the deceased was at the date of his death already a saver in the conservative fund of the pension fund management company.

(5) The individual who become entitled under paragraph 1 to obtain payment of a sum of money corresponding to the current value of the personal pension account of a deceased person as at the date which precedes the payment, or the individuals referred to in paragraph 2, shall have the right to seek transfer of a sum of money corresponding to the current value of the personal pension account of a deceased person, expressed in pension units, as at the date which precedes the transfer from the pension fund management company to the personal pension accounts of such persons, if they are savers and apply for transfer of the sum under paragraph 7.

(6) The pension fund management company shall pay to the individual entitled to obtain payment of the sum of money under paragraphs 1 and 2, who has not applied for transfer of the sum of money under paragraph 7, the sum of money corresponding to the current value of the personal pension account of a deceased person as at the date which precedes the payment, on the basis of his/her written application, within five working days after the receipt of the application or notice under Article 28a( 2), the second sentence.

(7) The pension fund management company shall transfer to the individual entitled to obtain payment of the sum of money under paragraphs 1 and 2, if he/she is a saver, the sum of money corresponding to the current value of the personal pension account of a deceased person, expressed in pension units, as at the date which precedes the transfer to the personal pension account of that person, on the basis of his/her written application for transfer, within five working days after the receipt of the application or notice under Article 28a(2), the second sentence.

(8) On the date of payment of the sum of money under paragraph 6, or on the date of transfer under paragraph 7, the pension fund management company shall close the personal pension account of the deceased person.

(9) The sum of money under paragraph 6 shall not be paid, and the sum of money under paragraph 7 shall not be transferred, to the individual entitled to obtain payment of the sum of money under paragraphs 1 and 2, if he/she is found under the final decision of a court to have caused the death of the saver, who saved the given sum of money, by committing a wilful criminal act.

## **DIVISION FOUR**

### **Common Provisions on Pensions from Retirement Pension Saving**

#### **ARTICLE 41**

##### **Inclusion of a term of retirement pension saving**

Where a self-employed person subject to compulsory participation in retirement pension saving or a person voluntarily insured for pension purposes, compulsorily participating in retirement pension saving has failed to pay on time or in the correct amount the contributions for a term for which he was obliged to pay contributions, then this term shall be included as a term of retirement pension saving as of the date on which the due contributions are paid in full.

#### **ARTICLE 42**

##### **Exclusion of payment of a retirement pension**

(1) The beneficiary of an early retirement pension under this Act shall not be paid a retirement pension under this Act.

(2) An early retirement pension under this Act shall be deemed to be a retirement pension under this Act once retirement age has been attained.

#### **ARTICLE 43**

##### **Combination of pensions**

(1) Where in accordance with this Act a widow's pension and an orphan's pension or orphan's pensions, or a widower's pension and an orphan's pension or orphan's pensions, succeed the beneficiary of a retirement pension or an early retirement pension and are paid for the duration of a programmed withdrawal, the monthly payment of the disposable surplus shall be divided between the widow or widower and the dependent child or dependent children in equal parts so that the total monthly amount of the survivor's pensions represents 100% of the monthly payment of the disposable surplus.

(2) Where in accordance with this Act a widow's pension and an orphan's pension or orphan's pensions, or a widower's pension and an orphan's pension or orphan's pensions, succeed the beneficiary of a retirement pension for life or an early retirement pension for life, the total monthly amount of the survivor's pensions shall not exceed 100% of the amount of the retirement pension for life or the early retirement pension for life. If the total of the survivor's pensions exceeds this amount, each survivor's pension shall be proportionally reduced so that the amount mentioned in the first sentence is not exceeded.

(3) Paragraphs (1) and (2) shall likewise apply to the total amount of orphan's pensions under this Act which succeed the same deceased beneficiary of a retirement pension or an early retirement pension. If the payment of the orphan's pension to any of the dependent children terminates, or if another dependent child starts to be paid the orphan's pension, the amount of the orphan's pensions succeeding the same beneficiary of the retirement pension or the early retirement pension shall be proportionally adjusted so that they do not exceed the amount mentioned in Paragraph (2).

#### **ARTICLE 44**

##### **Payment of pensions from retirement pension saving**

(1) The competent insurance company or competent pension fund management company shall pay a pension from retirement pension saving upon the fulfilment of the conditions for such payment as laid down by this Act and it shall do so not earlier than from date when the application for the payment is made.

(2) An application for the payment of a retirement pension from retirement pension saving shall be made by the competent pension fund management company using the form prescribed by the pension fund management company.

(3) A pension from retirement pension saving under this Act shall be paid in advance in regular monthly intervals. The due date for a pension from retirement pension saving shall be designated by the competent pension fund management company and the competent insurance company with the agreement of the saver.

(4) Where a pension from retirement pension saving is paid to a country that is not a Member State of the European Union, the payment shall be made retrospectively at three-monthly intervals upon prior confirmation that the pension beneficiary is still alive, unless otherwise provided by an international treaty taking precedence over the laws of the Slovak Republic.

#### **ARTICLE 45**

##### **Remittance method for pensions from retirement pension saving**

(1) The method of remittance for pensions from retirement pension saving shall be agreed between the saver and the competent pension fund management company and the competent insurance company.

(2) Where a pension beneficiary of retirement pension saving is in care at a social services institution, the pension from retirement pension saving shall be remitted by the method laid down for the payment of a pension in a separate regulation.<sup>40</sup>

#### **ARTICLE 46**

##### **Recipient of a pension from retirement pension saving**

(1) The recipient of a pension from retirement pension saving shall be the pension beneficiary, the legal representative of the beneficiary, a natural person into whose foster care a dependent child has been entrusted, or the statutory representative of an institution in which a dependent child has been placed on the basis of a court order.

(2) Where the pension beneficiary is a natural person held in custody<sup>41</sup> or a natural person serving a prison sentence,<sup>42</sup> the pension from retirement pension saving shall be remitted through the institution at which he is being held in custody or serving a prison sentence.

#### **PART FIVE**

##### **PENSION FUND MANAGEMENT COMPANY**

##### **DIVISION ONE**

##### **Scope of Activities and Licence for the Incorporation and Operation of a Pension Fund Management Company**

#### **ARTICLE 47**

##### **Pension fund management company**

(1) A pension fund management company shall be a joint stock company having its registered office in the territory of the Slovak Republic, whose scope of business comprises the creation and management of pension funds for the conduct of retirement pension saving in the meaning of this Act, these activities being carried out on the basis of the licence for the incorporation and operation of the pension fund management company issued<sup>43</sup> by the National Bank of Slovakia.

- (2) The management of pension funds shall be understood to mean:
- a) the management of investments, which for the purposes of this Act shall mean increasing the value of assets held in a pension fund through decisions taken by the pension fund management company;
  - b) administration, which for the purposes of this Act shall mean:
    - 1. maintaining the personal pension accounts of savers,
    - 2. keeping the guarantee account of a pension fund;
    - 3. concluding retirement pension saving contracts including activity leading toward the conclusion of this policy, the provision of services connected with this activity and the provision of expert advice in the field of old-age pension saving under this act,

4. paying retirement pensions as the disposable surplus, early retirement pensions as the disposable surplus and survivor's pensions as the disposable surplus, in the manner laid down by this Act,
  5. keeping a list of savers and pension beneficiaries from retirement pension saving,
  6. calculating the value of a pension fund's assets and setting the value of the pension unit,
  7. keeping the accounts of a pension fund,
  8. maintaining business documentation,
  9. ensuring legal services for a pension fund,
  10. ensuring that tax liabilities relating to a pension fund's assets are met,
  11. exercising voting and other rights attached to the securities constituting a pension fund's assets,
  12. distributing income from the management of a pension fund's assets,
  13. meeting liabilities under legal relations with third parties and enforcing claims under legal relations with third parties, being liabilities and claims of the pension fund management company related to the acquisition of a pension fund's assets and to the management of a pension fund's assets,
  14. providing information to savers and pension beneficiaries from retirement pension saving, and handling any complaints they make,<sup>44</sup>
  15. internal control of compliance with generally binding legal regulations, decisions of the National Bank of Slovakia, and internal regulations,
  16. Risk management in the pension fund,
- c) the promotion and advertising of pension funds.

(3) A pension fund management company shall create pension funds in accordance with Article 72(4), and in the manner and for the purpose laid down by this Act.

(4) A pension fund management company may manage only pension funds created in accordance with this Act.

(5) A pension fund management company may not carry out an activity other than an activity stipulated by this Act.

(6) A pension fund management company shall be subject to the Commercial Code, except where otherwise provided by this Act.

(7) The business name of a pension fund management company shall include the designation "dôchodková správcovská spoločnosť, a.s." ("pension fund management company, a.s.") or the abbreviation "d.s.s., a.s.". No other natural person or legal person may have a business name that includes this designation or a designation in the Slovak language or a foreign language which is confusable with it.

(8) The minimum registered capital of a pension fund management company shall be at least EUR 9,950,000 and it shall be paid up in full prior to the filing of an application under Article 48(1).

(9) A pension fund management company may issue shares only in the form of registered book-entry securities.

- (10) It shall be prohibited to:
- a) change the scope of business or the legal form of a pension fund management company – an amendment to the licence for the incorporation and operation of the pension fund management company, approved by the National Bank of Slovakia, shall not be deemed to constitute a change in the scope of business;
  - b) change the character and type of the shares of a pension fund management company;
  - c) wind up a pension fund management company by consolidation or division;
  - d) sale of a company or of any part thereof on the basis of a contract for the sale of a company or of any part thereof.<sup>45</sup>

### **Licence for the incorporation and operation of a pension fund management company**

#### **ARTICLE 48**

(1) An application for a licence for the incorporation and operation of a pension fund management company shall be submitted to the National Bank of Slovakia by the founder of the pension fund management company.

(2) The licence mentioned in Paragraph (1) shall not be granted unless the following conditions are proved to have been met:

- a) the registered capital of the pension fund management company as mentioned in Article 47(8) is paid up in cash, this being deposited in a current account or deposit account (Article 101) held with a bank or the branch of a foreign bank situated in Slovak Republic, which fulfils the conditions to operate as a depository under Article 99(2) and with which the founder has concluded a contract under Paragraph (4)(k) as at the date when the Authority issued the licence for the incorporation and operation of the pension fund management company;
- b) the registered capital and other financial resources of the pension fund management company have a transparent and legal provenance;
- c) entities with a qualifying holding<sup>46</sup> in the pension fund management company are eligible and their relations with other entities are transparent, especially as regards interests in the registered capital and in the voting rights;
- d) persons nominated to be a member of the board of directors, a member of the supervisory board, a general proxy, a management employee<sup>47</sup> reporting directly to the board of directors who is responsible for professional activities under this Act, or an employee responsible for internal control are professionally qualified and trustworthy;
- e) a group with close links<sup>48</sup> that includes a shareholder with a qualifying holding in the pension fund management company is transparent;
- f) the exercise of supervision is not impeded by the close links of the group mentioned in paragraph (e);
- g) the exercise of supervision is not impeded by the legal system, the application of laws, or the enforceability of laws in a country which is a Member State of the European Union, a

- member of the European Economic Area, or a member of the Organization for Economic Co-operation and Development (hereinafter "Member State") and in the territory of which the group mentioned in paragraph (e) has close links, and nor is the exercise of supervision impeded by the legal system, the application of laws, or the enforceability of laws in a country which is not a Member State (hereinafter "non-Member State") and in the territory of which the group mentioned in paragraph (e) has close links;
- h) the registered office and headquarters of the pension fund management company are in the territory of the Slovak Republic – for the purposes of this Act, "headquarters" shall mean the place from which the operation of the pension fund management company is managed to a greater extent than from the registered office of the pension fund management company or the place where documents on the operation of the undertaking are kept for the exercise of supervision;
  - i) the articles of association of the pension fund management company comply with this Act;
  - j) the material provisions are in place for the operation of the pension fund management company, meaning the material and technical provisions for performing the activities of the pension fund management company, including the provision of electronic data transfer by means of secure communication to the register of the insured and savers (Article 110);
  - k) the organizational provisions are in place for the operation of the pension fund management company, meaning rules of prudent business conduct (Article 53) and operating rules (Article 61);
  - l) the choice of depository for the pension funds complies with this Act;
  - m) members of the board of directors, general proxies, and management employees of the depository who ensure the performance of the depository's activities are professionally qualified and trustworthy;
  - n) the statute of the pension fund is in accordance with this Act and it provides for adequate protection of savers and pension beneficiaries from retirement pension saving in regard to the investment strategy and risk profile of the pension fund – for the purposes of this Act, the risk profile of a pension fund shall mean the indication of the degree of risk attached to investing in the pension fund;
  - o) the prospectus of the pension fund is compiled in accordance with this Act.

(3) An application for the licence mentioned in Paragraph (1) shall state:

- a) the business name and registered office of the prospective pension fund management company;
- b) the identification number of the prospective pension fund management company, if assigned;
- c) the amount of the registered capital;
- d) a list of the shareholders with a qualifying holding in the prospective pension fund management company – the list shall include the name, domicile, and date of birth of natural persons thereon and the business name, registered office, and identification number of legal persons thereon, and the amount of the qualifying holding;
- e) the name, domicile, and date of birth of persons nominated to be a member of the board of directors, a member of the supervisory board, a general proxy, a management employee<sup>47</sup> reporting directly to the board of directors who is responsible for professional activities under this Act, or an employee responsible for internal control, and the information on

- f) their professional qualification and trustworthiness;
- f) information on the material and organizational provisions for the operation of the pension fund management company;
- g) a report on the technical equipment of the prospective pension fund management company, containing information about its computer equipment (hardware, software), information system, system for the technical processing of data, including information on the security of data transfer and the system for connecting to the register of the insured and savers (Article 110);
- h) the names of the pension funds that the pension fund management company will create and manage;
- i) the business name, registered office, and identification number of the depository of the pension funds;
- j) the name, domicile, and date of birth of the members of the depository's board of directors and the members of its supervisory board who ensure the performance of the depository's activities;
- k) the procedure for handling any complaints made by savers or pension beneficiaries from retirement pension saving;
- l) information on the system for managing the risks arising from the activities of the pension fund management company;
- m) a declaration by the applicants that the submitted information is complete and true.

(4) The following shall be attached to the application mentioned in Paragraph (1):

- a) the founder's deed or founder's contract;
- b) draft articles of association of the pension fund management company;
- c) a proposal for the organizational structure and organizational rules of the pension fund management company;
- d) draft internal regulations and operational procedures of the pension fund management company for ensuring that rules of prudent business conduct are fulfilled;
- e) draft internal management regulations and operating procedures of the pension fund management company for ensuring the fulfilment of operating rules;
- f) a brief professional resumé and document on the educational attainment and professional experience of the persons mentioned in Paragraph (3)(e), a document affirming their integrity in the meaning of Paragraph (12) that is not older than three months, and a statutory declaration that they meet the requirements laid down by this Act;
- g) a declaration by the applicants that no bankruptcy order has been made against them and that no petition for a bankruptcy order against them has been rejected on grounds of insufficient assets;<sup>49</sup>
- h) a document confirming that the registered capital has been paid up;
- i) draft statutes of the pension funds;
- j) draft prospectuses of the pension funds;
- k) a preliminary contract on the performance of depository services concluded between the founders of the pension fund management company and the depository;
- l) a brief professional resumé and document on the educational attainment and professional experience of the depository's management employees who ensure the performance of the depository's activities, a document affirming their integrity in the meaning of Paragraph (12) that is not older than three months, and a statutory declaration that they meet the requirements laid down by this Act;

- m) a business and financial plan of the pension fund management company for a period of at least ten years following the year in which the pension fund management company submitted the application for the licence for the incorporation and operation of the pension fund management company;

(5) Where documents mentioned in Paragraph (4) have been submitted to the National Bank of Slovakia in proceedings that predated the licence application mentioned in Paragraph (1), it shall suffice to submit instead of them a written declaration that the documents are up to date, complete, true and correct and that there has been no change in any of the facts they present, and that they continue to meet the requirements laid down by this Act; the declaration shall bear the certified signatures of the persons authorized to act on behalf of the applicant and shall include a list of the documents already submitted to the National Bank of Slovakia and the date of their submission.

(6) The National Bank of Slovakia shall decide on a licence application made under Paragraph (1) within a time limit stipulated by a separate regulation,<sup>50</sup> but not later than six months after the application was submitted.

(7) The National Bank of Slovakia shall refuse an application made under Paragraph (1) where the applicant does not fulfil, or does not evidence fulfilment of, a condition laid down in Paragraph (2). An application made under Paragraph (2) shall not be rejected because of the economic needs of the market.

(8) The conditions mentioned in Paragraph (2) shall be fulfilled without interruption for the duration of the validity of the licence for the incorporation and operation of the pension fund management company.

(9) The method of proving the fulfilment of the conditions under Paragraph (2) shall be stipulated by generally binding legal regulation to be issued by the National Bank of Slovakia.

(10) In order to be considered professionally qualified, a person nominated to be, in accordance with this Act, a member of the board of directors of a pension fund management company, a member of the supervisory board of a pension fund management company, a general proxy of a pension fund management company, a management employee reporting directly to the board of directors who is responsible for professional activities under this Act, an employee responsible for internal control, or a depository's management employee who will ensure the performance of the depository's activities shall be a natural person who has completed the second stage of university education, has at least three years' experience in the capital market sector or in another financial sector, and has at least three years' management experience in the capital market sector or in another financial market sector. In its organizational structure, a pension fund management company shall be required to include separately for each pension fund under its management the employees responsible for investment management as employees responsible for professional activities under this Act. An employee responsible for investment management shall report directly to the board of directors of the pension fund management company. An employee responsible for investment management shall have at least three years' experience in investment management in the capital market sector.

(11) For the purposes of this Act, a natural person shall be considered trustworthy if he is a natural person of integrity who in the previous ten years:

- a) has not held a position mentioned in Paragraph 3(e) in a pension fund management company, nor has been a management employee or a member of the statutory body or supervisory board of a financial institution whose licence has been revoked, at any time within one year before the revocation of the licence for the incorporation and operation of the pension fund management company;
- b) has not held a position mentioned in Paragraph (3)(e) in a pension fund management company managing pension funds that have come under compulsory administration, nor has been a management employee or a member of the statutory body or supervisory board of a financial institution placed under compulsory administration, at any time within one year before the compulsory administration was imposed;
- c) has not held a position mentioned in Paragraph 3(e) in a pension fund management company, nor has been a management employee or a member of the statutory body or supervisory board of a financial institution, at any time within one year before a bankruptcy order was made against this company or institution, or a petition for a bankruptcy order against it was refused on grounds of insufficient assets, or this company or institution went into liquidation;
- d) has not been validly fined an amount in excess of 50% of an amount that could be imposed under this Act or under a separate regulation;<sup>51</sup>
- e) has performed his duties or conducted his business in a reliable and conscientious manner and without breaching any generally binding legal regulations, and, having regard to this fact, guarantees that he will exercise the office for which he has been nominated in a reliable and conscientious manner, without breaching any generally binding legal regulations, and in fulfilment of his obligations under generally binding legal regulations, under the articles of association of the pension fund management company, and under any internal regulations.

(12) To be considered a natural person of integrity, a natural person shall not have been validly convicted for an intentional criminal offence or for a criminal offence committed in connection with the exercise of his duties; integrity shall be proved with an extract from the Criminal Register that is not older than three months or, if the person is a foreigner, with a similar confirmation of integrity issued by a competent authority of the country in which he is domiciled or in which he usually resides.

(13) In proceedings for the issuance of a licence mentioned in Paragraph (1), the National Bank of Slovakia may recognize the trustworthiness of a natural person who has exercised an office mentioned in Paragraph 11(a) to (c), where the nature of the matter implies that the natural person, in respect of the time for which he held the office mentioned in Paragraph 11(a) to (c), could not have influenced the activities of the pension fund management company or the financial institution, nor have caused the consequences referred to in Paragraph 11(a) to (c).

(14) For the assessment of the conditions mentioned in Paragraph (2)(c), an eligible entity with a qualifying holding shall be understood to mean a legal person or natural person who provides credible evidence of having met the conditions laid down in Paragraph 2(b), who will, as all the circumstances make clear, provide for retirement pension saving in a proper manner in the meaning of this Act in order to protect the interests of savers and pension beneficiaries from

retirement pension saving, who proves his financial capacity to overcome any adverse financial situation of the pension fund management company, and who has been carrying on activities within the scope of his business for three years without interruption prior to submitting the application for a licence for the incorporation and operation of the pension fund management company. A legal person or a natural person shall not be considered eligible if he is in liquidation, if he is subject to a bankruptcy order, if a petition for a bankruptcy order against him has been refused on grounds of insufficient assets, or if it is less than five years since any such bankruptcy proceedings were concluded or a mandatory settlement was reconfirmed, and not sooner than one year after the settlement of his liabilities under bankruptcy proceedings in accordance with a court-approved timetable.<sup>49</sup>

(15) The documents submitted by the founders of a pension fund management company to the Authority along with the licence application made under Paragraph (1) shall be original documents; if the original documents cannot be submitted, then their officially certified copies shall be submitted.

(16) When a pension fund management company is founded, an interest of more than 50% in its registered capital may be held only by a bank, an insurance company, a reinsurance company, a securities dealer, or an entity having its registered office outside the territory of the Slovak Republic which has any similar scope of business and which is licensed to do so by the competent authority of the Member State in which it has its registered office.

(17) When a pension fund management company is founded, an aggregate of interests in its registered capital amounting to more than 50% of the total may be held only by legal persons mentioned in Paragraph (16).

(18) Only a legal person mentioned in Paragraph (16) may be the sole founder of a pension fund management company.

(19) Only a legal person mentioned in Paragraph (16) may be a shareholder holding more than 50% of the registered capital of a pension fund management company.

(20) Only legal persons mentioned in Paragraph (16) may be shareholders holding more than 50% of the registered capital of a pension fund management company.

(21) A shareholder's number of votes shall be determined by the nominal value of its shares relative to the amount of the registered capital. The shareholders of a pension fund management company mentioned in Paragraphs (19) and (20) may not be restricted in the exercise of their voting rights by the articles of association of the pension fund management company.

(22) For the purposes of this Act, "financial institution" shall mean an asset management company, the branch of a foreign asset management company, a securities dealer, the branch of a foreign securities dealer, a bank, the branch of a foreign bank, an insurance company, the branch of a foreign insurance company, a reinsurance company, the branch of a foreign reinsurance company, a central depository of securities, a stock exchange, a supplementary pension company, an entity with a similar scope of business which has its registered office outside the territory of the Slovak Republic.

## ARTICLE 49

Before issuing the licence for the incorporation and operation of a pension fund management company to a legal person which is:

- a) a subsidiary<sup>52</sup> of a foreign asset management company, a foreign securities dealer, a foreign bank, or a foreign insurance company;
- b) a subsidiary of the parent company<sup>53</sup> of this foreign asset management company, foreign securities dealer, foreign bank, or foreign insurance company;
- c) controlled<sup>54</sup> by the same natural persons or legal persons who control this foreign asset management company, foreign securities dealer, foreign bank, or foreign insurance company;

the National Bank of Slovakia shall consult the issuance of this licence with the competent supervisory authority of the Member State which has issued such a licence to the foreign asset management company, the foreign securities dealer, the foreign bank, or the foreign insurance company whose registered office is in that Member State.

## ARTICLE 50

(1) The licence for the incorporation and operation of a pension fund management company shall be issued for an indefinite time and may not be transferred to another entity, nor assigned to a successor of the pension fund management company, unless otherwise provided by this Act.

(2) The statement of a decision to license the incorporation and operation of a pension fund management company shall state the following in addition to the general particulars of the decision as defined in a separate regulation:<sup>55</sup>

- a) the business name and registered office of the pension fund management company whose establishment and operation is the subject of the licensing;
- b) the scope of business;
- c) the name, domicile, and date of birth of natural persons who may exercise the office of a member of the board of directors, a member of the supervisory board, or a general proxy;
- d) the approval of the articles of association of the pension fund management company;
- e) the names of the pension funds;
- f) the approval of the statutes of the pension funds;
- g) the approval of the prospectuses of the pension funds;
- h) the business name, registered office, and identification number of the depository.

(3) The licence for the incorporation and operation of a pension fund management company may also state the conditions which the pension fund management company must meet prior to commencing the performance of its licensed activities.

(4) At the request of a pension fund management company, the National Bank of Slovakia may issue a decision to amend the licence for the incorporation and operation of the pension fund management company. The assessment of an application to amend the licence for the incorporation and operation of a pension fund management company shall be subject, as

appropriate, to Article 48. Where information stated in the licence for the incorporation and operation of a pension fund management company is amended on the basis of the prior approval issued by the National Bank of Slovakia under Article 52, such amendment shall be considered approved upon the issuance of the prior approval by the National Bank of Slovakia. An amendment to the licence for the incorporation and operation of a pension fund management company involving only a change in the name or the place of domicile of a natural person or persons already approved under the procedure mentioned in Article 48 or 49 shall not require the approval of the National Bank of Slovakia. A pension fund management company shall give the National Bank of Slovakia written notification of any such change not later than 10 days from the day when it was informed or otherwise learned of this fact. An amendment to the prospectus which does not affect the compliance of its particulars with this Act shall not be considered an amendment to the licence for the incorporation and operation of a pension fund management company.

(5) A pension fund management company shall, on the basis of the licence for the incorporation and operation of the pension fund management company or an amendment thereto, file with the competent registration court a petition for its entry in the Commercial Register and it shall do so within 30 days from when the decision on the licence or the amendment thereto came into effect; it shall submit to the National Bank of Slovakia an extract from the Commercial Register within ten days after the effective date of the registration's court decision on its entry in the Commercial Register or on the amendment of its entry in the Commercial Register.

(6) A petition for the entry of a pension fund management company in the Commercial Register, or a petition for the amendment of its entry, shall include the valid decision of the National Bank of Slovakia on the licence for the incorporation and operation of the pension fund management company taken in accordance with this Act.

(7) Following its entry in the Commercial Register, a pension fund management company may commence the activities stated in the licence for the incorporation and operation of the pension fund management company, or in an amendment thereto, unless otherwise provided by this Act.

(8) A pension fund management company shall forthwith give the National Bank of Slovakia written notification of the commencement of the activities stated in the licence for the incorporation and operation of the pension fund management company, or in any amendment thereto.

(9) A pension fund management company shall forthwith give the National Bank of Slovakia written notification of any change in the condition based on which the licence for the incorporation and operation of the pension fund management company was issued, and of any changes in the facts mentioned in Article 48(2)(a) to (e) and (g) to (m).

## **ARTICLE 51**

(1) The licence for the incorporation and operation of a pension fund management company shall expire:

- a) as of the date when the pension fund management company transfers the management of its pension funds, along with the rights and obligations vis-à-vis savers which arise under retirement pension saving, to another pension fund management company, provided that the transferor is to be wound up for a reason other than the revocation of the licence for the incorporation and operation of the pension fund management company;
- b) upon the effective date of a bankruptcy order against the pension fund management company or upon the date of a valid decision to refuse a petition for a bankruptcy order against the pension fund management company on grounds of insufficient assets, taken in accordance with a separate regulation;<sup>49</sup>
- c) upon the date when the licence for the incorporation and operation of a pension fund management company is returned; the licence for the incorporation and operation of a pension fund management company may only be returned in writing and with the prior approval of the National Bank of Slovakia in accordance with Article 52(1)(i);
- d) if the pension fund management company has not filed a petition for the entry of its incorporation and operation in the Commercial Register in accordance with Article 50 (5);
- e) if within six months after its entry in the Commercial Register, the pension fund management company has not commenced the activities stated in the licence for the incorporation and operation of the pension fund management company, unless otherwise provided by this Act.

(2) A pension fund management company shall forthwith give the National Bank of Slovakia written notification of any facts mentioned in Paragraph (1)(a), (b), and (e).

(3) The founders of a pension fund management company shall forthwith give the National Bank of Slovakia written notification of any facts mentioned in Paragraph (1)(d).

(4) The National Bank of Slovakia shall forthwith notify the competent registration court of the issuance of the prior approval mentioned in Paragraph (1)(c).

## **DIVISION TWO**

### **Conditions for the Activities of a Pension Fund Management Company**

#### **ARTICLE 52**

##### **Prior approval of the National Bank of Slovakia**

- (1) The prior approval of the National Bank of Slovakia shall be required in order to:
- a) acquire or exceed an interest of 5%, 10%, 20%, 33%, 50%, or 66% in the registered capital of a pension fund management company or in the voting rights in a pension fund management company, in one or more transactions, either directly or acting in concert,<sup>56</sup> or to make a pension fund management company the subsidiary of another parent company; this is without prejudice to the provisions of Article 48(16) to (22);
  - b) reduce the registered capital of a pension fund management in excess of the registered capital mentioned in Article 47(8), unless the reduction is made because of losses;
  - c) elect a person nominated to be a member of the board of directors of a pension fund management company, or a member of the supervisory board of a pension fund management company, or in order to appoint a general proxy of a pension fund

- management company, or management employees in direct managing sphere of action of the Board of Directors responsible for the performance of specialist activities and for the appointment of an employee responsible for the exercise of internal control;
- d) wind up a pension fund management company without liquidation and to dissolve it by a merger with another pension fund management company, including the transfer to the successor pension fund management company of the pension funds' management and the rights and obligations arising from retirement pension saving vis-à-vis savers and pension beneficiaries from retirement pension saving;
  - e) amend the articles of association of a pension fund management company;
  - f) transfer to another pension fund management company the management of pension funds, along with the rights and obligations arising from retirement pension saving vis-à-vis savers and pension beneficiaries from retirement pension saving;
  - g) change the depository of a pension fund management company;
  - h) amend the statute of a pension fund;
  - i) return the licence for the incorporation and operation of a pension fund management company.

- (2) For prior approval to be issued,
- a) under Paragraph 1(a), the conditions laid down in Article 48(2)(c), (e) to (g) shall apply; the transparent and trustworthy, sufficient amount, and appropriate composition of the funds with which the operation is to be executed must be proved, and the conditions laid down in Article 48 (19) and (20) must be met;
  - b) under Paragraph 1(b), the capital adequacy requirement of the pension fund management company (Article 60) and the condition of the registered capital of the pension fund management company as laid down in Article 47(8) shall apply;
  - c) under Paragraph 1(c), the conditions laid down in Article 48(2)(d) shall apply;
  - d) under Paragraph 1(d), it must be proved that the other pension fund management company with which the pension fund management company is to merge meets the conditions laid down in Article 48(2) and the conditions must be ensured for the operations and activities related to the merger as mentioned in Article 68;
  - e) under Paragraph 1(e), the conditions laid down in Article 48(2)(i) and (k) shall apply;
  - f) under Paragraph 1(f), it must be proved that the pension fund management company to which the management of the pension funds is to be transferred meets the material, personnel, and organizational conditions laid down in Article 48(2) for the management of pension funds and that it complies with rules of prudent business conduct (Article 53) and operating rules in regard to the management of pension funds (Article 61); where there is to be a simultaneous change of depository, the conditions under Article 48(2)(l) and (m) must be proved and it must be demonstrated that the transfer of the pension funds' management does not threaten the interests of the savers or pension beneficiaries from retirement pension saving;
  - g) under Paragraph 1(g), the conditions laid down in Article 48(2)(l) and (m) shall apply;
  - h) under Paragraph 1(h) the conditions laid down in Article 48(2)(n) must be met;
  - i) under Paragraph 1(i), it must be proved that the pension fund management is no longer managing any pension funds, and the pension fund management company must prove that the management of the pension funds that it managed has been duly transferred to another pension fund management company and that it has settled all its liabilities towards the savers and pension beneficiaries from retirement pension saving, including any liabilities

arising under the wound-up pension funds.

(3) The provisions of Paragraph 1(a) and (d) are without prejudice to the provisions of a separate regulation.<sup>57</sup>

- (4) An application for prior approval,
- a) under Paragraph 1(a), shall be submitted by the legal or natural persons who plan to acquire an interest in the registered capital of the pension fund management company, or an entity which plans to become the parent company of the pension fund management company;
  - b) under Paragraph 1(b), (e), (g) to (i), shall be submitted by the pension fund management company;
  - c) under Paragraph 1(c), shall be submitted by the pension fund management company or a shareholder of the pension fund management company;
  - d) under Paragraph 1(d), shall be submitted by the pension fund management companies which are to be merged;
  - e) under Paragraph 1(f), shall be submitted by the pension fund management company which manages the respective pension funds or the compulsory administrator thereof.

(5) A decision on an application under Paragraph (1)(a) shall be taken by the National Bank of Slovakia within three months from when the application was delivered or supplemented. A decision on an application under Paragraph 1(c) shall be taken by the National Bank of Slovakia within 15 days from when the application was delivered or supplemented. A decision on an application under Paragraph 1(b), d), (e) to (i) shall be taken by the National Bank of Slovakia within a period stipulated by a separate regulation,<sup>43</sup> unless otherwise provided by this Act.

(6) The statement of a decision made under Paragraph 1(f) shall state in addition to the general particulars of the decision:

- a) the business name, registered office and identification number of the pension fund management company to which the management of the pension funds is to be transferred;
- b) the names of the pension funds whose management is to be transferred to another pension fund management company;
- c) the approval of amendments to the statutes of the pension funds concerning the pension fund management company to which the management of the pension funds is to be transferred;
- d) the business name, registered office, and identification number of the depository;
- e) the date designated for the transfer of the management of the pension funds.

(7) Where the general meeting or a competent body of a pension fund management company takes a decision on a matter for which the National Bank of Slovakia has granted prior approval, the pension fund management company shall submit a copy of the notarized minutes of the general meeting or a copy of the minutes of the competent body to the National Bank of Slovakia within ten days after they are drawn up. The pension fund management company shall forthwith inform the National Bank of Slovakia of the performance of any acts for which prior approval has been issued.

(8) Following the entry of changes in the Commercial Register, or the deletion of

information<sup>58</sup> entered in the Commercial Register, for which the National Bank of Slovakia has granted approval, the management company shall submit an extract from the Commercial Register to the National Bank of Slovakia within ten days after the respective entry or deletion was made.

(9) If a natural person for whom the National Bank of Slovakia has issued prior approval under Paragraph (1)(c) is not appointed or elected to the respective position within three months after the entry into force of the decision, the prior approval shall expire.

(10) In its decision to issue prior approval under Paragraph 1(a), (b), (d), (e), (g) and (h), the National Bank of Slovakia shall state the period after which the prior approval will expire if the operation for which it was issued has not been performed. This period may not be shorter than three months, nor longer than one year, from when the decision entered into force.

(11) Actions which under this Act require the prior approval of the National Bank of Slovakia shall be deemed invalid if performed without this prior approval, with the exception mentioned in Paragraph 1(a).

### **ARTICLE 53**

#### **Rules of prudent business conduct for a pension fund management company**

(1) A pension fund management company shall comply with the rules of prudent business conduct that apply to:

- a) the organization, management, and organizational structure of a pension fund management company (Article 54);
- b) the exercise of internal control (Article 55);
- c) accounting procedures (Article 56);
- d) the maintenance of business documentation (Article 57) and investment management (Article 47 (2)(a));
- e) conflict of interests (Article 58);
- f) the monitoring and maintenance of capital adequacy (Article 60).

(2) The purpose of the rules mentioned in Paragraph (1) shall be to ensure that a pension fund's assets are invested in compliance with this Act, with generally binding legal regulations, and with the statute of the pension fund.

(3) The National Bank of Slovakia may by means of a generally binding legal regulation stipulate the details of rules on prudential business conduct.

### **ARTICLE 54**

#### **Organization, management, and organizational structure of a pension fund management company**

(1) A pension fund management company shall, in its articles of association, regulate the relations and cooperation between its board of directors, supervisory board, general proxies,

management employees reporting directly to the board of directors who are responsible for professional activities under this Act, and the employee responsible for internal control.

(2) A pension fund management company shall draft and comply with internal regulations and procedures for ensuring the fulfilment of rules of business conduct and operating rules.

(3) The organizational structure and management system of a pension fund management company shall ensure the due and secure performance of the activities stated in the licence for the incorporation and operation of the pension fund management company, compliance with the principle of equality and protection of savers and pension beneficiaries from retirement pension saving, and the effective investigation and handling of complaints made by savers and pension beneficiaries from retirement pension saving; it shall minimize the risks to the interests of savers, pension beneficiaries from retirement pension saving, and prospective savers, resulting from a conflict of interest between the pension fund management company and its savers, pension beneficiaries from retirement pension saving or prospective savers, or between its savers, pension beneficiaries from retirement pension saving or prospective savers.

(4) The organizational structure of a pension fund management company shall include an employee responsible for the exercise of internal control. The pension fund management company is obliged to make all information of available to an employee responsible for the exercise of internal control and the source materials required for due performance of his activity. The Board of Directors is responsible for due performance of an activity of the employee responsible for the exercise of internal control.

(5) An employee of a pension fund management company responsible for

- a) the performance of activity pursuant to Article 47 (2a) or any part thereof may not perform simultaneously an activity pursuant to Article 47 (2)(b) or any part thereof,
- b) the risk management in the pension fund may not perform simultaneously the settlement of transactions in the pension fund,
- c) the accounting in the pension fund may not perform simultaneously the settlement of transactions in the pension fund.

(6) Within ten days after amending its organizational structure, a pension fund management company shall present the organizational structure to the National Bank of Slovakia.

(7) The board of directors of a pension fund management company shall have at least three members. A written legal act performed on behalf of a pension fund management company shall not be valid unless signed by at least two members of the board of directors of the pension fund management company.

(8) The board of directors of a pension fund management company may issue a general power of attorney to at least two general proxies in such a way that the consent of two of them is required for representation and signing.

(9) Members of the board of directors or general proxies who, in exercising their office, have caused damage by breaching his obligations, shall be held jointly and severally liable for this damage.

**ARTICLE 54a**  
**Protection of personal information**

(1) For the purposes of identifying savers and pension beneficiaries from retirement pension saving, and authorized persons mentioned in Article 40 (1), of concluding, performing and subsequently checking retirement pension saving contracts, and for the purposes mentioned in Paragraph (3), savers and authorized persons mentioned in Article 40 (1), when concluding a retirement pensions savings contract of the pension fund management company, with or without the consent of the persons concerned<sup>58a</sup> meet any request of the pension fund management company-

a) to provide:

1. personal identification information<sup>58b</sup> on the natural person, including his name, domicile address, temporary address, if any, birth registration number, if assigned, date of birth, citizenship, and the type and number of his identity document;
2. identification information on the legal person, including its name, identification number, if assigned, the address of its registered office, the address of its place of business or organizational units and any other place where its activities are performed, and its scope of business and other activities, as well as a list of the members of the statutory body of this legal person and information on them as laid down in point one, the designation of the official register or other official record in which this legal person is registered, and the number of its entry in this register or record;
3. a contact telephone number, fax number, and electronic mail address, if any;
4. documents and information proving the fulfilment of other requirements and conditions for concluding or performing a retirement pension saving contract;

b) to enable the following to be obtained by photocopying, scanning, or other means of recording:

1. personal identification information<sup>58b</sup> on the natural person from an identity document, including a visual likeness, title, name, maiden name, birth registration number, date of birth, place and district of birth, domicile address, temporary address, citizenship, record of any restriction of legal capacity, the type and number of the identity document, the issuing authority, and the date of issue and date of expiry of the identity document; and
2. additional information from documents proving the information to which paragraph (a) applies.

(2) When concluding any retirement pension saving contract, a pension fund management company may, for the purposes of identifying savers, pension beneficiaries from retirement pension saving and authorized persons, and for the purposes mentioned in Paragraph (3), require the savers to provide the information mentioned in Paragraph (1)(a) and may acquire it in the way laid down in Paragraph (1)(b). Savers and authorized persons shall be required to meet any such request made by the pension fund management company.

(3) A pension fund management company may, with or without the consent of the persons concerned,<sup>58a</sup> establish, obtain, record, store, use, and otherwise process<sup>58d</sup> personal information and other information in the extent laid down in Paragraph (1), for the purposes of identifying savers, pension beneficiaries from retirement pension saving and authorized persons, of

concluding, performing and subsequently checking retirement pension saving contracts, of protecting and exercising the rights of the pension fund management company towards pension beneficiaries from retirement pension saving and authorized persons, of documenting activities of the pension fund management company, of supervision over pension fund management companies and their activities, and of fulfilling the obligations and tasks of the pension fund management company in accordance with this Act and separate regulations;<sup>58c</sup> the pension fund management company may for this purpose, by automated or non-automated means, make copies of identity documents, and process the birth registration numbers and other information and documents set out in Paragraph (1).

(4) The information to which Paragraphs (1) to (3) apply shall be made available and provided<sup>58e</sup> by the pension fund management company, with or without the consent of, or informing, the persons affected,<sup>58a</sup> to other persons for the purpose of processing in the cases laid down by a separate regulation and to the National Bank of Slovakia for the purpose of exercising supervision in accordance with this Act and separate regulations.

(5) The information to which Paragraphs (1) to (3) apply may be made available or provided to another country only under the conditions laid down in a separate law<sup>58f</sup> or where so provided by an international agreement that is binding upon the Slovak Republic and takes precedence over the laws of the Slovak Republic.

## **ARTICLE 55**

### **Internal control**

(1) A pension fund management company shall draw up and maintain an effective internal control system. For each pension fund, a pension fund management company shall also draw up and maintain an internal control system. For the purposes of this Act, "internal control" shall mean the checking of compliance with laws and other generally binding legal regulations, the statutes of the managed pension funds, the articles of association of the pension fund management company, the rules of prudent business conduct, and other internal regulations and procedures within the activities of the pension fund management company, where the control is exercised by one or more employees of the pension fund management company or by another entities on the basis of a contract.

(2) The pension fund management company shall, within the internal control system, provide for the performance of the following activities in the interest of preventing the occurrence of loss and damage in consequence of an insufficient management of the pension fund management company:

- a) control activities which are a part of the operating work procedures, and implementation of corrective measures on the basis of the control activities, including the monitoring of the implementation of approved proposals and recommendations for correction of omissions;
- b) a control independent of the operating work procedures, which is carried out by an employee responsible for the internal control, while in extraordinary and predefined cases it is possible to be carried out as a part of the operating work procedure, provided that its independence is ensured and any conflict of interests excluded.

(3) The supervisory board of a pension fund management company may require the employee responsible for internal control to perform an internal control audit on the exercise of control in the pension fund management company, to the extent defined by the board.

(4) If the employee responsible for internal control learns during the course of his duties of any fact indicating a breach of the obligations imposed on the pension fund management company by laws or other generally binding legal regulations, the statutes of the managed pension funds, the articles of association of the pension fund management company, the rules of prudent business conduct, or other internal regulations and procedures within the activities of the pension fund management company, being such that could affect the proper performance of the activities of the pension fund management company, it shall forthwith give written notification of this fact to the supervisory board, the depository, and the National Bank of Slovakia.

(5) The employee responsible for internal control may not be a member of the board of directors, a member of the supervisory board, its proxy, management employee in direct managing sphere of action of the Board of Directors responsible for specialist activities or its employee responsible for the investment management, in any pension fund management company.

(6) The employee responsible for internal control shall submit a plan of control activities for the next year, to the National Bank of Slovakia by 31 December of the calendar year.

(7) The employee responsible for internal control shall submit to the National Bank of Slovakia by 31 March of the current calendar year a report on its activities for the previous calendar year, on any shortcomings identified in the activities of the pension fund management company and on measures adopted to redress the shortcomings. The National Bank of Slovakia may issue a generally binding legal regulation by which they lay down the structure and contents of the report according to the first sentence.

(8) The National Bank of Slovakia may order to the employee responsible for internal control to supplement the plan according to Paragraph (5) and the report according to Paragraph (6). The employee responsible for internal control shall supplement the above in a period specified by the National Bank of Slovakia.

## **ARTICLE 56**

### **Accounting**

(1) A pension fund management company shall keep separate and independent accounts for itself and each pension fund and it shall prepare financial statements for itself and for each pension fund administered by them.<sup>59</sup> The financial statement of a pension fund management company and a pension fund shall be audited by an auditor or by an auditing company (hereinafter: “the auditor”) and shall require the approval of the general meeting of the pension fund management company.

(2) A pension fund management company shall report the auditor to the National Bank of Slovakia in writing, which was approved by the supervisory board of the pension fund management company, until 30 June of the calendar year for which an audit is to be conducted.

Before 30 September of the same year, the National Bank of Slovakia is entitled to reject the auditor. A pension fund management company to which a licence pursuant to Article 48 is granted in the course of a calendar year shall make a report, according to the first sentence, within three months after the decision on licence pursuant to Article 48 becomes valid, and, within 30 days of delivery of this notice, the National Bank of Slovakia is entitled to reject the auditor. Within 15 days after the decision on auditor rejection becomes valid the pension fund management company is obliged to report a new auditor to the National Bank of Slovakia, approved by the supervisory board of the pension fund management company, and the National Bank of Slovakia is entitled to reject this auditor within 30 days of delivery of such a report. If the National Bank of Slovakia rejects also the other auditor, the National Bank of Slovakia shall specify which auditor will audit the financial statements of the pension fund management company and of the pension fund.

(3) The National Bank of Slovakia is entitled to order the performance of an extraordinary audit, if they discover any shortcomings in the financial statements according to Paragraph (1) audited by an auditor. The pension fund management company is obliged to report, in writing, to the National Bank of Slovakia, within 30 days of delivery of an order to conduct an extraordinary audit, the name of an auditor who will conduct an extraordinary audit. An extraordinary audit shall be conducted by an auditor other than the one who audited the financial statements under Paragraph (1).

(4) Costs of an extraordinary audit under Paragraph (3) shall be paid by the auditor who audited the financial statements under Paragraph (1), and if the reasons for an extraordinary audit are not confirmed, then these costs shall be paid by the National Bank of Slovakia.

(5) Apart from financial statements under a separate regulation,<sup>59</sup> a pension fund management company shall also prepare interim financial statements as at the last day of each calendar quarter.

(6) An auditor who audits the financial statements of a pension fund management company shall inform the National Bank of Slovakia without undue delay of any facts he learns in the course of his activity, and which

- a) indicates breach of the obligations imposed on the pension fund management company by laws,
- b) may affect the proper performance of the activities of the pension fund management company,
- c) may lead to a refusal to sign off on the ordinary financial statements or to the expression of reservations.

(7) The provisions of Paragraph (6) shall likewise apply to an auditor who audits the financial statements of natural persons and legal persons who along with the pension fund management company constitute a group with close links,<sup>48</sup>

(8) On written request by the National Bank of Slovakia, an auditor shall provide the source documents about facts under Paragraph (6) and other information and source documents discovered during the performance of his activity in the pension fund management company.

(9) A pension fund management company shall secure the protection of electronic data processing and storage against any misuse, destruction, damage, theft or loss.

**ARTICLE 57**  
**Business documentation**

(1) A pension fund's assets, as well as transactions in a pension fund's assets, shall be recorded separately from the assets of the pension fund management company and from the assets of other pension funds.

(2) A pension fund management company shall keep a register of contracts and instructions which apply to the use of a pension fund's assets. Access to this register shall forthwith upon request be provided to the National Bank of Slovakia and the depository. The register mentioned in the first sentence shall be maintained in such an extent and manner that makes it possible to document how a transaction was conducted and to identify retrospectively any transaction in a pension fund's assets made since the creation of the pension fund, including the time and place of the transaction and the identification of the trading partners; it shall include in particular:

- a) the serial number of the contract;
- b) information on the other contracting partner if this contracting partner is known;
- c) the date when the contract was concluded and the date when it came into effect;
- d) information on the subject-matter of the contract.

(3) A pension fund management company shall keep the records referred to in Paragraphs (1) and (2), and other documentation concerning the pension funds under its management and the service it provides, for at least five years from when it ceases to manage the pension fund to which the documents and records relate. A pension fund management company shall forthwith upon request provide this documentation to the National Bank of Slovakia.

(4) A pension fund management company may keep in paper form or electronically on durable media the records mentioned in Paragraphs (1) and (2) and other documentation concerning the pension funds under its management and the services it provides, provided that the condition of retrospective identification of information is met and the pension fund management company has a system in place to protect against information loss.

**Conflict of interests**

**ARTICLE 58**

(1) A pension fund management company shall prevent conflicts of interests between the pension fund management company and savers and pension beneficiaries from retirement pension saving in the pension funds under its management, and between savers and pension beneficiaries from retirement pension saving in the pension funds under its management, and between the managed pension funds.

- (2) A pension fund management company may not acquire for a pension fund's assets:
- a) shares in a legal entity that has a qualified holding in the registered capital of the pension fund management company,
  - b) shares in a pension fund management company that is managing this pension fund.

- (3) A pension fund management company may not acquire for a pension fund's assets securities issued by a legal entity in which
- a) a member of the statutory body or a proxy is a member of the board of directors, a proxy, a management employee in direct managing sphere of action of the Board of Directors responsible for specialist activities, or an employee responsible for the investment management of such a pension fund management company, or who is a person close to any of them.<sup>60</sup>
  - b) a member of the Board of Directors performs control<sup>54</sup>), a member of the Supervisory Board, a proxy, a management employee in direct managing sphere of action of the Board of Directors responsible for specialist activities, or an employee responsible for the investment management of such a pension fund management company, or who is a person close to any of them.<sup>60</sup>

“(4) A pension fund management company may not make deals related to the assets in the pension fund with a legal entity in which a member of the statutory body or a proxy is a member of the Board of Directors, a proxy, a management employee in direct managing sphere of action of the Board of Directors responsible for specialist activities, or an employee responsible for the investment management of such a pension fund management company, or who is a person close to any of them;<sup>60</sup>) this is not applicable to anonymous deals. A pension fund management company may not make deals with derivatives related to the assets in the pension fund with a legal entity that has a qualified holding<sup>46</sup>) in the registered capital of the pension fund management company.

(5) A pension fund management company may not use a pension fund's assets to cover or meet liabilities not directly concerning an activity related to the management or use of these assets.

(6) A pension fund management company may not use a pension fund's assets to cover or meet the liabilities of another pension fund. A pension fund management company may not make deals with a pension fund administered by such a pension fund management company.

(7) Members of the Board of Directors, members of the Supervisory Board, proxies, management employees in direct managing sphere of action of the Board of Directors responsible for specialist activities, employees responsible for the internal control, or employees responsible for the investment management of a pension fund management company management company may not be an employee, a proxy or a member of the statutory body of another financial institution; this shall not apply where the financial institution and pension fund management company are part of a group with close links<sup>48</sup>), and the provisions on conflict of interests under separate regulations are not affected by this.<sup>62</sup>

(8) Members of the board of directors, general proxies, or employees of a pension fund management company may not be a member of the supervisory board, a member of the Board of Directors, and a senior officer responsible for expert activities reporting directly to the Board of Directors of:

- a) a depository with which the pension fund management company has concluded a

- depository contract;
- b) another pension fund management company;
- c) an asset management company;
- d) supplementary pension fund management company;
- e) a person to whom the performance of activities was delegated under Article 67.

(9) Members of the Government of the Slovak Republic, heads of central government bodies who are not members of the Government of the Slovak Republic, members of the National Council of the Slovak Republic, civil servants employed in service offices that are central government bodies of the Slovak Republic, the Office of the President of the Slovak Republic, the Office of the National Council of the Slovak Republic, the Supreme Audit Office of the Slovak Republic, the Constitutional Court of the Slovak Republic, judges, prosecutors, employees of the Slovak Intelligence Service, members of bodies of the National Bank of Slovakia, and employees of the National Bank of Slovakia may not be a member of the board of directors, a member of the supervisory board, a general proxy, or an employee of a pension fund management company.

(10) Within the business of a pension fund management company, members of the board of directors, members of the supervisory board, general proxies, and employees of the pension fund management company may not place their own interests ahead of the interests of investors.

## **ARTICLE 59**

(1) Assets that may be an object of investment under this Act may be purchased by a pension fund management company for its own assets, or sold from its assets, provided that such purchase or sale does not conflict with the interests of savers or pension beneficiaries from retirement pension saving. A pension fund management company may not place its own interests ahead of those of savers and pension beneficiaries from retirement pension saving.

(2) Members of the board of directors, members of the supervisory board, general proxies, management employees<sup>47</sup> and employees responsible for the investment management of a pension fund management company, or persons close to them, may not acquire securities, money market instruments or derivatives from the assets of a pension fund managed by the pension fund management company, and nor may they sell such securities, money market instruments or derivatives for this pension fund's assets. If members of the Board of Directors, proxies, management employees in direct managing sphere of action of the Board of Directors responsible for specialist activities and employees responsible for the investment management of a pension fund management company purchase or sell a security of an issuer whose securities are included in the pension fund's assets, they shall inform the National Bank of Slovakia of this fact within three working days

(3) If a share or any other money market instrument which is in the assets of the pension fund administered by the pension fund management company is located also in the assets of the pension fund management company, the pension fund management company shall inform the National Bank of Slovakia of this fact within three working days..

**ARTICLE 60**  
**Capital adequacy of a pension fund management company**

(1) A pension fund management company shall maintain capital adequacy.

(2) Own funds of the pension fund management company are adequate according to this Act, if

- a) they are not lower than 25 % of the general operating expenses for the previous calendar year; if a pension fund management company has been running its activity for less than one year, 25 % from the value of the general operating expenses stated in its business-financial plan, and
- b) the ratio of difference of the liquid assets and liabilities and claims to the value of assets in all pensions funds under the management of the pension fund management company is not less than 0.005.

(3) A generally binding legal regulation to be issued by the National Bank of Slovakia shall stipulate in particular the definition of own sources a pension fund management company is obliged to maintain, how to calculate the amount of own funds, the definition of general operating expenses, liquid assets, liabilities and claims, how to calculate the amount of liquid assets, and how to prove the fulfilment of the capital adequacy of own funds mentioned in Paragraph (2).

**Operating rules for the management of pension funds**

**ARTICLE 61**

(1) In managing a pension fund's assets, a pension fund management company shall be required to act independently, in its own name, and in the interests of savers and pension beneficiaries from retirement pension saving; this is without prejudice to the right of a pension fund management company to delegate the performance of activities mentioned in Article 67(1) to another entity under Article 67.

(2) In managing pension funds, a pension fund management company shall be required in particular:

- a) to perform activities in the best interests of savers and pension beneficiaries from retirement pension saving, and in the interests of their protection, while complying with generally binding legal regulations, the statutes of the pension funds, and rules and decisions of the National Bank of Slovakia;
- b) to act honestly and fairly in the performance of its activities and in the best interests of savers and pension beneficiaries from retirement pension saving and in the interests of their protection;
- c) to act with professional care and prudence in the best interests of savers and pension beneficiaries from retirement pension saving and in the interests of their protection;
- d) to establish and maintain an effective system for the risk management in the interest of preventing the occurrence of damage and losses of the savers resulting from improper

performance of activities taking into account the ability of a pension fund management company to expose themselves to a risk, as well as the changing economic environment; a pension fund management company shall modify the risk management system and its updating method by an internal regulation,

- e) to make effective use of personnel and material-technical resources for the proper performance of its activities;
- f) to avoid a conflict of interests, especially a conflict with the interests of savers and pension beneficiaries from retirement pension saving, and where a conflict of interests is unavoidable, to give the interests of savers and pension beneficiaries from retirement pension saving priority over its own interests, the interests of shareholders in the pension fund management company, and the interests of other entities, and in the event of a conflict of interests, to ensure the equal and fair treatment of all the savers and pension beneficiaries from retirement pension saving;
- g) to apply the principle of equal treatment in relations with savers and pension beneficiaries from retirement pension saving.

(3) A risk management system is a system providing for timely and appropriate risk identification, measuring the size of risks, risk monitoring, risk mitigation, and appropriate reporting of all significant risks; it includes the strategy and an organisation, information flows and an information system for the risk management, a system for making deals and a system for the introduction of new types of deals.

(4) Exercising professional care under Paragraph (2) shall mean in particular:

- a) managing a pension fund's assets in accordance with the focus of the investment strategy and with the risk profile defined in the statute of the pension fund;
- b) preventing the risk of financial losses;
- c) analysing the economic favourability of transactions on the basis of available information;
- d) comparing the rates or prices of each purchase or sale with each other and with the development of rates and prices of, demand for, and supply of transferable securities, money market instruments and derivatives;
- e) concluding transactions in a pension fund's assets in such a way that the countervalue is transferred in favour of pension fund's assets on the principle of payment against delivery, provided that this is not precluded by the nature of the transaction, and within the time limits usual for the regulated market in which the transaction is made, or where the transaction is made outside a regulated market, within the contractually agreed time limits usual for the given type of transaction;
- f) buying or selling securities or money market instruments from the assets or for the assets of a pension fund for the best price obtainable in favour of the pension fund.

(5) A pension fund management company shall, at the request of the National Bank of Slovakia, provide credible evidence of the exercise of professional care. If a pension fund management fails to comply with this request, it shall be deemed not to have acted with professional care.

(6) Securities may be purchased for, or sold from, a pension fund's assets on the listed market of a stock exchange or on the regulated open market of a stock exchange or a foreign stock exchange only through the acceptance or submission of offers pre-designated for an

unspecified group of persons (anonymous transactions).

(7) The National Bank of Slovakia shall, in generally binding legal regulation, stipulate details of the operating rules for the management pension funds in accordance with Paragraphs (1) to (4) and details on what is to be understood by the exercise of professional care.

(8) A pension fund management company shall perform its activities so as not to breach the security of the financial system and it may not manipulate securities prices.<sup>63</sup>

(9) Savers and beneficiaries of a pension as the disposable surplus shall be compensated by the pension fund management company for any damage arising from the failure to fulfil, or inadequate fulfilment of, its obligations under the law or under the statute of the pension fund.

(10) In the event that a claim to compensation under Paragraph (8) is made in court proceedings under a separate regulation,<sup>64</sup> the pension fund management company shall, at the request of the saver or the beneficiary of a pension as the disposable surplus, prove that it has exercised professional care. If a pension fund management company does not comply with this request, or does not provide credible evidence of having exercised professional care, it shall be deemed not to have acted with professional care.

(11) Savers and pension beneficiaries from retirement pension saving may not make a claim for compensation against the National Bank of Slovakia for a breach of the law committed by a pension fund management company.

## **ARTICLE 62**

### **Confidentiality obligation**

(1) Members of the board of directors, members of the supervisory board, employees, general proxies, liquidators, compulsory administrators, receivers in bankruptcy, and other persons involved in the activities or liquidation of a pension fund management company shall keep confidential any facts which come into their possession by virtue of their position or in the fulfilment of their employment duties and which are relevant or concern the interests of savers and pension beneficiaries from retirement pension saving.

(2) The confidentiality obligation mentioned in Paragraph (1) shall remain in effect after the termination of the employment relationship or other legal relationship.

(3) The confidentiality obligation under Paragraph (1) shall not be deemed breached if the information is provided to:

- a) the Social Insurance Agency;
- b) the National Bank of Slovakia for the purpose of exercising supervision in accordance with this Act;
- c) a court for the purpose of civil court proceedings;<sup>64</sup>
- d) a criminal law enforcement authority for the purposes of criminal proceedings;<sup>65</sup>
- e) the Criminal Police or Financial Police of the Police Force for the purposes of meeting tasks laid down in a separate regulation;<sup>66</sup>

f) a tax authority for the purposes of tax proceedings.<sup>67</sup>

(4) The provisions of Paragraphs (1) to (3) are without prejudice to the obligation imposed by a separate law to prevent or report the commission of a crime.<sup>68</sup>

(5) Information acquired by the National Bank of Slovakia when exercising supervision in accordance with this Act may not be used for purposes other than the purposes of supervision.

### **ARTICLE 63**

#### **Remuneration of a pension fund management company**

- (1) A pension fund management company shall be entitled to:
- a) a fee for the management of a pension fund;
  - b) a fee for maintaining a personal pension account;
  - c) a fee for evaluation of the assets in a pension fund.

(2) The fee charged by a pension fund management company under Paragraph (1)(a) for one month's management of a pension fund, laid down in the statute of the pension fund, shall not exceed 0.025% of the average net monthly value of the pension fund's assets.

(3) The calculation of the fee mentioned in Paragraph (1)(a) shall use data on the net value of the pension fund's assets calculated in accordance with Article 75(4) for the respective period.

(4) The fee charged by a pension fund management company under Paragraph 1(b) shall be 1% of the amount of the monthly contribution credited to the current account of the pension fund after crediting the pension units to the saver's personal pension account. The procedure for the calculation and settlement of the fee for a pension fund's management and the fee for maintaining a personal pension account may be stipulated by a generally binding legal regulation to be issued by the National Bank of Slovakia.

(5) The amount of the fee charged by a pension fund management company under Paragraph 1(a) and (c), and any change in this fee, shall be determined by the pension fund management company. A change in the fee of a pension fund management company shall mean an increase or a decrease in the fee of a pension fund management company.

(6) An increase in the fee charged by a pension fund management company shall enter into force on the first day of the calendar month following the calendar month in which a period of three months elapsed from the date when the information on the change in the fee of the pension fund management company was provided to the Authority. A reduction in the fee charged by a pension fund management company shall enter into force on the first day of the calendar month following the month in which a period of one month elapsed from the date when the information on this change was provided to the National Bank of Slovakia.

(7) Not later than 30 days before the increase or reduction of a fee charged by a pension fund management company is to enter into force, the pension fund management company shall

give notification of the change in the fee in a periodical publication with nationwide circulation.

(8) The fee charged by a pension fund management company for the management of a pension fund shall include the company's costs related to the management of the pension fund's assets, except for the taxes related to the pension fund's assets.

(9) The fee charged by a pension management company under Paragraph 1(c) for one month's management of a pension fund, laid down in the statute of a pension fund, shall not exceed 5.6% of one sixth of the value of the pension fund's assets in a monitored period.

(10) A monitored period in accordance with this Act is defined as a 6 calendar months running period. The first monitored period begins on 1 July 2009.

(11) For the purpose of calculation of the fee charged by a pension fund management company under Paragraph 1(c), the evaluation of a pension fund's assets under Paragraph 9 shall be determined as the product of the ratio of the mathematical average of current values of the pension units for the last calendar month of a monitored period of the mathematical average of current values of the pension units for the first calendar month of a monitored period decreased by the value 1 and the average net value of the assets in a pension fund in a monitored period.

(12) The fee under Paragraph 1(c) shall be paid to the pension fund management company from the guaranteed account of a pension fund. The pension fund management company shall write off an amount of the pension units from the guaranteed account of a pension fund which corresponds to the share of the value under Paragraph 9 and to the current value of the pension unit.

(13) If the result of a calculation is negative under Paragraph 11, a fee by a pension fund management company under Par. 1(c) shall not be applicable and a pension fund management company is obliged to follow Article 63(c).

### **ARTICLE 63a**

Expenditures of a pension fund management company and expenditures incurred by natural persons and juristic persons in favour of a pension fund management company,

- a) on the conclusion of one policy on the old-age pension saving and related activity shall be at maximum 6% of the average monthly wage in the Slovak Republic economy as reported by the Statistics Office of the Slovak Republic for the calendar year preceding by two years the calendar year in which the policy on old-age pension saving was concluded,
- b) on promotion and advertising [Article 47(2)(c) and Article 112(1) and (3)] per calendar year shall be at maximum 1000 times the average monthly wage in the Slovak Republic economy as reported by the Statistics Office of the Slovak Republic for the calendar year preceding by two years the calendar year in which these expenditures were incurred.

## **ARTICLE 63b**

The fee will be credited to the guaranteed account of a pension fund on the first day of the calendar month (hereinafter only the „fee“) calculated in accordance with Annex No.3 as of the last day of the previous calendar month.

## **ARTICLE 63c**

(1) A pension fund management company is obliged to increase the current value of a pension unit calculated under Article 75(5) as of the last day of a monitored period according to Paragraph 2 and 3.

(2) If the current value of the guaranteed account of a pension fund expressed in financial terms is higher or equal to the absolute value of the amount determined under Article 63(11), a pension fund management company shall write off such amount of pension units of the guaranteed account of a pension fund which corresponds to the share of absolute value of the amount determined under Article 63(11) and to the current value of a pension unit under Article 75(5).

(3) If the current value of a guaranteed account of a pension fund expressed in financial terms is lower than the absolute value of the amount determined under Article 63(11), a pension fund management company shall write off all pension units of the guaranteed account of a pension fund and shall replenish from its own assets the difference between the absolute value of the amount determined under Article 63(11) and that of the current value of a guaranteed account of a pension fund expressed in financial terms.

(4) A net value of the assets in a pension fund valid as of the last day of a monitored period is the net value of the assets adjusted under Paragraph 3. The current value of a pension unit valid as of the last day of a monitored period shall be determined as a share of the net value of the assets in a pension fund adjusted under Paragraph 2 and 3 and according to the number of pension units adjusted under Paragraph 2 and 3.

(5) If the pension fund management company increases the current value of a pension unit in accordance with Paragraph 1 to 4, it shall no longer proceed under Article 63(11) and (13) in a monitored period.

## **Retirement pension saving contract**

## **ARTICLE 64**

(1) A retirement pension saving contract is a contract which a pension fund management company concludes with a natural person mentioned in Article 14 or with a saver who is not subject to mandatory participation in retirement pension saving and who is interested in switching to another pension fund management company.

(2) An employer shall not compel or persuade an employee to conclude a contract under Paragraph (1) with pension fund management company determined by the employer.

(3) A saver may for the same period conclude no more than one effective retirement pension saving contract. In the case of the switching of a saver under Article 64b, this shall not apply from the date when the retirement pension saving contract is entered in the Register of Contracts to the date of the saver's switching under Article 64b(5), during which period the saver may have two effective retirement savings contracts.

(4) Before concluding a retirement pension saving contract, a pension fund management company shall familiarize the prospective saver with the statutes of the pension funds created and management by the pension fund management company, with the reports on the management of the assets of each of the pension funds created and managed by the pension fund management company, and with the report on the management of the pension fund management company. A pension fund management company shall be liable for damage caused by activities related to the concluding of a retirement pension saving contract.

- (5) A retirement pension saving contract shall include:
- a) the business name and registered office of the pension fund management company, its identification number, the designation of the commercial register in which it is entered, and the number of its entry;
  - b) the name, place of domicile, date of birth, and social security identification number of the natural person who is concluding the retirement pension saving contract;
  - c) the name of the pension fund whose pension unit will be recorded in the saver's personal pension account;
  - d) the undertaking of the pension fund management company to maintain the saver's personal pension account and to manage the assets of the fund agreed under paragraph (c);
  - e) the date and place of concluding the retirement pension saving contract;
  - f) a declaration by the pension fund management company that it has fulfilled the obligations under Paragraph (4) and a confirmation of this fact by the saver;
  - g) the signatures of the contracting parties.

(6) If a natural person making a retirement pension saving contract or a saver specify a natural person as the beneficiary of assets pursuant to Article 40(1), for the case of their death, such a retirement pension saving contract must contain his name, surname, birth number and the place of permanent residence; if a legal entity is specified as the beneficiary of assets pursuant to Article 40(1), such a retirement pension saving contract must contain its name, the identification number and the seat of this legal entity.

(7) A retirement pension saving contract cannot be withdrawn from, repudiated, or terminated by the agreement of the contracting parties. A retirement pension saving contract shall terminate when the saver switches from the pension fund management company to another pension fund management company in accordance with Article 64b. A retirement pension saving contract shall terminate on the date of termination of the participation pursuant to Article 17a.

**ARTICLE 64a**  
**Register of Contracts**

- (1) The Social Insurance Agency shall establish and maintain the Register of Contracts.
- (2) A retirement pension saving contract shall come into effect immediately upon its entry in the Register of Contracts.
- (3) The Social Insurance Agency shall not enter a retirement pension saving contract in the Register of Contracts if:
- a) it contains incomplete or erroneous information;
  - b) the natural person who concluded the retirement pension saving contract is not an insured person under a separate regulation;<sup>3</sup>
  - c) the Social Insurance Company did not issue an acceptance slip under Article 64b(2) to a saver who concluded a policy on old-age pension saving under Article 64b(1).
- (4) If more than one retirement pension saving contract is delivered to the Social Insurance Agency, the contract that was delivered first shall be the one entered by the Social Insurance Agency in the Register of Contracts.
- (5) The Social Insurance Agency shall forthwith report entering of the retirement pension saving contract in the Register of Contracts, to the pension fund management company. The pension fund management company that concluded the retirement pension saving contract with a saver shall inform the saver of entering the retirement pension saving contract in the Register of Contracts without undue delay in writing.
- (6) If the Social Insurance Agency does not enter a retirement pension saving contract in the Register of Contracts, it shall report this fact without undue delay giving the reasons under Paragraph (3) to the pension fund management company. If the Social Insurance Agency does not enter a retirement pension saving contract in the Register of Contracts because of the reasons mentioned in Paragraph (3)(a) and (b), the pension fund management company shall inform the natural person that concluded the retirement pension saving contract in writing of its not entering in the Register of Contracts because of reasons mentioned in Paragraph (3)(a) and (b). If the pension fund management company removes the reason for not entering of the retirement pension saving contract according to the second sentence and sends again the data from such a contract pursuant to Article 65(4) to the Social Insurance Agency, then the Social Insurance Agency shall enter this contract in the Register of Contracts as at the day when the contract complying with the requirements of this Act was delivered to the Social Insurance Agency.
- (7) If the Social Insurance Agency does not enter a retirement pension saving contract in the Register of Contracts because of reasons other than those mentioned in Paragraph (3)(a), then the contract shall expire upon the day when the Social Insurance Agency informs the pension fund management company that the contract has not been entered in the Register of Contracts. The pension fund management company shall inform the natural person whose retirement pension saving contract has expired without undue delay in writing that the retirement pension saving contract according to the first sentence has expired.

(8) If a retirement pension saving contract that is entered in the Register of Contracts expires, a retirement pension saving contract that should not have been entered in the Register of Contracts because of the reason mentioned in Paragraph (3), if this reason is discovered after its entering in the Register of Contracts, or if a court decides that such contract is invalid or has not been established, the Social Insurance Agency shall forthwith delete this contract from the Register of Contracts. If the Social Insurance Agency deletes a retirement pension saving contract from the Register of Contracts, it shall forthwith notify the pension fund management company of this fact. The pension fund management company shall forthwith notify this fact to the natural person with whom it concluded the retirement pension saving contract deleted from the Register of Contracts.

(9) In the case that a retirement pension saving contract has been deleted from the Register of Contracts on the basis of a court decision on its invalidity, non-establishment or deletion from the Register of Contracts because of the reason that pursuant to Article 64a(3) it should not have been entered in the Register of Contracts, and the Social Insurance Agency has notified this fact to the pension fund management company in accordance with the second sentence of Paragraph (8), the pension fund management company shall, within five working days after the date of notification, transfer from the current account of the pension fund to the account of the Social Insurance Agency at the State Treasury an amount equal to the nominal value of the contributions paid to the current account of the pension fund. An amount corresponding to the difference between an amount equal to the current value of the personal pension account as of the date preceding the transfer date referred to in the first sentence and the amount transferred under the first sentence shall constitute common assets of the pension fund's savers.

(10) In the case that a retirement pension saving contract has been deleted from the Register of Contracts on the basis of a court decision on its invalidity, non-establishment or deletion from the Register of Contracts because of the reason that pursuant to Article 64a(3) it should not have been entered in the Register of Contracts, and the Social Insurance Agency has notified this fact to the pension fund management company in accordance with the second sentence of Paragraph (8), and if the amount equal to the current value of the personal pension account is less than the amount equal to the nominal value of the contributions paid to the current account of the pension fund, the pension fund management company shall, within five working days after the date of notification, transfer from the current account of the pension fund to the account of the Social Insurance Agency at the State Treasury an amount equal to the current value of the personal pension account as of the date preceding the transfer date and shall transfer from the current account of the pension fund management company to the account of the Social Insurance Agency at the State Treasury an amount corresponding to the difference between an amount equal to the nominal value of the paid contributions and an amount equal to the current value of the personal pension account as of the date preceding the transfer date.

(11) If the Social Insurance Agency has assigned contributions to a pension fund management company for a natural person whose retirement pension saving contract was deleted from the Register of Contracts, the Social Insurance Agency shall demand in writing, from a pension fund management company, the return of contributions that were assigned for this natural person without legal grounds.

**ARTICLE 64b**  
**Switching of a saver from one pension fund management company  
to another pension fund management company**

(1) The saver may transfer from a pension fund management company to a different pension fund management company if he presents the original of the acceptance slip to the pension fund management company he is entering and with which he concludes a policy on old-age pension saving. The retirement pension saving contract mentioned in the first sentence shall include an express written statement of the saver's willingness to switch to another pension fund management company.

(2) The acceptance certificate referred to in paragraph 1 shall be issued promptly by a branch of the Social Insurance Company competent for the place of residence of the saver who is interested in switching to other pension fund management company and who has applied in person for the issuance of the same. In the event that, as at the acceptance certificate issue date, less than one year has elapsed from the registration of the first retirement pension saving contract, or from the date of switching to the pension fund management company from which the saver is switching, the saver shall pay to the Social Insurance Company a fee for the issuance of the acceptance certificate amounting to EUR 16.

(3) The acceptance slip shall contain in particular the name and surname of the saver, the address of his permanent residence, the saver's social security identification number and a statement by the Social Insurance Company that the saver has fulfilled the conditions under paragraph (2).

(4) The acceptance slip shall be issued on a printed form, the content and form of which shall be set by the Social Insurance Company.

(5) If a saver switches from one pension fund management company to another pension fund management company and the retirement pension saving contract has been entered in the Register of Contracts:

- a) up to the fifteenth day of a calendar month, the date of switching to the other pension fund management company shall be the first day of the calendar month following the calendar month in which the contract was entered in the Register of Contracts;
- b) after the 15th day of a calendar month, the date of switching to the other pension fund management company shall be the first day of the second calendar month following the calendar month in which the contract was entered in the Register of Contracts.

(6) Having entered in the Register of Contracts the retirement pension saving contract concluded between a saver and the pension fund management company to which he has switched, the Social Insurance Company shall forthwith notify this fact to the pension fund management company from which the saver has switched and to the pension fund management company to which he has switched.

(7) A saver may not switch to another pension fund management company where he has filed an application for the payment of a pension under this Act with the pension fund management company with which he has concluded a retirement pension saving contract.

## **ARTICLE 65**

### **Obligations of savers, employers, and pension fund management companies**

(1) A saver shall forthwith notify his employer of the fact that he is a saver under this Act and of his social security identification number under a separate regulation.<sup>3</sup>

(2) Within eight days after changing his name, surname, birth number or place of domicile, a saver shall notify this fact to the pension fund management company with which he has concluded a retirement pension saving contract. A saver shall inform the pension fund management company with whom he has a retirement pension saving contract, without undue delay, of any change of the name, surname, birth number and permanent address of the beneficiary of assets pursuant to Article 40(1), if the beneficiary is a natural person, and of any change of the name, identification number and address of the seat of the beneficiary pursuant to Paragraph (1), if the beneficiary is a legal entity.

(3) A pension fund management company shall conclude a contract with a natural person participating in retirement pension saving.

(4) Within 15 days after concluding a retirement pension saving contract or an amendment thereto, a pension fund management company shall ensure that the information contained in this contract is forwarded in electronic form, in the structure and manner designated by the Social Insurance Agency.

(5) A pension fund management company is obliged without any undue delay upon the delivery of the written notification according to a special regulation<sup>68a</sup>) to transfer the amount corresponding to the current value of the personal pension account from the current account of the pension fund to the account of the Social Insurance Agency held at the State Treasury as at the date preceding the date of transfer.

## **ARTICLE 66**

### **Reporting obligation**

(1) A pension fund management company shall forthwith notify the National Bank of Slovakia of any change in its financial position or any other facts which could threaten its ability to meet liabilities towards savers, pension beneficiaries from retirement pension saving or prospective savers.

(2) A legal person or a natural person who intends to reduce his interest in the registered capital of a pension fund management company, or in the voting rights of a pension fund management company, to below 50%, 33%, 20%, 10%, or 5% in one or more transactions, whether directly or by acting in concert,<sup>57</sup> or who intends to cease being the parent company of a

pension fund management company, shall forthwith give the National Bank of Slovakia written notification of this fact.

- (3) The notification mentioned in Paragraph (2) shall state:
- a) for a natural person, his name, date of birth, and place of domicile, and, for a legal person, its business name, identification number, and registered office;
  - b) the extent to which the legal person or the natural person intends, in accordance with Paragraph (2), is to reduce his interest in the registered capital or in the voting rights of the pension fund management company.

(4) A pension fund management company shall notify the National Bank of Slovakia of any change in its registered capital which results in the interest of a single entity, or entities acting in concert,<sup>57</sup> increasing to more than 5%, 10%, 20%, 33%, or 50%, or where the interest of a single entity or entities acting in concert, in the registered capital or in the voting rights of a pension fund management company decreases to below 50%, 33%, 20%, 10%, or 5%, and it shall do so forthwith after receiving this information.

(5) A pension fund management company performing an activity mentioned in Article 47(3) shall also fulfil reporting obligations in accordance with a separate regulation to the extent that they are not covered by the reporting obligations laid down by this Act.

## **ARTICLE 67**

### **Delegation of activities related to the management of pension funds**

(1) A pension fund management company may, on the basis of a contract, delegate the performance of one or more activities mentioned in Article 47(2), except for the activities mentioned in Article 47(2)(a) and (b) in the points one, three, five, six, eight, twelve, fifteen and sixteen, to another natural person or legal person who is authorized to perform the delegated activities. A pension fund management company may not delegate the performance of any activity referred to in the previous sentence to another pension fund management company or a depository. A pension fund management company may not delegate the performance of any such activity to an entity whose interest could conflict with those of the pension fund management company, or savers and pension beneficiaries from retirement pension saving. A natural or legal person may perform the delegated activities only in the territory of the Slovak Republic.

(2) Activities related to the management of a pension fund may be delegated only if this does not prevent the performance of the depository's activities and provided that:

- a) the Authority is given prior notice of the intention of the pension fund management company to delegate one or more activities to another person;
- b) the statute of the pension fund includes a list of the activities which may be delegated to the persons mentioned in Paragraph (1);
- c) this does not prevent the exercise of effective supervision over the pension fund management company;
- d) this does not prevent the pension fund management company from acting in the best interests of savers and pension beneficiaries from retirement pension saving;
- e) this does not prevent the pension fund from being managed in the best interests of savers

- and pension beneficiaries from retirement pension saving;
- f) this does not prevent the pension fund management company from repudiating the contract mentioned in Paragraph (1) with immediate effect;
  - g) the person mentioned in Paragraph (1) has given a written undertaking to comply with this Act and the statute of the pension fund;
  - h) having regard to the nature of the positions that are to be delegated, the legal person mentioned in Paragraph (1) has in place the material, personnel, and organizational provisions for the performance of the delegated activities;
  - i) the depository's written consent to the proposed delegation of activities to another person has been submitted to the National Bank of Slovakia.

(3) A pension fund management company shall forthwith deliver to the Authority the contract on the delegation of activities to another entity and any amendments thereto, and it shall forthwith give notification of the termination of this contract.

(4) The delegation of activities related to the management of pension funds is without prejudice to the liability of the pension fund management company and the depository for any damage caused during the management of a pension fund's assets to savers or beneficiaries of a pension as the disposable surplus.

(5) Repealed as of 1 August 2006.

### **DIVISION THREE**

#### **Winding up of a Pension Fund Management Company**

#### **ARTICLE 68**

##### **Winding up of a pension fund management company without liquidation**

(1) A pension fund management company may be wound up without liquidation only through a merger with another pension fund management company, one which holds a valid licence issued by the Authority under Article 48 and which has created and manages pension funds that are under compulsory administration.

(2) A wound-up pension fund management company shall be dissolved upon being merged in accordance with Paragraph (1), and the business assets of the company (hereinafter the "dissolving pension fund management company") shall pass to the pension fund management company with which it is merging and which is to become its legal successor (hereinafter the "successor pension fund management company").

(3) In the case of a merger under Paragraph (1), the management of pension funds managed by the dissolving pension fund management company shall be transferred to the successor pension fund management company and the pension funds of the dissolving pension fund management company shall be merged with pension funds of the successor pension fund management company in the manner laid down in Article 79.

(4) In the case of a merger under Paragraph (1), the rights and obligations of the dissolving pension fund management company arising from retirement pension saving and from contracts concluded with savers and pension beneficiaries from retirement pension saving shall be transferred to the successor pension fund management company.

(5) For a pension fund management company to be wound up without liquidation through a merger with another pension fund management company, the prior approval of the Authority shall be required in accordance with Article 52(1)(d). The general meeting of a pension fund management company may decide to wind up the company through a merger only after the prior approval of the Authority has entered into force.

(6) The winding up of a pension fund management company without liquidation, carried out according to the procedures laid down in this Act, shall not be to the detriment of savers and pension beneficiaries from retirement pension saving, nor to the detriment of creditors of the pension fund management company.

(7) The provisions of a separate regulation<sup>45</sup> shall apply to the winding up of a pension fund management company without liquidation, unless otherwise provided by this Act.

## **ARTICLE 69**

### **Winding up and liquidation of a pension fund management company**

(1) The winding up and liquidation of a pension fund management company shall be preceded by the transfer to another pension fund management company (hereinafter the "transferee pension fund management company") of the management of the pension funds managed by the pension fund management company that is to be wound-up and of its rights and obligations arising from retirement pension saving and from contracts concluded with savers and pension beneficiaries from retirement pension saving; this procedure shall be subject to the prior approval of the National Bank of Slovakia in accordance with Article 52(1)(f).

(2) A pension fund management company shall forthwith be wound up and liquidated where:

- a) the licence for the incorporation and operation of the pension fund management company has expired under Article 51(1)(e);
- b) it has begun to create and manage fewer than three pension funds in the meaning of this Act in the period of six months since its entry in the Commercial Register;
- c) the licence for the incorporation and operation of the pension fund management company has been revoked under Article 73(3).

(3) Within 30 days after the entry into force of a decision by the National Bank of Slovakia on the prior approval mentioned in Article 52(1)(f), the transferee pension fund management company shall give the savers and pension beneficiaries from retirement pension saving who are affected by the transfer of the pension funds' management and of the other rights and obligations under Paragraph (1) notification of its business name and registered office, and it shall at the same time send these persons information on the statute of the pension fund, and on other related conditions of retirement pension saving, which it arranges in relation thereto.

(4) At the same time as transferring the pension funds' management, the pension fund management company that is to be wound up shall, in accordance with Paragraph (1), hand over to the transferee pension fund management company all documentation concerning such management and its other rights and obligations.

(5) After the National Bank of Slovakia has validly decided to issue the prior approval under Article 52(1)(i), the general meeting of the pension fund management company shall forthwith decide on the winding up and liquidation of the pension fund management company, and the procedure mentioned in Paragraph (1) shall take place.

(6) The provisions of a separate regulation<sup>45</sup> shall apply to the winding up and liquidation of a pension fund management company, unless otherwise provided by this Act.

(7) The liquidation of a pension fund management company shall apply to the assets thereof.

(8) The liquidator of a pension fund management company shall be appointed and recalled by the National Bank of Slovakia. A liquidator may resign his position by giving a written notice to the National Bank of Slovakia. The resignation of a liquidator shall take effect once the decision of the National Bank of Slovakia on the appointment of a new liquidator for the pension fund management company has entered into force.

(9) A pension fund management company that enters into liquidation shall, on the basis of a resolution by its general meeting, submit a proposal for the appointment or recall of the liquidator of the pension fund management company and a proposal for the setting of the liquidator's remuneration.

(10) The National Bank of Slovakia shall at its own initiative appoint a liquidator and determine his remuneration where:

- a) the pension fund management company has failed to submit the proposal under Paragraph (9) within 30 days after its general meeting decided to wind up and liquidate the pension fund management company or decided to recall or appoint a new liquidator for the pension fund management company;
- b) the liquidator has resigned his position.

(11) A liquidator appointed by the National Bank of Slovakia shall file a petition for his entry in the Commercial Register. A petition for the deletion of an outgoing liquidator's entry in the Commercial Register shall be filed by the liquidator appointed by the National Bank of Slovakia to replace the outgoing liquidator.

## **ARTICLE 70**

### **Winding up of a pension fund management company by a court**

(1) The provisions of a separate regulation<sup>45</sup> shall apply to the winding up of a pension fund management company by a court, unless otherwise provided by this Act.

(2) A court shall, on the basis of a petition by the National Bank of Slovakia, wind up a pension fund management company where the situation mentioned in 69(2)(a) has arisen and the general meeting of the pension fund management company has not decided within the 30 days under Article 69(5) to wind up the pension fund management company, or where the pension fund management company has been sanctioned under Article 115(1)(p).

## **ARTICLE 71**

### **Bankruptcy order against a pension fund management company**

(1) Where a bankruptcy order has been made against a pension fund management company, the receiver in bankruptcy shall cooperate with the National Bank of Slovakia, the depository and the compulsory administrator in regard to the compulsory administration imposed under Article 118.

(2) A pension fund's assets shall not be included in bankruptcy proceedings against the pension fund management company, nor may they be used in an arrangement with the creditors of the pension fund management company made in accordance with a separate regulation.<sup>49</sup>

(3) Following the day on which a pension fund management company receives from a court a petition for a bankruptcy order<sup>69</sup> against it, the company shall forthwith give the National Bank of Slovakia written notification of this fact. The pension fund management company shall in the notification identify the court to which the bankruptcy petition is addressed, who filed it, what matters it concerns, and what its purpose is, and it shall attach to the notification a copy of the bankruptcy petition.

(4) On the day when a pension fund management company learns that a bankruptcy order against it has entered into force, and not later than the day when it takes delivery of a bankruptcy order or of a court's decision to reject a bankruptcy petition on grounds of insufficient assets, the pension fund management company shall give the National Bank of Slovakia written notification of this fact. After taking delivery of a copy of a bankruptcy order or of a court's decision to reject a bankruptcy petition on grounds of insufficient assets, a pension fund management company shall forthwith send a copy of the order or decision to the National Bank of Slovakia.

(5) After the National Bank of Slovakia has received the notification mentioned in Paragraph (3), it shall forthwith decide to place all the pension funds of the pension fund management company under compulsory administration. The purpose of compulsory administration shall be to protect the pension funds' assets and the interests of savers and pension beneficiaries from retirement pension saving in the event that a bankruptcy order is made against the pension fund management company or a bankruptcy petition is refused on grounds of insufficient assets. The provisions of this Act on compulsory administration as laid down in Article 118 shall likewise apply.

(6) In its decision taken under Paragraph (5), the National Bank of Slovakia shall:

- a) stipulate that the compulsory administration will end on the effective date of the bankruptcy order made against the pension fund management company against which the bankruptcy petition was filed, or on the effective date of a court's decision to reject the

- bankruptcy petition on grounds of insufficient assets, or on the effective date of a court's decision to reject the bankruptcy petition because insolvency has not been established;
- b) stipulate the pension fund management company to which the management of the pension funds will be transferred on the effective date of the bankruptcy order or the effective date of the decision to reject a bankruptcy petition on grounds of insufficient assets; the management of pension funds of the pension fund management company against which the bankruptcy order was made, and its rights and obligations arising from retirement pension saving and contracts concluded with savers and pension beneficiaries from retirement pension saving, shall be transferred to this pension fund management company.

**PART SIX**  
**PENSION FUNDS AND PERSONAL PENSION ACCOUNTS**

**DIVISION ONE**  
**The Pension Fund**

**ARTICLE 72**

(1) A pension fund contributions, penalties and assets replenished under Article 63c(3), assets acquired from the investment of these contributions and penalties, income on assets acquired from the contributions and penalties, and assets acquired from income on assets acquired from the contributions and penalties (hereinafter a "pension fund's assets"). The methods and procedures for determining the value of a pension fund's assets shall be stipulated in a separate regulation to be issued by the National Bank of Slovakia.

(2) The creation of a pension fund by a pension fund management company shall be based on the licence for the incorporation and operation of the pension fund management company issued under Article 48.

(3) A pension fund management company may not create pension funds other than those whose creation and management is licensed by the National Bank of Slovakia under the decision on the issuance of the license referred to in Paragraph (2).

- (4) A pension fund management company shall create and manage:
- a) one growth pension fund,
  - b) one balanced pension fund,
  - c) one conservative pension fund.

(5) The pension funds mentioned in Paragraph (4) are distinguished according to the type of financial instruments<sup>70</sup> that, within the investment of the pension fund's assets, should ensure the appreciation of these assets (Paragraph 1), according to the portfolio created,<sup>71</sup> to the degree of risk attached to increasing the value of the pension fund's assets (hereinafter "the degree of risk"), and to the name. The degree of risk is highest in the growth pension fund and lowest in the conservative pension fund.

(6) The full name of a pension fund shall include the business name of the pension fund

management company that manages this pension fund, the name of the pension fund itself, and the words "growth pension fund", "balanced pension fund", or "conservative pension fund". The word "growth" may be abbreviated to "g.", the word "balanced" may be abbreviated to "b.", the word "conservative" may be abbreviated to "c.", and the words "pension fund" may be abbreviated to "p.f.". No other natural person or legal person may use the name of a pension fund, or a designation confusable with it in the Slovak language or a foreign language, for his own designation or to describe his own activities, unless otherwise provided by this Act. The name of a pension fund together with the business name of the pension fund management company must not be confusable with the name of another pension fund and must not give a misleading impression of the focus and objectives of the pension fund's investment strategy.

(7) The term for which a pension fund is created shall be indefinite.

(8) The creation of a pension fund shall commence as soon as the first contribution is credited to the pension fund's current account held with the depository.

(9) After the creation of a pension fund has commenced, the pension fund management company shall forthwith notify the National Bank of Slovakia thereof.

### **ARTICLE 73**

(1) A pension fund management company shall ensure that within 18 months from the date when it commenced the creation of pension funds under its management, the total number of savers current accounts is not less than 50,000.

(2) A pension fund management company shall forthwith notify the National Bank of Slovakia in writing of the day when it exceeded the threshold mentioned in Paragraph (1) or when it failed to meet this condition.

(3) If within the period mentioned in Paragraph (1), a pension fund management company fails to meet the condition of the number of savers under Paragraph (1), the National Bank of Slovakia shall revoke the licence for the incorporation and operation of the pension fund management company.

### **ARTICLE 74**

(1) A pension fund does not have a legal personality. A pension fund's assets shall not be included in the assets of the pension fund management company. A pension fund's assets shall comprise the savers' shares in these assets, with the share in the guaranteed account of the pension fund in these assets with each saver's share in these assets which corresponds to the ratio of the pension units on the saver's personal pension account to all the pension units of the pension fund. The rights attached to the assets of a pension fund shall be exercised and the assets used only in the way laid down in this Act.

(2) A pension fund's assets and the management of these assets shall be recorded separately from the assets and the management of the pension fund management company, and from the assets, and the management of the assets, of other pension funds managed by the pension fund management company.

**ARTICLE 75**  
**Pension unit and net asset value**

- (1) A pension unit is a share in the assets of a pension fund.
- (2) The value of a pension unit is expressed in euros and is calculated to six decimal places.
- (3) The initial value of a pension unit shall be EUR 0.033194 as at the date when the pension fund management company commences the creation of the pension fund (Article 72(8)). The actual value of the pension unit shall be determined after this date.
- (4) The net asset value of a pension fund shall mean the difference between the value of the pension fund's assets and its liabilities.
- (5) The actual value of a pension unit on the day of its calculation shall be determined as the quotient of the net asset value of the pension fund and on the guaranteed account of the pension fund and the number of all the pension units recorded in the personal pension accounts of all the pension fund's savers as at the day of calculation.
- (6) The net asset value of a pension fund and the actual value of a pension unit shall be calculated by the pension fund management company on every working day and shall be notified to the National Bank of Slovakia and to the depository.

**ARTICLE 76**  
**Rights of the saver in relation to the pension unit**

- (1) The pension units recorded in a saver's personal pension account shall represent the saver's share in the pension fund's assets.
- (2) The provisions of a separate regulation<sup>72</sup> concerning securities may not be applied to pension units or to the records of pension units in personal pension accounts.

**ARTICLE 77**  
**The statute of a pension fund**

- (1) Each pension fund shall have its own statute.

(2) The statute is effective as of the date when the decision of the National Bank of Slovakia under Article 48(6) enters into force. Amendments to the statute are effective on the 15th days of their publication on the website of a pension fund management company. A pension fund management company shall publish also the date of publication of an amendment to the statute on the website.

(3) After every amendment to the statute, the pension fund management company shall forthwith submit to the National Bank of Slovakia the respective amendment and the updated full text of the statute, and it shall inform the savers and pension beneficiaries from retirement pension saving of the respective changes by the method stipulated in the statute.

- (4) A statute shall state in particular:
- a) the name of the pension fund and the date of its creation;
  - b) the business name of the pension fund management company which manages the pension fund, its registered office and its identification number;
  - c) the business name and registered office of the depository and the amount of the fee agreed in the depository contract for the performance of depository activities;
  - d) the focus and objectives of the pension fund management company's investment strategy for the pension fund's assets, especially which securities and money market instruments are to be procured with the funds raised, and on which regulated markets, as well as any sectoral or territorial division of the investments, and the principles of risk spreading and limiting if these are more precise than this Act stipulates;
  - e) the principles for the management of the pension fund's assets;
  - f) the amount of the fee for the management of the pension fund;
  - g) the amount of the fee for the evaluation of the assets in the pension fund;
  - h) the reference value of the conservative pension fund under Article 91 and a composition of the reference value of the pension funds under Article 91a;
  - i) the procedure for amending the statute and the method by which savers and pension beneficiaries from retirement pension saving are to be informed about any such amendments;
  - j) a declaration by the board of directors of the pension fund management company that the facts stated in the statute are up to date, complete and true.

## **ARTICLE 78**

### **Dissolution and conversion of pension funds**

(1) Pension funds may be merged in the manner laid down in Article 79.

(2) It is prohibited to:

- a) consolidate or divide a pension fund;
- b) to convert a pension fund into a fund created under a separate regulation.<sup>73</sup>

**ARTICLE 79**  
**Merging of pension funds**

(1) Pension funds may be merged only:

- a) in conjunction with a merger between the pension fund management company that manages the pension funds to be merged and another pension fund management company that manages the pension funds with which they are to be merged, subject to the prior approval of the National Bank of Slovakia issued under Article 52(1)(d);
- b) in conjunction with a transfer of the management of pension funds to the transferee pension fund management company in accordance with this Act.

(2) The merger of pension funds shall mean the process by which the assets of pension funds of the same type are combined on the date of the transfer of the pension funds' management to the transferee pension fund management company. Savers of a pension fund whose management has passed to the transferee pension fund management company become savers of the pension fund of the transferee pension fund management company.

(3) It is prohibited:

- a) to merge a growth pension fund with a fund other than a growth pension fund;
- b) to merge a balanced pension fund with a fund other than a balanced pension fund;
- c) to merge a conservative pension fund with a fund other than a conservative pension fund.

(4) Where pension funds are merged under Paragraph 1(a), their merger shall take place on the date of the merger of the one pension fund management company with the other pension fund management company.

(5) Where pension funds are merged under Paragraph 1(b), their merger shall take place on the date when the pension funds' management is transferred to the pension fund management company to which the pension funds' management has been transferred.

(6) A pension fund management company from which the management of pension funds is transferred to a transferee pension fund management company shall cease to maintain the personal pension account of each saver thereof upon the date of the transfer of the pension funds' management.

(7) A transferee pension fund management company shall open a new personal pension account under Articles 96 and 97 for each saver of a pension fund whose management has been transferred to the transferee pension fund management company.

(8) Within 30 days after the management of pension funds has been transferred, the transferee pension fund management company shall notify the savers and pension beneficiaries from retirement pension saving affected by the transfer of the pension funds' management that the transfer of the pension funds' management has taken place. The notification to the savers and pension beneficiaries from retirement pension saving shall state in particular the company's business name and registered office, information on the statutes of the pension funds, and other related conditions of the retirement pension saving that the transferee pension fund management company conducts in respect of them. The transferee pension fund management company shall

have the notification mentioned in the previous sentence published in a periodical publication with nationwide circulation, and shall first do so immediately after the pension funds' management has been transferred and again within 30 days after the first publication.

(9) At the same time as transferring the pension funds' management, the pension fund management company which managed the dissolving pension funds shall hand over to the transferee pension fund management company all documentation concerning such management and its other rights and obligations.

(10) Upon the merger of the pension funds, the contract on depository activities shall expire. Forthwith after the expiry of the contract on depository activities, the depository shall proceed in accordance with Article 100(9).

(11) The relevant persons under Paragraph (10) shall advise the transferee pension fund management company of any measures that need to be taken to prevent the expiry of the contracts from causing damage or other injury.

## **DIVISION TWO**

### **Investment of Pension Funds' Assets**

#### **ARTICLE 80**

##### **Objective of the investment of pension funds' assets**

(1) Investment shall mean increasing the value of a pension fund's assets in the manner defined by this Act, and investing in the assets defined by this Act on the principle of risk spreading and limitation under this Act.

(2) Investment in the meaning of this Act shall not include the raising of funds by a financial institution for the purposes of its business regulated by a separate regulation.<sup>74</sup>

(3) A pension fund's assets may be used only with the aim of ensuring the proper and secure investment of the pension fund's assets and the protection of savers and pension beneficiaries from retirement pension saving.

#### **ARTICLE 81**

##### **Pension fund's assets**

- (1) A pension fund's assets may comprise only
- a) transferable securities admitted to trading on
    1. the listed securities market of a stock exchange;
    2. the listed securities market of a foreign stock exchange having its registered office in a Member State; or

3. other regulated market having its registered office in a state which is a member of the European Economic Area and which is included in the list published by the European Commission; if the Member State is not a member of the European Economic Area, ‘other regulated market’ shall mean the market satisfying the conditions equivalent to those applied to the regulated markets within the European Economic Area (hereinafter referred to as the “Regulated Market”);
- b) transferable securities from the newly issued securities, if the issue conditions contain an obligation to apply for the securities to be admitted to trading on the regulated market and if all circumstances suggest that such admission will take place within one year from the securities issue date; the requirement to apply for admission of the securities to trading on the regulated market shall not apply to government bonds issued by the Slovak Republic or by other Member State of the European Union;
- c) unit certificates of open-ended mutual funds and securities of foreign collective investment undertakings meeting the requirements of the legally binding acts of the European Union (hereinafter referred to as the “Foreign Collective Investment Undertaking”) under a separate regulation<sup>73</sup>;
- d) securities of foreign collective investment undertakings other than those listed in subparagraph c) (hereinafter referred to as the “Other Foreign Collective Investment Undertaking”), if
  1. such other foreign collective investment undertaking is of the open-ended type, has been licensed under the legal regulations of the state in which it resides, and is subject to supervision which is equivalent to that laid down in the legal regulations of the Slovak Republic, and if cooperation of the National Bank of Slovakia and competent supervisory authorities is ensured;
  2. the investor has the right to obtain payment, upon his/her request, of the securities out of the assets kept in such other foreign collective investment undertaking;
  3. the level of protection of the holders of securities of such other foreign collective investment undertaking is equivalent to that of the unit holders of the open-ended mutual fund, and in particular if the rules for lending and borrowing of securities and money market instruments and the rules for uncovered sales of securities and money market instruments comply with the separate regulation<sup>73</sup>, and the assets of such other foreign collective investment undertaking are recognized separately; and
  4. such other foreign collective investment undertaking publishes annual and half-yearly reports permitting the evaluation of its assets and liabilities, income, and activities for the period covered by the relevant report;
- e) money market instruments which, for the purposes of this Act, shall be taken to include deposit certificates and Treasury bills which are traded on the money market, are liquid, their value can be accurately determined at any time, and were issued or guaranteed by
  1. the Ministry of Finance of the Slovak Republic or the National Bank of Slovakia;
  2. a Member State or central authorities thereof;
  3. the central bank of a Member State;
  4. local administration authorities of a Member State;
  5. the European Central Bank, European Union, European Investment Bank, International Bank for Reconstruction and Development, International Finance Corporation, Council of Europe Development Bank, Inter-American Development Bank, Asian Development Bank, African Development Bank, Caribbean Development Bank, Nordic Investment Bank, European Bank for Reconstruction and Development, European Investment Fund,

International Monetary Fund, Bank for International Settlements, or Multilateral Investment Guarantee Agency;

6. the issuer whose securities were admitted to trading on the regulated market; or
  7. financial institutions having their registered office in a Member State or a non-Member State; this is not applicable if the redemption of the money market instruments was guaranteed by a financial institution;
- f) funds on a current or deposit account kept with the depositary or on deposit and current accounts kept with banks or branches of foreign banks having their registered office in the Slovak Republic, in other Member State or non-Member State, if such bank or branch of a foreign bank is subject to supervision; income on such funds is determined by a fixed interest rate or by a variable interest rate;
- g) receivables and liabilities arising from transactions designed exclusively for reduction of the foreign exchange risk, if such transactions are used to mitigate the risk associated with movements of the foreign exchange rates and to maintain the value of the underlying asset kept in a pension fund's assets; the list of the types of transactions designed for reduction of the foreign exchange risk shall be prepared by the National Bank of Slovakia in the form of a generally binding legal regulation.

(2) The pension fund management company shall make regular controls of the compliance, by the foreign collective investment undertaking or by other foreign collective investment undertaking, with the orientation and objective of the investment strategy specified in the rules of the open-ended mutual fund, of the foreign collective investment undertaking, and of other foreign collective investment undertaking, or in other similar document. For the purposes of this Act, a reference to securities acquired in the assets of a pension fund under paragraph 1(c) and (d), whose value is linked to the value of financial indices or other financial indices specified in paragraph 3(a), shall be deemed to be a reference to transferable securities under paragraph 1(a).

(3) A pension fund's assets may comprise transferable securities referred to in paragraph 1(a) and (b), which shall be taken to include only

- a) capital securities<sup>76</sup> which are a part of the financial index of a stock exchange or of a foreign stock exchange having its registered office in a Member State, or which are a part of other financial index; the list of other financial indices shall be kept by the National Bank of Slovakia and published in the Bulletin of the National Bank of Slovakia (hereinafter referred to as the "Bulletin");
- b) securities whose value is linked to the value of financial indices or other financial indices specified in subparagraph a);
- c) bonds and other debt securities whose yield is determined by
  1. a fixed amount;
  2. a fixed interest rate;
  3. a floating interest rate, depending on movements of the reference interest rates on the financial market; or
  4. a difference between the face value of the security and the lower issue rate.

(4) Assessment of the risk associated with the investment of a pension fund's assets under paragraph 1(c) to (f) and paragraph 3 must comply with the provisions of Article 90.

(5) A pension fund's assets may not comprise

- a) shares of the pension fund management company's depositary;
- b) unit certificates of open-ended mutual funds managed by a management company with which the pension fund management company managing the given pension fund forms a group with close links;
- c) financial instruments that include a derivative<sup>77</sup>, except for those being a combination of the financial instruments listed in paragraph 1;
- d) money market instruments, bonds, and other debt securities in respect to which the redemption of yield or face value is linked to a condition, except for the condition of early repayment of the face value;
- e) bonds and other debt securities whose yield is determined in an inverse way to the floating interest rate;
- f) securities whose value is linked to the value of financial indices or other financial indices specified, if such financial index contains underlying assets other than those specified in paragraphs 1 and 3;
- g) unit certificates of open-ended mutual funds, securities of foreign collective investment undertakings, and securities of other foreign collective investment undertakings, if fees are charged to the issuer for their issuance, redemption and management; this is not applicable if the fees are settled by the pension fund management company out of its own assets;
- h) securities referred to in paragraph 3(b), if fees are charged to the issuer for their issuance, redemption and management; this is not applicable if the fees are settled by the pension fund management company out of its own assets.

(6) The pension fund management company is not allowed to acquire in a pension fund's assets the unit certificates of open-ended mutual funds, and securities of foreign collective investment undertakings, and securities of other foreign collective investment undertakings which

- a) acquire the assets specified in paragraph 5(a) to (f), or
- b) may invest, according to the rules or other similar document, more than 10 % of the assets of such open-ended mutual fund and of the foreign collective investment undertaking or of other foreign collective investment undertaking in other unit certificates of open-ended mutual funds, or in other securities of foreign collective investment undertakings, or in other foreign collective investment undertakings.

(7) The National Bank of Slovakia may, by a generally binding legal regulation, define what is meant by the equivalent conditions for the regulated markets within the European Economic Area, provide details about the procedure, method, and continuous monitoring of disclosed information and about the method of evaluating and verifying the same within the acquisition of securities referred to in paragraph 1(c) and (d) and paragraph 3(b) in a pension fund's assets, and define what is meant by the reference interest rates on the financial market.

(8) The procedure to be followed in calculating the fees referred to in paragraph 5(g) and (h) and the method of their settlement shall be defined in a generally binding legal regulation to be issued by the National Bank of Slovakia.

## **Rules of risk limitation and spreading for a pension fund**

### **ARTICLE 82**

(1) The value of securities or money market instruments referred to in Article 81(1)(a) to (e), issued by the same issuer, may not constitute more than 3 % of the net asset value of the pension fund, unless otherwise provided by this Act.

(2) A pension fund's assets may not include more than 25 % of the value of one issue of transferable securities or money market instruments.

(3) The value of investments referred to in Article 81(1) and (3), issued by members of the group for which one consolidated financial statement is prepared under a separate regulation<sup>77a</sup>, may not constitute more than 20 % of the net asset value of the pension fund.

(4) The value of transferable securities and money market instruments issued or guaranteed by one Member State may not constitute more than 20 % of the net asset value of the pension fund.

(5) If the pension fund management company abides by the rules of risk spreading and limiting for the pension fund laid down by this Act, the National bank of Slovakia, based on the draft of the pension fund management company by approving the statute of the pension fund, determines, that up to 50 % of net value of the assets in the pension fund may be invested in transferable securities and money market instruments issued or guaranteed by a Member State. These transferable securities and money market instruments shall be denominated in the same currency, in which the current value of a pension unit is expressed. A pension fund's assets referred to in the first sentence shall consist of at least six issues of transferable securities or money market instruments and the value of one issue according to the first sentence shall not include more than 30 % of net value of the assets in the pension fund.

(6) The value of transferable securities from the new issues may not constitute more than 5 % of the net asset value of the pension fund, unless otherwise provided by this Act. If such transferable securities were not admitted to trading on the regulated market within a period defined in Article 81(1)(b), the pension fund management company shall sell them within a period of 180 days.

(7) The value of bonds issued or guaranteed by the Slovak Republic, and traded on the regulated market, may not constitute more than 20 % of the net asset value of the pension fund.

(8) The value of mortgage bonds<sup>78</sup> issued by one bank, or of debt securities issued by one foreign bank having its registered office in a Member State, whose face value including yields is covered by receivables of that bank arising from mortgage loans, may not constitute more than 10 % of the net asset value of the pension fund. The value of mortgage bonds and debt securities acquired in the pension fund's assets according to the first sentence may not constitute more than 50 % of the net asset value of the pension fund.

(9) A pension fund's assets may not comprise more than

- a) 10 % of the total of the unit shares certificates of one open-ended mutual fund under Article 81(1)(c);
- b) 10 % of the total of the face values of securities of one foreign collective investment undertaking or of one other foreign collective investment undertaking.

(10) The value of securities referred to in Article 81(1)(c) and(d) and Article 81(3)(b) may not constitute more than 25 % of the net asset value of the pension fund.

(11) Deposits on current and deposit accounts in one bank or branch of a foreign bank under Article 81(1)(f) may not constitute more than 10 % of the net asset value of the pension fund; this is not applicable to funds on current accounts kept with the depositary.

(12) The pension fund management company may not acquire in its own assets and in the assets of the pension funds managed by it

- a) more than 5 % of the total of the par values of shares issued by one issuer; and
- b) shares with a voting right which would allow the pension fund management company to exercise significant influence over the issuer's management; to calculate the share in the voting rights, the procedure under a separate regulation<sup>79</sup> shall be followed.

### **ARTICLE 83**

(1) If the transferable securities referred to in Article 81(1)(a) ceased to be traded on the regulated market, the pension fund management company shall, observing the prudential rules, sell them promptly but not later than 180 days after the trading in these transferable securities ceased. The National Bank of Slovakia may extend, even repeatedly, the period defined in the first sentence upon request of the pension fund management company and if justified in the interest of consumers' protection.

(2) Unless otherwise provided by this Act, the pension fund management company may not sell the securities referred to in Article 81(1)(a) to (e), or otherwise dispose of them from the pension fund's assets, on the basis of a contract stipulating the delivery of the securities as a condition precedent to the payment of the purchase price.

(3) Unless otherwise provided by this Act, the pension fund management company may not buy the securities referred to in Article 81(1)(a) to (e), or otherwise acquire them in the pension fund's assets, on the basis of a contract stipulating the payment for the securities as a condition precedent to their delivery, and it may not provide an advance on their acquisition.

### **ARTICLE 84**

(1) In selling or buying the securities referred to in Article 81(1)(a) to (e) from or into a pension fund's assets, the pension fund management company shall sell or buy these securities for the best price obtainable in favour of the pension fund's assets.

(2) A pension fund's assets may not be used to provide loans, gifts, credits, or any security for the obligations of other individuals or corporations. This is without prejudice to the provisions of Articles 81 and 82.

(3) Financial loans or credits in favour of a pension fund's assets may be received only if it is inevitable to bridge temporarily a shortage of liquidity in the pension fund's assets, provided that it is permitted by the rules of the pension fund and that the maturity is restricted to a period of up to one year from the credit or loan utilization date.

(4) The aggregate of funds referred to in paragraph 3 may not exceed 5 % of the net asset value of the pension fund as at the loan and credit agreements date.

(5) The following transactions may not be carried out in favour of or at the expense of a pension fund's assets:

- a) lending of securities; and
- b) sale of securities which are not a part of the pension fund's assets as at the securities purchase agreement date.

(6) The rights attached to the securities under Article 81(1)(a) to (e) kept in a pension fund's assets shall be exercised by the pension fund management company in accordance with the rules of the pension fund and solely in the interest of the savers and pension beneficiaries of the retirement pension saving.

## **ARTICLE 85**

### **Strategic placement of pension funds investments**

- (1) For the purposes of this Act, 'equity investments' shall mean investments in
- a) unit certificates of open-ended mutual funds and securities of foreign collective investment undertakings; the orientation and objectives of the investment strategy of such mutual fund and foreign collective investment undertaking must make it clear that more than 50 % of the asset value of such pension fund or of foreign collective investment undertaking consist of shares;
  - b) securities of other foreign collective investment undertakings; the orientation and objectives of the investment strategy of such other foreign collective investment undertaking must make it clear that more than 50 % of the asset value of such other foreign collective investment undertaking consist of shares;
  - c) capital securities referred to in Article 81(3)(a); and
  - d) securities referred to in Article 81(3)(b).

- (2) For the purposes of this Act, 'bond investments' shall mean investments in
- a) unit certificates of open-ended mutual funds and securities of foreign collective investment undertakings; the orientation and objectives of the investment strategy of such mutual fund and foreign collective investment undertaking must make it clear that more than 50 % of the asset value of such mutual fund or foreign collective investment undertaking consist of bonds and other debt securities;
  - b) securities of other foreign collective investment undertakings; the orientation and objectives of the investment strategy of such other foreign collective investment undertaking must

make it clear that more than 50 % of the asset value of such other foreign collective investment undertaking consist of bonds and other debt securities; and

c) bonds and other debt securities referred to in Article 81(3)(c).

(3) For the purposes of this Act, ‘financial investments’ shall mean investments in

a) unit certificates of open-ended mutual funds and securities of foreign collective investment undertakings; the orientation and objectives of the investment strategy of such mutual fund and foreign collective investment undertaking must make it clear that more than 50 % of the asset value of such mutual fund or foreign collective investment undertaking consist of money market instruments;

b) securities of other foreign collective investment undertakings; the orientation and objectives of the investment strategy of such other foreign collective investment undertaking must make it clear that more than 50 % of the asset value of such other foreign collective investment undertaking consist of money market instruments;

c) money market instruments referred to in Article 81(1)(e); and

d) funds referred to in Article 81(1)(f).

(4) For the purposes of investing the assets of a conservative pension fund hereunder, the bond and financial investments under Article 81(1)(c) and (d) shall mean investments in

a) unit certificates of open-ended mutual funds and securities of foreign collective investment undertakings; the orientation and objectives of the investment strategy of such mutual fund and foreign collective investment undertaking must make it clear that the assets of such mutual fund or foreign collective investment undertaking may be invested only in bonds and other debt securities or money market instruments;

b) securities of other foreign collective investment undertakings; the orientation and objectives of the investment strategy of such other foreign collective investment undertaking must make it clear that the assets of such other foreign collective investment undertaking may be invested only in bonds and other debt securities or money market instruments.

## **ARTICLE 86**

### **Conservative pension fund**

(1) The assets of a conservative pension fund may consist only of bond and financial investments and transactions limiting the foreign exchange risk.

(2) The assets of a conservative pension fund may not be exposed to the foreign exchange risk.

(3) The assets of a conservative pension fund may have a maximum average modified duration of 2. For the purposes of this Act, ‘average modified duration’ shall mean the quotient of the change in the value of a pension fund’s assets and the unit change in the interest rate which directly or indirectly affects the value of assets in the pension fund.

**ARTICLE 87**  
**Balanced pension fund**

(1) The value of equity investments may in total constitute not more than 50% of the net asset value of the balanced pension fund.

(2) The value of bond and financial investments must in total constitute at least 50% of the net asset value of the balanced pension fund.

(3) The assets of a balanced pension fund which are not hedged against the foreign exchange risk may represent not more than 50% of the net asset value of the balanced pension fund.

**ARTICLE 88**  
**Growth pension fund**

(1) The value of equity investments may in total constitute not more than 80% of the net asset value of the growth pension fund.

(2) The assets of a growth pension fund which are not hedged against the foreign exchange risk may constitute not more than 80% of the net asset value of the growth pension fund.

**ARTICLE 89**

(1) The limits and restrictions concerning a pension fund's assets laid down in Articles 82 and 86 to 88 shall not be used for the period of the first 12 months after the start of the pension fund creation under Article 72(8).

(2) Upon the expiry of the period defined in paragraph 1, the pension fund management company may exceed the limits and restrictions under Article 82 and 86 to 88 only upon the exercise of pre-emptive subscription rights arising from securities or money market instruments kept in the assets of a pension fund, and upon the merger of the pension funds.

(3) If the limits and restrictions specified in Articles 82 and 86 to 88 are exceeded for reasons beyond the control of the pension fund management company, or for reasons of the exercise of pre-emptive rights under paragraph 2, the pension fund management company shall notify the National Bank of Slovakia of this fact promptly and take immediate measures to conform with the limits and restrictions under Articles 82 and 86 to 88, taking into account the interests of the savers and pension beneficiaries of the retirement pension saving.

(4) The National Bank of Slovakia may set a time limit for the pension fund management company to bring the composition of a pension fund's assets into line with the limits and restrictions under Articles 82 and 86 to 88. This is without prejudice to the right of the National Bank of Slovakia to sanction the pension fund management company for the breach of the provisions of Articles 82 and 86 to 88. The time limit according to the first sentence may be extended by the National Bank of Slovakia upon request of the pension fund management company submitted not later than on the last day of the period granted for the alignment of the

composition of the assets, and provided that it is in the interests of the protection of the savers and pension beneficiaries of retirement pension saving.

(5) Transactions made in order to bring the composition of a pension fund's assets into line with the limits and restrictions under Articles 82 and 86 to 88 shall take precedence over other transactions.

## **ARTICLE 90**

### **Rules for use of rating**

(1) For the purposes of this Act, the pension fund management company shall use, in addition to rules and procedures relating to the management of risks in a pension fund, the rating of the issue or issuance programme to assess the risk associated with the investment of a pension fund's assets in bonds and other debt securities under Article 81(3)(c)

- a) issued by an entity which is subject to supervision exercised under legal regulations of the Slovak Republic over financial market entities;
- b) issued by an entity which is subject to supervision exercised under legally binding acts of the European Union over financial market entities;
- c) issued by other corporation having its registered office in a Member State; or
- d) guaranteed by a Member State.

(2) If the issue or issuance programme referred to in paragraph 1 were not assigned a rating, the pension fund management company shall use the rating of the issuer of the bond and other debt security, or the rating of the entity providing guarantee for the bond and other debt security.

(3) For the purposes of this Act, the pension fund management company shall use, in addition to rules and procedures relating to the management of risks in a pension fund, the rating of the issuer to assess the risk associated with the investment of a pension fund's assets in

- a) money market instruments under Article 81(1)(e) of the fourth, sixth and seventh point;
- b) funds referred to in Article 81(1)(f);
- c) capital securities referred to in Article 81(3)(a);
- d) bonds and other debt securities referred to in Article 81(3)(c), issued by an entity other than that specified in paragraph 1.

(4) The National Bank of Slovakia shall produce and keep a list of financial indices for the purpose of assessing the risk associated with the investment of a pension fund's assets, which list shall be published in the bulletin. If the pension fund management company acquires in a pension fund's assets a capital security under Article 81(3)(a), which is a part of the financial index according to the first sentence, the provision of paragraph 3(c) shall not be used.

(5) For the purposes of this Act, to assess the risk associated with the investment of a pension fund's assets in unit certificates and securities of a foreign collective investment undertaking, securities of other foreign collective investment undertaking, and securities referred to in Article 81(3)(b), the pension fund management company shall use, in addition to rules and procedures relating to the management of risks in a pension fund, the rating of the issue, issuance programme or issuer of the underlying assets constituting the assets of the open-ended mutual fund, or of the foreign collective investment undertaking, or of other foreign collective

investment undertaking, and the rating of the issue, issuance programme or issuer of the underlying assets constituting the financial index specified in Article 81(3)(a); this is not applicable, if the pension fund management company acquires a security to pension fund's assets pursuant to Article 81(3)(b) whose value is linked to the value of financial index pursuant to the Paragraph 4, the first sentence.

(6) To assess the risk associated with the investment of a pension fund's assets, the pension fund management company shall use the rating of a rating agency included in the list kept by the National Bank of Slovakia under a separate regulation<sup>79a</sup> and published in the bulletin.

(7) To assess the risk associated with the investment of a pension fund's assets, the pension fund management company shall use only the solicited long-term international rating. As for the rating of the state or its central bank, the pension fund management company may also use the unsolicited rating.

(8) For the purposes of this Act, 'solicited rating' shall mean the paid rating evaluation, made and assigned upon request of the evaluated entity, in which the evaluated entity collaborated.

(9) For the purposes of this Act, the rating assigned by a rating agency must be in the investment band. The investment band is the investment band defined by the rating agency that assigned the relevant rating.

(10) The pension fund management company may acquire the assets referred to in Article 81(1)(c) and (d) in a pension fund's assets if at least 90 % of the value of the underlying assets constituting the assets of the open-ended mutual fund, or of the foreign collective investment undertaking, or of other foreign collective investment undertaking, are assigned a rating in the investment band. The pension fund management company may acquire the assets referred to in Article 81(3)(b) in a pension fund's assets if at least 90 % of the value of the underlying assets constituting the financial index specified in Article 81(3)(a) are assigned a rating in the investment band; this is not applicable, if this financial index is listed in the financial indices list pursuant to the Paragraph 4, the first sentence.

(11) For the purposes of this Act, the issuer shall be taken to include the bank or a branch of a foreign bank having its registered office in the Slovak Republic, in a Member State, or in a non-Member State, if such bank or branch of a foreign bank keeps a current or deposit account for the pension fund of the pension fund management company.

(12) If rating was assigned to the issuer, issue, or issuance programme by more rating agencies, the pension fund management company shall use the last published rating.

(13) The pension fund management company shall monitor the rating development on a continuous basis. If the rating agency downgrades the rating of a financial instrument kept in a pension fund's assets to the level of the speculative band, or if it stops publishing the rating for any reason, the pension fund management company shall sell such financial instrument promptly, but not later than 180 days after it has become aware of this fact. The National Bank of Slovakia may extend, even repeatedly, the period defined in the previous sentence upon request of the

pension fund management company and if justified in the interest of consumers' protection.

## **ARTICLE 91**

### **Comparison of a conservative pension fund's performance with the reference value of a conservative pension fund's value**

(1) A pension fund management company is obliged to compare the performance of the conservative pension fund under its management with the reference value of the conservative pension fund.

(2) A pension fund management company is obliged to reach a level of performance in a conservative pension fund which is at least equal to the level of the reference value of the conservative pension fund.

(3) In the event of failure to fulfil its duties under Paragraph. 1 and 2 the pension fund management company is obliged without delay to notify the National Bank of Slovakia.

(4) The National Bank of Slovakia can also impose against a pension fund management company in addition to sanctions under Article 115(1), an obligation to transfer assets to the conservative pension fund to the extent that the performance of the conservative pension fund is equal to the level under Paragraph 2.

(5) The National Bank of Slovakia shall stipulate by a legally binding regulation what is understood by performance of a conservative pension fund, a reference value of a conservative pension fund, method of calculation, the term and frequency of comparison of a conservative pension fund's performance with a reference value of a conservative pension fund, a composition of a reference value of a conservative pension fund and other details regarding comparison of the performance of a conservative pension fund with the reference value of a conservative pension fund.

## **ARTICLE 91a**

### **Comparison of composition of assets in a balanced pension fund with the composition of a reference value of a balanced pension fund and comparison of composition of assets in a growth pension fund with the composition of a reference value of a growth pension fund**

(1) A pension fund management company is obliged to compare the composition of assets of a balanced pension fund under its management with the composition of a reference value of a balanced pension fund and to compare the composition of assets of a growth pension fund under its management with the composition of a reference value of a growth pension fund.

(2) A pension fund management company shall define in the statute of a pension fund the composition of a reference value of a balanced pension fund and a composition of a reference

value of a growth pension fund. The composition of a reference value of a balanced pension fund and the composition of a reference value of a growth pension fund may not be amended by the pension fund management company before 60 calendar months from the effectiveness of its last fixing in the statute; this does not apply when the National Bank of Slovakia grants a prior approval to a pension fund management company to amend a statute of the pension fund referring to a change in the composition of a reference value before this term elapses.

(3) The composition of the assets in both a balanced pension fund and a growth pension fund may deviate from the composition of their reference value only to the extent stipulated in a legally binding regulation which will be issued by the National Bank of Slovakia.

(4) The National Bank of Slovakia shall stipulate by a legally binding regulation what is understood by a reference value of a balanced pension fund and regulations for its composition, what is understood by a reference value of a growth pension fund and regulations for its composition, the term and frequency of comparison of asset composition in both a balanced pension fund and a growth pension fund with the composition of their reference values and other details regarding comparison of asset composition in both a balanced pension fund and a growth pension fund.

### **DIVISION THREE** **Rules of Retirement Pension Saving**

#### **ARTICLE 92**

(1) When assigning a pension fund, account shall be taken of the saver's age, the expected duration of saving, the level of the contribution and its potential development, and the saver's risk profile. A person may not be:

- a) after reaching 47 years of age, a saver must not be in a growth pension fund;
- b) after reaching 55 years of age, a saver must not be in a balanced pension fund.

(2) At any one time, a person may not be a saver in more than one pension fund managed by the competent pension fund management company.

#### **ARTICLE 93**

(1) A saver may switch from one pension fund to another pension fund managed by the same pension fund management company, either on the basis of an amendment to the retirement pension saving contract, or on the basis of an application if the saver is a natural person to whom the Social Insurance Agency has assigned a pension fund management company. The date of saver's switching from one pension fund to another pension fund managed by the same pension fund management company for a saver to whom the Social Insurance Agency has assigned a pension fund management company is the date specified on the application for switch, not earlier than the day following the day when the application is delivered to a pension fund management company.

(2) A pension fund management company shall accept a saver's application for a switch of

pension fund which is not contrary to Article 92(1).

(3) If by the time of 15 years before retirement age under a separate regulation<sup>3</sup>, a saver has not applied to the competent pension fund management company for a switch to the balanced pension fund, the competent pension fund management company shall switch the saver from the growth pension fund to the balanced pension fund.

(4) If by the time of seven years before retirement age under a separate regulation<sup>3</sup>, a saver has not applied to the competent pension fund management company for a switch to the conservative pension fund, the competent pension fund management company shall switch the saver from the balanced pension fund to the conservative pension fund.

(5) A pension fund management company shall inform savers about their obligation to change pension fund, not later than two years before the period stated in Paragraphs (3) and (4).

## **DIVISION FOUR Personal Pension Accounts**

### **ARTICLE 94**

(1) A pension fund management company shall establish and maintain for each saver with whom it has concluded a retirement pension saving contract, a personal pension account in order to keep record of the number of pension units of the pension fund.

(2) A pension fund management company shall establish for each saver only one personal pension account. The record of the number of the pension fund's pension units that are contained in this account shall be maintained separately from the personal pension accounts of other savers.

- (3) A personal pension account shall include:
- a) the number of the personal pension account and the date of its establishment;
  - b) the saver's name, date of birth, and domicile;
  - c) the name of the pension fund whose pension units are recorded in the account;
  - d) the number of pension units of the pension fund on the personal pension account of the saver;
  - e) information on all entries made in the personal pension account.

(4) Entries in a personal pension account which concern the crediting of the pension fund's pension units shall include:

- a) the date when the pension units were credited;
- b) the number of credited pension units;
- c) the aggregate of the current values of all the credited pension units as at the date of crediting;
- d) the current value of the pension unit as at the date when the contribution that is the basis for crediting pension units is credited to the pension fund's current account held with the depository;
- e) the date when the contribution under Paragraph (d) was credited.

(5) The pension fund management company shall send each saver a statement of his/her personal pension account as at the last day of the calendar year, but not later than two months after the end of the calendar year. The pension fund management company from which the saver is switching to other pension fund management company shall send the saver, not later than 15 days after the switch date, a statement of his/her personal pension account as at the date which precedes the switch to the other pension fund management company. The pension fund management company to which the saver is switching from other pension fund management company shall send the saver, within a period of 15 days after the switch date, a statement of his/her personal pension account in the amount corresponding to the current value of his/her personal pension account as at the switch date. The pension fund management company shall not charge the saver for the production and sending of such statements.

(6) A pension fund management company shall send the statement of a saver's personal pension account to the saver's last known domicile address, unless otherwise agreed with the saver.

- (7) The statement of a personal pension account shall include in particular:
- a) the information mentioned in Paragraph (3)(a) to (d);
  - b) the current value of the pension unit as at the issue date of the statement;
  - c) the current value of the personal pension account as at the issue date of the statement, expressed in money terms as the product of the current value of the pension unit on the issue date of the statement and the number of the pension fund's pension units recorded in the personal pension account;
  - d) the sequence of entries under Paragraph (4) made from the date as at which the last statement of the personal pension account was produced;
  - e) the monetary total of the saver's contributions from the effective date of the retirement pension saving contract;
  - f) the monetary total of the fees under Article 63(1)(a) debited from the personal pension account from the effective date of the retirement pension saving contract;
  - g) the monetary total of the fees under Article 63(1)(b) debited from the personal pension account from the effective date of the retirement pension saving contract;

(8) A pension fund management company shall provide the saver, if he so requests, once a year and free of charge, with a written explanation of his statement of a personal pension account.

(9) A statement on a personal pension account may, on the basis of an agreement between the saver and the pension fund management company, contain information other than that laid down in Paragraph (7).

(10) A statement on a personal pension account shall be sent by the competent pension fund management company to the saver upon request, within 15 working days after the saver's written request was delivered.

(11) The costs related to modifying the statement of a personal pension account under Paragraph (9), or to sending the statement of a personal pension account more often than on the dates specified in paragraph 5 shall be settled by the saver in cash.

## **ARTICLE 95**

(1) On the date when a contribution, penalties and assets transferred pursuant to Article 96 and 97 is credited to the pension fund's current account held with the depository, the competent pension fund management company shall credit to the saver's personal pension account such a number of the pension fund's pension units that corresponds to the ratio between the value of the contribution, penalties and assets transferred pursuant to Article 96 and 97 and the current value of the pension fund's pension unit.

(2) If the return of contributions has been demanded by the Social Insurance Agency from a pension fund management company pursuant to Article 28a (2), on the transfer date pursuant to Article 28a (2) the pension fund management company shall debit from the saver's personal pension account such a number of the pension units that corresponds to the ratio between the amount calculated pursuant to Article 28a (2) the fourth sentence or the fifth sentence and the current value of the pension unit from the day preceding the transfer date. If the personal pension account is closed, a pension fund management company shall debit all pension units from the personal pension account before its closing.

(3) If the particulars of a contribution payment credited to a pension fund's current account held with the depository do not unambiguously identify the saver to which the payment pertains, the pension fund's pension units related to this payment may be credited to the saver's personal pension account only after unambiguous designation of the payment on the date when the saver to whom the payment pertains is identified. The number of pension units, which are credited to the personal pension account as at the date when the saver to whom the payment pertains is identified shall be calculated by procedure specified in Paragraph (1).

## **ARTICLE 96**

(1) On the day when a saver switches from one pension fund to another pension fund managed by the same pension fund management company, the competent pension fund management company shall close the record of entries made on the saver's personal pension account that are related to the pension fund from which the saver is leaving (hereinafter "the pension fund from which the saver is leaving"), and it shall open a record of entries on the personal pension account which are related to the pension fund which the saver is joining (hereinafter "the pension fund which the saver is joining"). On the switching day, the saver is in the pension fund which the saver is joining.

(2) The pension fund management company shall transfer, within three working days after saver's switching, an amount corresponding to the current value of the saver's personal pension account from the switching day to the current account of the pension fund which the saver is joining. If the switching day falls on Saturday or on a rest day, then the period according to the first sentence starts to lapse on the first working day following the switching day.

(3) On the switching day, the pension fund management company shall deduct from the saver's personal pension account all pension units of the pension fund from which the saver is

leaving, and it shall credit pension units of the pension fund which the saver is joining in a number corresponding to the quotient of the current value of the personal pension account on the day preceding the switching day and the current value on the day preceding the switching day of the pension unit of the pension fund which the saver is joining

## **ARTICLE 97**

(1) On the date when a saver switches from one pension fund management company to another pension fund management company, the saver's personal pension account shall be cancelled by the original pension fund management company, and the saver's personal pension account with the new pension fund management company shall be established.

On the switching day determined according to Article 64b(5), the saver is a saver of a pension fund of the new pension fund management company.

(2) The original pension fund management company shall transfer, within three working days after saver's switching, an amount corresponding to the current value of the saver's personal pension account from the switching day to the current account of the pension fund of the new pension fund management company. If the switching day falls on Saturday or on a rest day, then the period according to the first sentence starts to lapse on the first working day following the switching day.

(3) Prior to cancelling a personal pension account under Paragraph (1), a pension fund management company shall deduct therefrom all pension units of the pension fund of the original pension fund management company. The new pension fund management company shall credit on the opening date of the personal pension account pension units in a number corresponding to the quotient of the amount transferred under Paragraph (2) and the current value of a pension unit on the day preceding the crediting of pension units.

## **ARTICLE 98**

The pension units recorded in a saver's personal pension account may not be used other than in the way laid down by this Act.

### **ARTICLE 98a**

#### **A guaranteed account of a pension fund**

(1) A pension fund management company shall establish and keep in each pension fund under its management a guaranteed account of the pension fund. The pension units are registered on the guaranteed account of the pension fund separately from the pension accounts of the savers.

(2) Under Paragraph 1, this number of pension units is registered in the guaranteed account of the pension fund which corresponds to the share of a current balance of fees, under Article 63b expressed in financial terms and in a current value of the pension unit.

(3) The assets deposited in the guaranteed account of the pension fund may be used by the pension fund management company for:

- a) payment of the fee under Article 63(1)(c)
- b) increasing the current value of the pension unit under Article 63(c).

(4) Under Paragraph 1, Article 94(3) and (4) shall be adequately used with regard to a guaranteed account of a pension fund.

(5) A pension fund management company will cease to keep a guaranteed account of a pension fund following a merger of pension funds. A successor pension fund management company will credit free of charge (gratuitously) to a guaranteed account of a successor pension fund management company in a respective pension fund such number of pension units which corresponds to the share of the balance on a guaranteed account of the pension fund of the pension fund management company from which the management is assumed and to the current value of the pension unit of the assuming pension fund.

(6) The pension units recorded in a guaranteed account of a pension fund cannot be treated otherwise than in accordance with this Act.

## **PART SEVEN THE DEPOSITORY**

### **ARTICLE 99 Depository**

(1) A pension fund's assets shall be entrusted to a depository in accordance with this Act.

(2) The depository of a pension fund shall be a bank, or the branch of a foreign bank<sup>80</sup> which is licensed in accordance with separate regulations<sup>81</sup> to perform depository activities and to carry out non-core investment services involving the safe-keeping or management of financial instruments, and which is not under compulsory administration.

(3) The depository of a pension fund may not be a legal person mentioned in Paragraph (2) which is a founder of the pension fund management company that manages this pension fund (hereinafter the "managing pension fund management company") or a shareholder of the managing pension fund management company, or which is a member of a group with close links to the managing pension fund management company, to a shareholder with a qualifying holding in the managing pension fund management company or to the founders of the managing pension fund management company.

(4) The depository of a pension fund may, on the basis of a contract, delegate the safe-keeping of foreign securities to another entity that is authorized to perform the delegated activities. A depository may not delegate the performance of such activities to an entity whose interests may conflict with the interests of savers. A depository which holds foreign securities in safe-keeping, or the entity to which it has delegated this activity, shall always keep these

securities separate from other assets and in a way that ensures the protection of savers' rights in accordance with Article 74.

(5) All the pension funds of the managing pension fund management company must have the same depository.

(6) The activities of a depository shall be subject to the provisions of separate regulations,<sup>82</sup> unless otherwise provided by this Act.

## **ARTICLE 100**

(1) A depository shall perform its activities on the basis of a written contract on the performance of depository activities concluded with the pension fund management company (hereinafter the "depository contract").

(2) A depository contract shall set out the depository activities, the scope of which shall not be less than that laid down by this Act, and the amount of the remuneration for the performance of depository activities.

(3) A depository contract shall be concluded for an indefinite term. The contracting parties to a depository contract may repudiate it. The notice period shall be three months unless a shorter notice period is agreed in the depository contract. A notice period starts to lapse from the first day of a calendar month following the calendar month when a notice is delivered to the other contracting party.

(4) In the event of the revocation or expiry of a depository's banking licence,<sup>83</sup> or its licence to provide investment services<sup>84</sup> in respect of the part required for depository activities, or where a depository has come under compulsory administration, then as at the effective date of the respective decision, the depository's authorization to perform depository activities in the meaning of this Act shall expire and the depository contract concluded with this depository shall cease to be valid.

(5) The repudiation of a depository contract or the occurrence of a situation mentioned in Paragraph (4) shall forthwith be notified by the depository to the National Bank of Slovakia and to the pension fund management company with which the depository contract was concluded.

(6) After a depository contract has ceased to be valid, the pension fund management company shall forthwith suspend the use of the pension funds' assets, except for the payment of liabilities incurred before the expiry of the depository contract and operations necessary for securing the pension funds' assets against damage, until a contract is concluded with a new depository.

(7) Not later than the last day of the notice period of a depository contract or one month after a depository contract became invalid in a way mentioned in Paragraph (4), the pension fund management company shall prepare a draft depository contract with another depository and shall

request the National Bank of Slovakia to issue prior approval in writing for the change of depository.

(8) If within the period mentioned in Paragraph (7), a pension fund management company has not requested the National Bank of Slovakia to issue prior approval in writing for a change of depository, the National Bank of Slovakia shall appoint the new depository within one month after this period has elapsed. A pension fund management company and its depository appointed by the National Bank of Slovakia shall forthwith conclude a depository contract. After this depository contract has been concluded, the pension fund management company shall forthwith submit it to the National Bank of Slovakia.

(9) A depository that has ceased to perform its activities for the pension funds of the managing pension fund management company shall forthwith hand over the pension funds' assets and all related documentation and information to the new depository. Until the handover of the assets and related documentation, the depository must not use or allow the use of the pension funds' assets, except for operations required to secure the pension funds' assets against damage or to ensure the payment of pensions in accordance with this Act.

(10) A depository shall continue to fulfil its obligations arising from the depository contract in the event that the pension fund management company has entered into bankruptcy, and shall do so until a depository contract is concluded with the pension fund management company to which the management of the pension funds has been transferred.

## **ARTICLE 101**

(1) A depository shall maintain a current account<sup>85</sup> in a stipulated currency for the pension fund management company with which it has concluded a depository contract. A depository shall maintain one current account<sup>85</sup> in a stipulated currency for each pension fund of the managing pension fund management company with which it has concluded a depository contract.

(2) All payments, redemptions, or transfers of funds included in a pension fund's assets shall be carried out through the pension fund's current account mentioned in Paragraph (1).

(3) A pension fund management company may not open a deposit account<sup>86</sup> or current account in a bank or the branch of a foreign bank which is not its depository.

(4) A depository may release funds from a current account under Paragraph (1) for the purpose of purchasing securities provided that the securities have already been transferred or that the funds are used as a payment against delivery of the securities.

(5) Any paper securities included in a pension fund's assets shall be deposited with the depository. If it is not possible to ensure their safe-keeping with the depository, the paper securities shall be deposited with a third party designated by the depository. For securities deposited in this way, the depository shall bear liability as if they were deposited with it.

(6) For the purpose of using its own assets that are book-entry securities recorded in the issuers' register at the central depository, a pension fund management company shall establish and use only one owner's account.

(7) For the purpose of using pension funds' assets that are book-entry securities recorded in the issuers' register at the central depository, the pension fund management company shall, separately for each pension fund under its management, establish and use an independent owner's account. For the purpose of recording and using a pension fund's assets, a pension fund management company may not establish and use more than one owner's account for each pension fund under its management, nor use the owner's account mentioned in Paragraph (6).

(8) The owner's accounts mentioned in Paragraphs (6) and (7) may only be established with a depository that is a member of the central depository. If a depository is not a member of the central depository, the pension fund management company shall establish the owner's accounts mentioned in Paragraphs (6) and (7) with another member of the central depository; these owner's accounts shall be established with the same member of the central depository.

(9) If a pension fund's assets include foreign book-entry securities, the depository shall forthwith ensure that the managing pension fund management company receives statements of the owner's account or an account fulfilling a similar function, or copies thereof, unless the managing pension fund management company receives them directly.

(10) A pension fund management company may not use the pension funds' assets without the knowledge of the depository.

## **ARTICLE 102**

(1) A depository shall, in performing its activities, act independently, with professional care, in compliance with the depository contract, and exclusively in the interests of the savers.

- (2) A depository shall, in performing its activities, be required in particular to:
- a) carry out the instructions of the pension fund management company, provided they are not inconsistent with this Act, other generally binding legal regulations, or the statute of a pension fund;
  - b) check that the asset value of a pension fund has been determined in accordance with this Act and with the statute of the pension fund;
  - c) check that the use of a pension fund's assets complies with the principles of risk spreading and limitation;
  - d) check the calculation and payment of the pension fund management company's fee for the management of a pension fund;
  - e) check that the managing pension fund management company complies with the provisions of this Act, other generally binding legal regulations, and the statutes of pension funds under its management;
  - f) check that the income from the managed pension funds is used in accordance with this Act and with the statutes of the managed pension funds;
  - g) ensure that the countervalue in transactions involving the pension funds' assets is

transferred in favour of the pension funds' assets on the principle of payment against delivery, provided that this is not precluded by the nature of the transaction or business customs, and within the time limits usual for the regulated market in which the transaction is made, or where the transaction is made outside a regulated market, within the contractually agreed time limits usual for the given type of transaction;

h) check the calculation of a pension unit's value.

(3) A depository shall forthwith inform the National Bank of Slovakia of any breach of the provisions relating to investment.

(4) If a depository in the performance of its activities finds that the pension fund management company has breached this Act, other generally binding legal regulations, or the statute of a pension fund, it shall forthwith notify this fact to the National Bank of Slovakia and to the pension fund management company. Where the limits mentioned in Articles 81 to 83 and Articles 86 to 88 have been exceeded, the depository shall forthwith notify the National Bank of Slovakia thereof.

(5) A depository shall forthwith upon written request provide the National Bank of Slovakia, the Criminal Police or the Financial Police with information acquired in the course of its depository activities concerning the pension fund management company or pension funds, for the purpose of fulfilling tasks laid down by a separate law.<sup>87</sup>

(6) A depository shall carry out only those instructions of the pension fund management company that comply with this Act and with the pension funds' statutes. If an instruction given by the pension fund management company is inconsistent with this Act or the statute of a pension fund, the depository shall not carry it out and shall in writing inform the pension fund management company of this fact; if despite having been so informed, the pension fund management company insists that the instruction be carried out, the depository shall not carry it out and shall forthwith in writing inform the National Bank of Slovakia about this situation.

(7) A depository may, in performing its activities, require the pension fund management company to furnish in addition to information and documents on pension funds under its management, information and documents on its activities. The pension fund management company shall forthwith submit such information and documents to the depository.

(8) A depository may not provide a third party with information or documents acquired in the course of its depository activities unless otherwise provided by this Act, and nor may it use such information or documents for a purpose other than the performance of depository activities.

(9) Members of the board of directors, members of the supervisory board, general proxies, and employees of a depository shall keep confidential any facts which come into their possession in the course of performing the depository's activities, and shall continue to do so after these activities have ceased, unless otherwise provided by this Act.

**ARTICLE 103**  
**Liability of a depository**

(1) A depository that in the course of its activities breaches an obligation arising under this Act, separate regulations, the statute of a pension fund, or the depository contract shall be liable to the pension fund management company for damage resulting therefrom and shall remain liable after these activities have ceased. This is without prejudice to the liability of the pension fund management company under Article 67(4).

(2) The liability of a depository for damage caused by the non-fulfilment of obligations arising under this Act or the depository contract shall not be affected by the fact that the depository has delegated the fulfilment of these obligations to a third party.

(3) A pension fund management company shall claim compensation for damage caused by its depository.

(4) Where a depository has breached or failed to fulfil its obligations arising under this Act or the depository contract and has thereby caused damage to the savers or beneficiaries of a pension as the disposable surplus, the pension fund management company shall represent the interests of these savers and beneficiaries when claiming compensation for this damage; this shall apply also where the depository's licence to provide investment services has expired or has been revoked.

**ARTICLE 104**  
**Solvency of a depository**

The assets of pension funds entrusted to a depository in accordance with the provisions of this Act may not be subject to any decision or execution enforced against the depository under separate regulations,<sup>88</sup> nor subject to any compulsory administration under which the depository is placed, and nor may it be included in bankruptcy proceedings<sup>49</sup> property of the depository.

**PART EIGHT**  
**INFORMATION OBLIGATION**

**ARTICLE 105**  
**Information for the public**

(1) A pension fund management company shall calculate on a daily basis and publish at least once in seven days in a periodical publication with nationwide circulation:

- a) the current value of the pension unit in each of the pension funds under its management;
- b) the net asset value of each of the pension funds under its management.

(2) A pension fund management company shall at least once a month publish in a periodical publication with nationwide circulation the level of its fee under Article 63(1)(a) and (c).

(3) The pension fund management company shall make the following documents available to the savers in its registered office and branches for consultation purposes:

- a) the annual report concerning its own assets, including the audited annual financial statements for the previous calendar year, not later than three months after the end of the accounting period;
- b) the annual reports for the previous calendar year concerning the pension funds' assets, including the audited annual financial statements for the previous calendar year, not later than three months after the end of the accounting period;
- c) the half-yearly report for the first half of the calendar year concerning its own assets, including the half-yearly financial statements for the first half of the calendar year, not later than two months after the end of the half of the accounting period;
- d) half-yearly reports for the first half of the calendar year concerning the pension funds' assets, including the half-yearly financial statements of the pension funds for the first half of the calendar year, not later than two months after the end of the half of the accounting period.

(4) The pension fund management company shall incorporate a summary of the results of operation for the most recent three years in the annual reports referred to in paragraph 3(a) and (b) and in the half-yearly reports referred to in paragraph 3(c) and (d).

(5) If the financial statements are not audited by the date specified in paragraph 3(a) and (b), the pension fund management company shall make the auditor's report available in the way laid down in paragraph 3 as soon as received by it.

(6) The annual report and the half-yearly report referred to in paragraph 3(a) and (c) shall contain

- a) information about members of the Board of Directors, members of the Supervisory Board, and shareholders of the pension fund management company;
- b) information about the most significant events having an impact on the management of the pension fund management company, and information about the expected development of the same in the upcoming period;
- c) information about external funds of the pension fund management company;
- d) information about persons to whom the performance of activities was delegated under Article 67;
- e) other information whose extent shall be defined by the National Bank of Slovakia under the paragraph 11.

(7) The annual report and the half-yearly report referred to in paragraph 3(b) and (d) shall contain

- a) information about the most significant events having an impact on the management of the assets kept in the pension fund, and information about the expected development of the same in the upcoming period;
- b) information about the balance of assets kept in the pension fund, broken down by markets, issuers, sectors, and currencies;
- c) a graphical representation of development in the value of the pension unit;
- d) information about development in the number of savers;

e) other information whose extent shall be defined by the National Bank of Slovakia under the paragraph 11.

(8) The pension fund management company shall publish a concise version of the annual report and half-yearly report concerning the pension funds' assets, and a concise version of the annual report and half-yearly report concerning own assets of the pension fund management company in national periodicals within the time limits specified in paragraph 3.

(9) A pension fund management company that is the legal successor of a merger with another pension fund management company is obliged without undue delay to publish in a periodical publication with nationwide circulation an announcement about the merger of the pension fund management companies and about the merger of the respective pension funds.

(10) A pension fund management company to which the management of pension funds has been transferred for a reason other than that mentioned in Paragraph (9) is obliged without undue delay to publish in a periodical publication with nation wide circulation an announcement about the transfer of the pension funds' management and about the merger of the respective pension funds.

(11) The National Bank of Slovakia shall specify, by a generally binding legal regulation, information referred to in paragraph 6(a) to (d) and in paragraph 7(a) to (d) as well the extent of other information referred to in paragraph 6(e) and in paragraph 7(e) which must be incorporated in the annual report and half-yearly report concerning the pension fund's assets, in the annual report and half-yearly report concerning own assets of the pension fund management company, in the concise version of the annual report and half-yearly report concerning the pension fund's assets, in the concise version of the annual report and half-yearly report concerning own assets of the pension fund management company, the extent, content, structure, deadlines, form, method, procedure, and place of their submission to the National Bank of Slovakia, and the scope of their disclosure.

## **ARTICLE 106**

### **Prospectus**

(1) The prospectus shall contain the information necessary to enable savers to make an informed assessment of the opportunities offered by the investment and of the risks attached to such an investment. The prospectus shall also contain a clear and, for ordinary savers, easily understandable explanation of the pension fund's risk profile. The prospectus must not contain false or misleading information.

(2) The prospectus shall contain information about the assets in which it is permitted to invest the pension fund's assets.

(3) Where the investment strategy of a pension fund is to invest predominantly in assets other than transferable securities and money market instruments, the prospectus and advertising materials shall contain a conspicuous notice about the respective investment strategy.

(4) If it may be expected that the net asset value of a pension fund will fluctuate substantially owing to the composition of the pension fund's assets or as a result of the investment management procedures pursued by the pension fund management company, the prospectus and advertising materials shall contain a conspicuous notice about these facts.

(5) The prospectus may be in paper form, or in the form of a record on a durable medium provided that the access to the information is equivalent to that for the paper form and that it has been approved by the National Bank of Slovakia. For the purposes of this Act, "durable medium" shall mean an instrument or technical device, especially a technical information carrier, that enables a saver or a pension beneficiary of retirement pension saving to store the information addressed to him, and to do so in such a way that the stored information may be used in future to meet its intended purposes and that it can be reproduced in unaltered form.

(6) Liability for the accuracy and completeness of information given in the prospectus shall attach to the pension fund management company.

(7) The information in the prospectus shall be kept updated by the pension fund management company. The rules for adopting changes and updates to the prospectus shall be laid down in the statute of the pension fund.

(8) A pension fund management company shall attach to a retirement savings contract both the prospectus corresponding to the saver's pension fund and the statute of this pension fund.

(9) A pension fund management company shall publish on its website the prospectuses for the pension funds under its management.

(10) Following any amendment to the prospectus, the pension fund management company shall forthwith send a copy thereof to the National Bank of Slovakia.

## **ARTICLE 107**

### **Website**

(1) The pension fund management company shall create a website which must contain, in particular

- a) information referred to in Article 105;
- b) the latest versions of the information prospectuses of the pension funds managed by the pension fund management company;
- c) the latest versions of the rules of the pension funds managed by the pension fund management company;
- d) data about the share capital of the pension fund management company;
- e) the latest version of the articles of association of the pension fund management company;
- f) the latest data about the founders and shareholders of the pension fund management company, specifying

1. the business name, registered office, and percentage share in the voting rights and share capital of the pension fund management company, if it is a corporation;
  2. the first name, last name, address of permanent residence, and percentage share in the voting rights and share capital of the pension fund management company, if it is an individual;
- g) information about persons to whom the performance of activities was delegated by the pension fund management company under Article 67;
  - h) the monthly report referred to in paragraph 3.
  - i) a reference value of a conservative pension fund under Article 91 and a composition of a reference value of the pension funds under Article 91a.

(2) The pension fund management company shall publish the annual reports and half-yearly reports, the annual financial statements and half-yearly financial statements on its website within the time limits specified in Article 105(3).

(3) The pension fund management company shall publish monthly reports on development in the investment of the pension funds' assets on its website. The monthly reports shall contain, in particular

- a) a designation of the pension fund, business name of the pension fund's depository, information about the net asset value of the pension fund, date of the creation of the pension fund, current value of the pension unit as at the date of the monthly report;
- b) data about the market risk of the pension fund, which shall be understood to mean
  1. the share of the equity investments in the net asset value;
  2. the share of the bond investments in the net asset value, broken down by the maturity date;
  3. the share of the financial investments in the net asset value;
  4. the share of other assets, in particular options and receivables, in the net asset value;
  5. the modified duration of the bond and financial investments in the pension fund;
- c) data about the geographical risk of the balanced and growth pension funds, which shall be understood to mean the share of the equity investments issued by the issuer or reflecting the development in the prices of the issuers, specifying the country of the issuer's residence, and in the case of a conservative pension fund, the share of the individual rating grades of the bond part of the portfolio in the net asset value of the pension fund; d) data about the currency risk of the pension fund, which shall be understood to mean the share of the assets denominated in currencies which are not hedged against the currency risk in the net asset value, specifying the given currency;
- e) data about the largest investments in terms of their share in the net asset value of the pension fund, in particular the name of the financial instrument, its identification data and percentage share in the net asset value of the pension fund;
- f) data referred to in subparagraph e) must constitute, in the case of a conservative pension fund, 15 issues of the financial instruments and, in the case of balanced and growth pension funds, 10 issues of the financial instruments satisfying the definition of the equity investments, and 10 issues of the financial instruments satisfying the definition of the bond and financial investments;
- g) an assessment of a comparison of a conservative pension fund's performance with a reference value of a conservative pension fund and an assessment of a comparison of

- a composition of assets in a balanced pension fund and a composition of assets in a growth pension fund with a composition of their reference value
- h) an opinion of the employee responsible for management of the pension fund's investments on changes in the pension fund portfolio and on the most significant events having an impact on the composition and appreciation of the assets in the pension fund in the month for which the monthly report is produced.

(4) The pension fund management company shall update data on its website at least once in seven days. The website of the pension fund management company shall contain the date of the last update, and data on the website may not be replaced by the latest ones, but their history must be recorded and made available to the public. The pension fund management company shall always produce the monthly reports referred to in paragraph 3 as at the last day of the calendar month, and post them on its website within a period of ten days after the end of the calendar month. If the last day of the calendar month is a Saturday or a bank holiday, the data and values to be used by the pension fund management company for the production of the monthly report shall be those valid as at the last working day which precedes the monthly report date.

(5) The pension fund management company shall allow the saver, via its website, to have free, secured passive access to the regularly updated data relating to his/her personal pension account containing

- a) data structured according to the Article 94(3);
- b) the current value of the pension unit;
- c) the current value of the personal pension account, expressed in euro, as the product of the current value of the pension unit and the number of the pension fund's pension units recorded on the personal pension account.

## **ARTICLE 108**

The information mentioned in Articles 105 to 107 shall be provided free of charge by the pension fund management company, unless otherwise provided by this Act.

## **ARTICLE 109**

### **Information obligation towards the National Bank of Slovakia**

- (1) A pension fund management company shall submit to the National Bank of Slovakia:
- a) within three months after the lapse of the accounting period, the annual report on the management of its own assets for the previous calendar year, and the annual reports on the management of assets in the managed pension funds for the previous calendar year;
  - b) within two months after the end of a half of the accounting period, the half-yearly report on the management of its own assets for the first half of this calendar year, and the half-yearly reports on the management of assets in the managed pension funds for the first half of this calendar year;
  - c) not later than one month after the end of a calendar quarter, information on the level of own funds and their structure; this is without prejudice to the obligation to notify the National Bank of Slovakia forthwith if the pension fund management company has ceased

- to fulfil the capital adequacy requirement;
- d) not later than one month after the end of a calendar quarter, interim financial statements of a pension fund management company prepared as at the last day of that calendar quarter.

(2) Along with the annual reports mentioned in Paragraph 1(a), a pension fund management company shall submit to the National Bank of Slovakia its audited financial statements. If a pension fund management company's financial statements have not been audited by the deadline mentioned in Paragraph (1)(a), the pension fund management company shall notify the National Bank of Slovakia of this fact, and after receiving the auditor's report, it shall forthwith deliver this report to the National Bank of Slovakia.

(3) Along with the half-yearly reports mentioned in Paragraph (1)(b), a pension fund management company shall submit its half-yearly financial statements to the National Bank of Slovakia.

(4) In its half-yearly report and annual report, a pension fund management company shall include a brief summary of its financial results for the previous three years.

(5) The pension fund management company and its depository shall notify the National Bank of Slovakia promptly if the limits laid down in the provisions concerning the risk limitation and spreading have been exceeded and aligned, with such notification being made by safe communication using electronic transfer of data. Structure, scope, content, form, method, procedure, place and methodology of this notice shall be laid down by the National Bank of Slovakia by a generally binding legal regulation.

(6) A pension fund management company shall report to the National Bank of Slovakia without undue delay the date when alterations of the statute become effective.

(7) A pension fund management company shall submit to the National Bank of Slovakia upon request:

- a) a detailed statement of the purchases of financial instruments made for a pension fund's assets and of the sales of financial instruments from a pension fund's assets, including identification of the financial instruments, date, and price;
- b) fees for securities dealers and the depository, fees for foreign managers of investment assets, fees for investment analyses, and other fees related to the investment of a pension fund's assets;
- c) information on the amount of the remuneration of members of the board of directors and members of the supervisory board of the pension fund management company;
- d) the list of the savers and pension beneficiaries from retirement pension saving;
- e) other information requested by the National Bank of Slovakia.

## **ARTICLE 110**

(1) A pension fund management company shall ensure the secure electronic transfer of data to the register of the insured and savers<sup>89</sup> maintained by the Social Insurance Agency. The data mentioned in the first sentence are required for the conduct of social insurance and retirement pension saving, and their structure shall be determined by the Social Insurance

Agency.

(2) A pension fund management company is entitled to obtain, from the Register of Insured Persons and Savers, data required for the conduct of retirement pension saving, which include, in particular

- a) data about entering or not entering of a retirement pensions savings contract in the Register of Contracts,
- b) a detailed breakdown of contributions assigned to the current account of a pension fund of the relevant pension fund management company,
- c) a monthly overview of the savers of the relevant pension fund management company giving the reason for not assigning of contributions for individual savers for the relevant month,
- d) a detailed breakdown of the penalties assigned to the current account of a pension fund of the relevant pension fund management company stating the number of days for which the penalty is paid.

(3) A pension fund management company and its depository shall, on each working day and by secure electronic transfer of data, provide the National Bank of Slovakia with information on transactions in a pension fund's assets and on the balance of assets in each pension fund. Structure, scope, content, form, classification, deadlines, procedure, place and methodology of the provision of this information shall be laid down by the National Bank of Slovakia by a generally binding legal regulation. Information according to the first sentence must be comprehensible, well-arranged, probative, and must provide a clear picture of reported facts and must be submitted in a timely manner. If the submitted information does not correspond to the determined methodology, or if any reasonable doubt occurs about the correctness or completeness of such information, a pension fund management company and its depository shall submit source documents, to the National Bank of Slovakia, upon its request, and submit an explanation in a period set by the National Bank of Slovakia.

(4) A pension fund management company shall provide the Statistical Office of the Slovak Republic with statistical data and administrative data as defined by a separate regulation.<sup>90</sup>

## **PART NINE PROMOTIONAL ACTIVITIES AND ADVERTISING**

### **ARTICLE 111 Repealed by Act No. 310/2006 Coll.**

### **ARTICLE 112**

(1) Promotional activities shall include activities aimed at persuading relevant persons to become savers or to continue being savers.

(2) For the promotion and advertising of retirement pension saving, it is prohibited to use

untrue or misleading information, to withhold important facts, to offer services or payments which are unrelated to retirement pension saving or which do not comply with the law, and to state incorrect information about the financial position of a pension fund or a pension fund management company. What is to be understood by untrue or misleading information or a service or payment unrelated to retirement pension shall be laid down in a generally binding legal regulation to be issued by the National Bank of Slovakia.

(3) Advertising shall mean any presentation of retirement pension saving which aims to establish it on the market, and shall include, in particular, a notice, advertisement, poster, website with free access, or another document containing a notice about a pension fund management company or its pension funds, which is to be published, for example, on radio or television.

(4) Advertising in the meaning of Paragraph (3) shall include a warning which makes clear that the concluding of a contract with a pension fund management company includes a risk and that the previous or predicted yields of the pension fund portfolio under its management are not a guarantee of the future yields of the pension fund portfolio.

(5) Advertising in the meaning of Paragraph (3) shall include a notice that the activities of the pension fund management company are subject to supervision by the National Bank of Slovakia.

(6) Advertising in the meaning of Paragraph (3) must not be published until the licence for the incorporation and operation of the pension fund management company has been issued by the National Bank of Slovakia.

(7) Advertising, including advertisements, which is intended for savers shall be subject to the advertising requirements laid down by a separate regulation.<sup>92</sup>

(8) If advertising in the meaning of Paragraph (3) fails to meet the conditions laid down in Paragraphs (2), (4) and (5), or if it includes information that is contrary to this Act, the statute of a pension fund or the prospectus, or if it could be misleading in the absence of other information, the National Bank of Slovak shall prohibit or suspend such advertising until the shortcomings have been rectified.

## **PART TEN SUPERVISION**

### **ARTICLE 113**

(1) Supervision in the meaning of this Act shall be exercised by the National Bank of Slovakia. The proceedings of the National Bank of Slovakia within the exercise of supervision under this Act shall be subject to a separate regulation.<sup>43</sup>

(2) The objective of supervision is principally to protect the assets of pension funds, and to ensure financial market stability and a competitive and transparent environment. The exercise of supervision shall focus on revealing indications of imprudent business conduct, preventing the scope for embezzlement, ensuring that the portfolio of pension funds is managed in accordance

with the restrictions laid down by this Act, ensuring that savers and pension beneficiaries from retirement pension saving are informed, and on minimizing investment risks.

(3) When exercising supervision, the National Bank of Slovakia shall protect the interests of savers and pension beneficiaries from retirement pension saving, and shall proceed so as not to infringe the rights and legally-protected interests of the entities subject to this supervision.

(4) Where supervision is exercised through an on-site inspection, the relations between the National Bank of Slovakia and the entities subject to this supervision shall be governed by the provisions of a separate regulation.<sup>43</sup>

(5) When exercising supervision, the National Bank of Slovakia may require the entities subject to this supervision to provide data, documents and information necessary for the proper exercise of supervision, and in the extent required for the exercise of supervision, and these entities shall submit the required data, documents and information to the National Bank of Slovakia within the time limit stipulated by the National Bank of Slovakia.

(6) When exercising supervision, the National Bank of Slovakia is entitled to acquire by secure electronic transfer of data,

- a) from a pension fund management company and its depository, information required for assessing whether transactions in a pension fund's assets comply with this Act, other generally binding legal regulations, and the statute of the pension fund;
- b) from the Social Insurance Agency, information from the register of the insured and savers in regard to retirement pension saving.

(7) The pension fund management company shall prove to the National Bank of Slovakia, upon its written request, that the pension fund's assets are invested in accordance with the rules of Articles 81 to 90; the failure to meet this obligation shall constitute the violation of the prudential rules under Article 61.

(8) A pension fund management company shall allow persons authorized to exercise supervision to attend its general meeting and meetings of its supervisory board and board of directors.

(9) The National Bank of Slovakia may, in exercising supervision, cooperate with domestic and foreign supervisory authorities.

(10) The information acquired by the National Bank of Slovakia from domestic and foreign supervisory authorities may be used by National Bank of Slovakia solely for the purposes of supervision.

#### **ARTICLE 114**

##### **Remit of the supervision exercised by the National Bank of Slovakia**

- (1) The activities performed by the following shall be subject to supervision:
- a) a pension fund management company;

- b) members of the board of directors, members of the supervisory board, or a general proxy of a pension fund management company;
- c) shareholders of a pension fund management company;
- d) a depository;
- e) a compulsory administrator;
- f) an entity to which a pension fund management company has delegated part of its activities in accordance with Article 67;
- g) an entity which is on an unlicensed basis performing activities that this Act stipulates may only be performed by a pension fund management company;
- h) activities performed under Article 112 by a natural or legal person.
- i) by natural persons and juristic persons, connected with the outlay of expenditures in favour of a pension fund management company under Article 63a (1).

(2) The scope of the supervision mentioned in Paragraph (1) shall include in particular:

- a) compliance with the provisions of this Act and separate regulations,<sup>83</sup>
- b) compliance with the statute of a pension fund and the articles of association of a pension fund management company;
- c) compliance with the conditions under which a licence was issued under this Act;
- d) the fulfilment of sanction measures imposed by a valid decision of the supervisory authority;
- e) compliance with the system of internal controls drawn up in accordance with Article 55.

(3) The scope of supervision shall not include contractual dispute resolution of pension fund management companies, which shall be heard and decided by a competent court<sup>64</sup> or other authority in accordance with a separate regulation.<sup>93</sup>

## **ARTICLE 115**

### **Sanctions**

(1) If the National Bank of Slovakia finds that an entity mentioned in Article 114(1) has breached or is evading its obligations laid down in this Act, in separate regulations<sup>93a)</sup> governing its obligations, in the statute of a pension fund, in the articles of association of a pension fund management company, or in a license issued under this Act, or it has not fulfilled a measure imposed by a valid decision of the National Bank of Slovakia, or it is not complying with the internal control system, the National Bank of Slovakia may:

- a) impose measures to eliminate and rectify the identified shortcomings, a time limit for their fulfilment, and an obligation to inform the National Bank of Slovakia within a stipulated time limit about their fulfilment;
- b) require the pension fund management company to adopt recovery measures;
- c) order an audit of the management of a pension fund's assets at the expense of the pension fund management company;
- d) require the correction of accounting records or other records in accordance with the findings of the National Bank of Slovakia or an auditor;
- e) require publication of the correction of incomplete, incorrect or false information, promotional material or advertising;
- f) require the submission of separate statements, reports and disclosures;

- g) order the pension fund management company to cease performing an activity in regard to the management of a pension fund by another person to whom the pension fund management company has delegated the performance of part of its activities in accordance with Article 67;
- h) order a change of persons on the bodies of the pension fund management company or a change of general proxy;
- i) order a change of depository;
- j) recall a compulsory administrator and appoint a new compulsory administrator;
- k) suspend the exercise of shareholder rights;
- l) order the termination of an unlicensed activity, a prohibited promotional activity or prohibited advertising;
- m) suspend for a stipulated period and to a stipulated extent the use of a pension fund's assets and, at the same time, place the pension fund under compulsory administration for this period and appoint the compulsory administrator;
- n) impose a fine of up to EUR 700,000 unless this Act states otherwise;
- o) place a pension fund under compulsory administration;
- p) revoke the licence for the incorporation and operation of the pension fund management company, issued in accordance with this Act;
- q) impose an obligation to publish the statement of a valid decision in a periodical publication with nationwide circulation.

(2) If a member of the board of directors or member of the supervisory board of a pension fund management company, a general proxy of a pension fund management company, a management employee reporting directly to the board of directors who is responsible for professional activities, or an employee responsible for internal control has breached an obligation imposed on him by this Act, by other generally binding legal regulations applicable to the activities of the pension fund management company, by the articles of association of the pension fund management company or by the statute of a pension fund, or if he has breached a condition or obligation imposed by a decision of the National Bank of Slovakia, the National Bank of Slovakia may fine him up to twelve times the monthly average of his total income from the pension fund management company or of his income from a company which is part of a group with close links. Where a person has ceased to be trustworthy in the meaning of Article 48(11) as a result of being validly fined, the pension fund management company shall forthwith recall such a person from his position.

(3) The National Bank of Slovakia shall impose on a pension fund management company that has exceeded the level of expenditures under Article 63a a fine in the amount of three times the difference of the level of expenditures incurred by the pension fund management company and a natural person and juristic person in favour of the pension fund management company and the level of expenditures under Article 63a

(4) If when exercising supervision, the National Bank of Slovakia finds that the breach of an obligation under this Act has resulted in a material gain to the person who breached the obligation, to person close to him, or to a person with close links to him, it may require such a person to pay compensation of equivalent value to the material gain to the person at whose expense this gain was acquired.

(5) When imposing sanctions, the National Bank of Slovakia shall take as a basis the nature, gravity and manner of, the degree of culpability for, and the duration and consequences of the breach of obligation, while taking into account whether the person mentioned in Paragraph (2) or in Article 114(1) has himself identified the breach of obligation and restored the legal status before the decision on the sanction is issued.

(6) Sanctions under this Act may be imposed within two years from the date when the National Bank of Slovakia identified the breach of obligation, but not later than the end of the fifth year after the date on which the relevant breach of obligation occurred. Sanctions may be imposed concurrently and repeatedly. The imposition of sanctions under this Act is without prejudice to liability as defined in separate regulations.<sup>94</sup>

(7) If within two years from the entry into force of a decision to impose a fine, there is a reoccurrence of the breach of obligation for which the fine was imposed, the National Bank of Slovakia may impose a fine of up to two times the level of the fine previously imposed.

(8) A fine shall be payable within 30 days from the entry into force of the decision under which it was imposed. A fine imposed under this Act shall represent income of the state budget of the Slovak Republic.

(9) If the National Bank of Slovakia, in exercising supervision, finds a breach of law by an entity mentioned in Article 114(1), it may impose sanctions whether or not this person is in liquidation.

(10) A pension fund management company shall inform its supervisory board of a valid decision by the National Bank of Slovakia to impose a sanction on the company, and, within 30 days after the entry into force of the decision, it shall send the National Bank of Slovakia the minutes of the supervisory board's discussion of this information.

(11) The National Bank of Slovakia may, even outside sanction proceedings, discuss shortcomings in the activities of a pension fund management company with members of its board of directors or members of its supervisory board, with a general proxy, a management employee<sup>47</sup> or an employee responsible for internal control; these persons shall provide the cooperation requested by the National Bank of Slovakia.

## **ARTICLE 116**

### **Recovery measures**

- (1) The recovery measures of a pension fund management company shall mean:
- a) a recovery programme that must include-
    1. a plan for capital strengthening in regard to capital adequacy or the draft of another measure to improve capital adequacy,
    2. a plan projecting the present and anticipated development of the pension fund management company's economic situation, at least in the scope of balance sheets, income statements, the budget, a strategic business plan, and a profitability analysis of achieving the objectives of the programme,

3. other information that the Authority deems necessary;
- b) introducing daily monitoring of developments in the financial position of the pension fund management company;
- c) limiting or suspending the payment of dividends,<sup>95</sup> bonuses<sup>96</sup> and other shares in profit, and remuneration and non-monetary compensation to shareholders, members of the board of directors, members of the supervisory board and employees of the pension fund management company;
- d) limiting or suspending salary increases for members of the board of directors, members of the supervisory board, and all employees of the pension fund management company;
- e) limiting or restricting the expansion of new transactions made by the pension fund management company; for these transactions, the pension fund management company shall require the prior approval of the National Bank of Slovakia.

(2) The National Bank of Slovakia may impose recovery measures on a pension fund management company where the company:

- a) has seriously failed to fulfil an obligation laid down by this Act or by separate regulations and the resulting situation may threaten the ability of the pension fund management company to meet liabilities arising from its performed activities;
- b) reports losses which if settled out of the disposable funds of the pension fund management company would lead to a reduction in its registered capital to below the level mentioned in Article 47(8).

(3) The National Bank of Slovakia shall require a pension fund management company to adopt recovery measures if the company has ceased to meet the capital adequacy requirement under this Act. In the decision referred to in the first sentence, the National Bank of Slovakia shall also stipulate a time limit within which the pension fund management company is required to meet the capital adequacy requirement.

(4) Within 30 days after the delivery of a decision requiring a pension fund management company to adopt recovery measures, the board of directors of the pension fund management company shall submit a draft of the recovery measures to the National Bank of Slovakia. The draft recovery measures must be approved by the board of directors and the supervisory board of the pension fund management company. Within 20 days after delivery of the draft recovery measures, the National Bank of Slovakia shall approve or reject them. If within this time limit, the National Bank of Slovakia has not delivered a decision to reject the submitted recovery measures to the pension fund management company, the draft measures shall be deemed to be approved.

(5) As of the delivery date of a decision requiring a pension fund management company to adopt recovery measures, the right of savers to conclude a retirement pension saving contract with another pension fund management company shall be suspended for a period of 60 days.

## **ARTICLE 117**

### **Suspending the exercise of shareholder rights**

- (1) Where a natural or legal person has performed an act constituting a breach of Article

52(1)(a), or has obtained prior approval under Article 52 on the basis of false information, or is reasonably suspected by the National Bank of Slovakia of having breached Article 52(1)(a), the National Bank of Slovakia may suspend such a person's right to attend and vote at a general meeting of the pension fund management company and his right to request the convening of a general meeting of the pension fund management company. The National Bank of Slovakia may also suspend from exercising such rights any person whose actions in regard to the pension fund management company are detrimental to the proper and prudent conduct of the business of the pension fund management company.

(2) Not later than three working days before its general meeting is held, a pension fund management company shall, in accordance with a separate regulation,<sup>97</sup> issue an order to register the suspension of an owner's right of use in all the book-entry shares which the company has issued, for a period ending on the day following the date of the general meeting.

(3) A pension fund management company shall submit to the National Bank of Slovakia an extract from its issuer's register and from its list of shareholders obtained on the execution date of the order of the pension fund management company to register the suspension of the right of use in all the book-entry shares issued by the pension fund management company. The extract may not be obtained prior to the registration. On the date that the extract is obtained, the pension fund management company shall deliver it to the National Bank of Slovakia. The National Bank of Slovakia shall forthwith name in writing on the extract the person whose rights referred to in Paragraph (1) are subject to the suspension and shall deliver the extract to the pension fund management company not later than the day preceding the date of the general meeting.

(4) For the person named in writing on the extract under Paragraph (3), the proceedings to suspend the exercise of rights mentioned in Paragraph (1) shall be deemed commenced even where the National Bank of Slovakia has re-established the reason for suspending this person's exercise of the rights mentioned in Paragraph (1).

(5) A decision on suspending a person's exercise of the rights mentioned in Paragraph (1) shall be delivered by the National Bank of Slovakia to this person and to the pension fund management company prior to the commencement of the general meeting. This decision shall be binding upon the pension fund management company. This preliminary ruling shall be deemed delivered also upon its delivery to a proxy authorized to represent the person concerned at the general meeting.

(6) A pension fund management company shall not permit the attendance at its general meeting of a person named by the National Bank of Slovakia under Paragraph (3) or Paragraph (4), nor persons authorized to act on their behalf in proceedings.

(7) Shares to which attach rights suspended under Paragraph (1) shall not, for so long as the suspension is in force, be deemed voting shares. These shares shall not be taken into consideration when determining whether the general meeting has a quorum or for decisions of the general meeting. The resulting increase in the proportion of the voting rights held by other persons stated in the extract submitted by the pension fund management company under Paragraph (3) shall not require the prior approval of the National Bank of Slovakia in accordance with Article 52.

(8) When the reasons cease for the suspension of the exercise of rights mentioned in Paragraph (1), the National Bank of Slovakia shall forthwith lift the suspension. Entities requested by the National Bank of Slovakia to publish this decision shall comply with this request.

(9) The National Bank of Slovakia may petition a court to annul a decision made by the general meeting of a pension fund management company on grounds that the decision is in breach of the law or the company's articles of association. This right shall, however, expire if the National Bank of Slovakia has not exercised it within three months after the general meeting passed the decision or, if the general meeting was not duly convened, from the day when the National Bank of Slovakia could have learned of the decision.

## **ARTICLE 118**

### **Compulsory administration of a pension fund**

(1) For the purposes of this Act, "compulsory administration" shall mean the management of a pension fund which is performed on the basis of an enforceable decision of the National Bank of Slovakia on the imposition of compulsory administration. Compulsory administration shall be performed by a compulsory administrator appointed in the decision of the National Bank of Slovakia on the imposition of compulsory administration.

- (2) The principle purpose of compulsory administration shall be:
- a) to protect the pension fund's assets from damage or the exacerbation of damage and to stop the depreciation of these assets;
  - b) to ascertain the actual balance of the pension fund's assets, unless this is ascertainable in accordance with other provisions of this Act.

(3) The National Bank of Slovakia shall place a pension fund under compulsory administration whenever:

- a) it suspends for a stipulated period and to a stipulated extent the use of the pension fund's assets (Article 119);
- b) it revokes the licence for the incorporation and operation of the pension fund management company [Article 115(1)(p)];
- c) a petition for a bankruptcy order against the pension fund management company has been submitted [(Article 71(5)),
- d) the pension fund management company fails to replenish the assets under Article 91(9) or fails to settle the receivable under Article 91(11) within the set date,
- e) this Act so stipulates.

(4) The National Bank of Slovakia shall appoint as the compulsory administrator of a pension fund the depository of the pension fund. If it is not possible to appoint the depository as the compulsory administrator, the National Bank of Slovakia shall appoint as the compulsory administrator another legal person that is authorized under this Act to perform the activities of a depository.

(5) The substitute compulsory administrator under Paragraph (4) shall be another legal person authorized under this Act to perform the activities of a depository.

(6) If the National Bank of Slovakia places a pension fund under compulsory administration, the pension fund management company shall hand over the management of the pension fund and all related documents to the designated compulsory administrator not later than 15 days after the delivery of the decision on the imposition of the compulsory administration or within a time limit laid down by the National Bank of Slovakia. As of the date when the decision is delivered, the compulsory administration shall be imposed and shall have effect for all persons concerned. An appeal against a decision of the National Bank of Slovakia under which compulsory administration was imposed and the compulsory administrator was appointed shall not have suspensive effect. When compulsory administration is imposed, the powers of the pension fund management company in regard to the pension fund shall pass to the compulsory administrator. The compulsory administrator shall be entered in the Commercial Register on the basis of a petition filed by the National Bank of Slovakia. A report on the handover of the pension fund's management to the compulsory administrator shall forthwith be submitted to the National Bank of Slovakia by the pension fund management company and compulsory administrator.

(7) As of when compulsory administration is imposed, the right of savers to conclude a retirement pension saving contract with another pension fund management company shall be suspended for a period of 60 days.

(8) Within 30 days after the end of compulsory administration, the compulsory administrator appointed under Article 118(4) shall hand back management of the pension fund to the pension fund management company; this shall likewise apply where compulsory administration imposed under Article 71(6) comes to an end upon the effective date of a court's decision to reject the bankruptcy petition. Within 30 days after the effective date of a decision of the National Bank of Slovakia under Article 120(3) or Article 71(6)(b), the compulsory administrator appointed under Article 118(4) or Article 71(6) shall hand back management of the pension fund and related documentation to the pension fund management company stipulated in the decision of the National Bank of Slovakia.

(9) The provisions of this Act governing the obligations of a pension fund management company in regard to the management of a pension fund shall likewise apply to a compulsory administrator. A compulsory administrator shall carry out the management of the pension fund only to the extent necessary to protect the interests of savers and pension beneficiaries from retirement pension saving, and in so doing it shall be bound by the restrictions laid down in the decision on the imposition of the compulsory administration.

(10) A compulsory administrator shall act in its own name and for the account of savers and pension beneficiaries from retirement pension saving; it shall-

- a) manage the assets under management with professional care;
- b) have regard to the protection of the interests of savers and pension beneficiaries from retirement pension saving;
- c) keep separate accounts for each of the managed pension funds.

(11) For exercising compulsory administration, a compulsory administrator shall be entitled to remuneration proportional to the period of administration and provided under the same conditions as were attached to the agreed fee of the pension fund management company for the management of the pension fund.

(12) Compulsory administration shall cease upon the date stipulated in the decision of the National Bank of Slovakia on the imposition of the compulsory administration or in its decision on the termination of the compulsory administration.

(13) The National Bank of Slovakia shall forthwith appoint a new compulsory administrator where:

- a) the compulsory administrator is to be wound up;
- b) the compulsory administrator resigns its position by giving notice in writing to the National Bank of Slovakia;
- c) the compulsory administrator is in breach of its obligations;
- d) the compulsory administrator has ceased to be authorized to perform the activities of a depository.

(14) An appeal against the decision mentioned in Paragraph (12) shall not have suspensive effect.

(15) A compulsory administrator that is changed for a reason mentioned in Paragraph 13(b) or (c) shall be required to fulfil the obligations of the compulsory administrator until the entry into force of the decision of the National Bank of Slovakia on the appointment of a new compulsory administrator.

(16) The provisions of Paragraph (5) shall apply to the appointment of a new compulsory administrator under Paragraph (13).

## **ARTICLE 119**

### **Suspension of the use of a pension fund's assets**

Where the National Bank of Slovakia issues a decision to suspend the use of a pension fund's assets under Article 115(1)(m), the pension fund management company shall, from date when the decision is delivered, be allowed to use the pension fund's assets only to the extent stipulated in the decision.

## **ARTICLE 120**

### **Revocation of the licence for the incorporation and operation of a pension fund management company**

(1) The National Bank of Slovakia shall revoke the licence for the incorporation and operation of a pension fund management company where:

- a) the pension fund management company has failed to meet the capital adequacy requirement within the time limit stipulated in a decision under Article 116(3);

- b) the pension fund management company has not begun to perform the activities stated in the licence within 12 months from when the licence entered into force; this is without prejudice to the provision of Article 51(1)(e);
- c) this Act so stipulates.

(2) The National Bank of Slovakia may revoke the licence for the incorporation and operation of a pension fund management company also where:

- a) this licence was issued on the basis of false or incomplete information;
- b) there has been a serious change in any facts relevant to the issuance of the licence;
- c) the pension fund management company has committed a serious, multiple, or repeated breach of the law and this has not been rectified by the imposition of another sanction under this Act;
- d) the pension fund management company has failed to fulfil the conditions for the commencement of activities within the time limit stipulated in the licence;
- e) the pension fund management company has not handed over the compulsory administration of a pension fund to the compulsory administrator in accordance with Article 118(6).

(3) Where the National Bank of Slovakia revokes the licence for the incorporation and operation of a pension fund management company in accordance with Article 115(1)(p), it shall also, from the date when the decision is delivered, impose compulsory administration on the pension funds managed by the pension fund management company and shall appoint the compulsory administrator.

(4) As of the date when a decision to revoke the licence for the incorporation and operation of a pension fund management company is delivered, the pension fund management company may not perform activities under this Act.

(5) Within 30 days after the entry into force of a decision to revoke the licence for the incorporation and operation of a pension fund management company, the National Bank of Slovakia shall send the decision for publication in the Commercial Bulletin.

(6) The revocation of the licence for the incorporation and operation of a pension fund management company shall be entered in the Commercial Register. Within 15 days after the entry into force of a decision to revoke the licence for the incorporation and operation of a pension fund management company, the National Bank of Slovakia shall file a petition to have this fact entered in the Commercial Register.

**PART ELEVEN  
GUARANTEES**

**ARTICLE 121**

(1) If a decision, procedure or other action of a pension fund management company or a depository is contrary to this Act or other generally binding legal regulations and results in damage to a pension fund's assets, the Social Insurance Agency shall provide full indemnity for this damage out of the solidarity reserve fund.

(2) The decision on compensation for the damage referred to in Paragraph (1) shall be issued by a court.

(3) Where compensation for damage has been awarded by a court, funds sufficient for the coverage thereof shall forthwith be transferred by the Social Insurance Agency to the account of the pension fund determined by the saver in the retirement pension saving contract. Following the transfer of funds under the first sentence, the Social Insurance Agency becomes the creditor and the pension fund management company becomes the debtor.

**PART TWELVE  
COMMON AND TRANSITIONAL PROVISIONS**

**ARTICLE 122**

Disputes arising under this Act shall be settled by courts.

**ARTICLE 123**

(1) From 1 January 2005 at the earliest, a pension fund management company may commence the performance of activities covered by the licence for its incorporation and operation, or amendments thereto, with the exception of the activities mentioned in Article 47(2)(c).

(2) The activities mentioned in Article 47(2)(c) and Article 111(1) may be performed from 1 November 2004 at the earliest.

(3) If a pension fund management company has been entered in the Commercial Register prior to 1 January 2005, the period mentioned in Article 51(1)(e) shall begin to elapse from 1 January 2005 at the earliest.

(4) A pension fund management company shall be required to bring the statute of a pension fund into line with this Act and shall submit the request for prior approval of the amendment to the statute by not later than 31 March 2005.

#### **ARTICLE 123a**

##### **Transitional provisions for regulations effective from 1 January 2006**

(1) Licences, authorizations and prior approvals issued by the Financial Market Authority prior to 1 January 2006, and applicable as at 1 January 2006, shall be deemed licences, authorizations and prior approvals issued under this Act. The provisions of this Act shall apply to the restrictions or suspension of activities carried out under such licence, and to the amendment, revocation or expiry of this licence; the same shall apply to the termination or expiry of authorizations and prior approvals issued by the Financial Market Authority prior to 1 January 2006.

(2) The issuance of generally binding legal regulations which prior to 1 January 2006 were issued for the implementation of enabling provisions in this Act shall from 1 January 2006 fall within the remit of the National Bank of Slovakia to the extent laid down by this Act.

#### **ARTICLE 123b**

(1) Licences for the activities of an intermediary shall expire as at 1 January 2007.

(2) Where an applicant for a licence for the activities of an intermediary has paid the licence issue fee and the National Bank of Slovakia has not decided on his application by 31 December 2006, the National Bank of Slovakia shall return this fee.

#### **ARTICLE 123c**

Prior approvals which the National Bank of Slovakia issued prior to 31 July 2006 as a condition for the delegation of an activity to another natural or legal person shall expire on 28 February 2007.

#### **ARTICLE 123d**

##### **Transitional provision to the amendment effective as of 1 January 2007**

(1) A pension fund management company shall be obliged to harmonise the statutes of its pension funds with this Act not later than by 30 June 2007.

(2) Penalties connected with contributions for the period prior to 1 January 2007 that the Social Insurance Company has not remitted to the current account of the pension fund of the respective pension fund management company within the term under a special regulation <sup>1)</sup> shall after 31 December 2006 be governed by the Act effective to 31 December 2006 if the National Bank of Slovakia by 30 June 2007 finds that the Social Insurance Company has not remitted these contributions.

**Transitional provisions for regulations  
effective from 1 January 2008**

**ARTICLE 123e**

A natural person specified in Article 14(2) effective until 31 December 2007 and in Article 14(3), which until 31 December 2007 did not conclude a retirement pensions savings contract, may conclude this contract before 30 June 2008. The legal regulations effective from 1 January 2008, are applicable to a natural person mentioned in [Article 14(2)(c) to (e)] effective until 31 December 2007, which concludes a retirement pensions savings contract before 30 June 2008 and which pays for persons specified in Article 14(5).

**ARTICLE 123f**

(1) A natural person which concluded a retirement pensions savings contract before 1 January 2008, until 30 June 2008 may deliver, to the competent branch of the Social Insurance Agency, a written notice with its officially attested signature the content of which is the expression of its will not to participate in retirement pensions saving.

(2) Upon delivering a written notice according to Paragraph (1), participation in retirement pensions saving extinguishes to a natural person from the day of the first creation of this participation, and the retirement pension savings contract ceases to exist.

(3) Upon delivering a written notice under Paragraph (1), the Social Insurance Agency shall report, without undue delay, to the pension fund management company that the retirement pensions savings contract has ceased to exist. From the date of the notice of the Social Insurance Agency according to the first sentence, the pension fund management company shall forthwith transfer an amount from the current account of the pension fund to the Social Insurance Agency's account in the Public Purse corresponding to the current value of the personal pension account as at the day preceding the transfer date. If the amount corresponding to the current value of the personal pension account is lower than the amount corresponding to the nominal value of contributions paid on the current account of the pension fund, the pension fund management company shall transfer, without undue delay, from the day of notice of the Social Insurance Agency according to the first sentence, from the current account of the pension fund to the Insurance Agency's account in the Public Purse an amount corresponding to the current value of the personal pension account from the day preceding the transfer date.

**ARTICLE 123g**

(1) A saver participating compulsorily in retirement pensions saving as of 31 December 2007 pursuant to [Article 14(1)(c) to (e) and (2)(c) to (e)] effective until 31 December 2007 and whose mandatory participation should last also after 31 December 2007, is participating in retirement pensions saving after this date pursuant to Article 14(5), if he fails to deliver, until 30 June 2008, a written notice pursuant to Article 123f (1) to the competent branch of the Social Insurance Agency.

Paragraph 2 ceased to have effect on 14 September 2010 (Act No. 355/2010 Coll.).

(2) From 1 January 2008, mandatory participation in retirement pensions saving ceases to exist to a natural person which was until 31 December 2007 participating compulsorily in retirement pensions saving as an employee because of the performance of an activity of a member of the Fire Brigade and Rescue Corps or a member of the Mountain Life-Saving Service, for this reason.

#### **ARTICLE 123h**

Supervision of the assignment of contributions and penalties by the Social Insurance Agency of a pension fund management company, which the National Bank of Slovakia commenced before 1 January 2008 and did not end until 31 December 2007, shall be ended by the National Bank of Slovakia after 31 December 2007 according to the law effective until 31 December 2007.

#### **ARTICLE 123i**

(1) A pension fund management company shall harmonize its organisational structure with the provisions of this Act until 30 June 2008.

(2) A pension fund management company is obliged to harmonize the composition of assets in a pension fund with the provisions of this Act until 30 June 2008. On request of a pension fund management company, the National Bank of Slovakia may extend the period according to the first sentence accordingly.

#### **ARTICLE 123j**

##### **Transitional provisions effective as of 1 January 2008**

(1) Each retirement pension fund management company shall prepare, not later than three months before the euro introduction date in the Slovak Republic, and implement measures, rules and procedures through which it shall secure continuous and undisturbed changeover from the Slovak currency to the euro by setting up and managing retirement pension funds for conduct of retirement pension saving, in particular

- a) rules and procedures applied in redenomination, conversion and rounding of value and net value of retirement pension fund's assets, value of pension units and current value of personal pension accounts of savers, value of retirement pension benefit, and data concerning development in the value of assets, yields and average yields from the management of retirement pension fund's assets,
- b) measures applied in the management of retirement pension fund's assets in relation to the changeover from the Slovak currency to the euro,
- c) method and rules of providing information to savers and retirement pension beneficiaries in regard to significant circumstances related with the changeover from the Slovak currency to the euro, in particular method and rules of disclosing and making available, to the individual savers and to the individual retirement pension beneficiaries, information on current value of pension unit, current value of their personal pension account, and value of their retirement pension benefit, as well as on any amendment or

updating of statutes and information prospectuses of retirement pension funds ensuing from the changeover from the Slovak currency to the euro.

(2) Retirement pension fund management company shall, not later than three months before the euro introduction date in the Slovak Republic and for a period of at least six months following the euro introduction date in the Slovak Republic, publish on its website and at all its business premises used in communicating with savers, retirement pension beneficiaries or other persons relevant information on measures, rules and procedures which will be implemented, are implemented or were implemented for securing the changeover from the Slovak currency to the euro.

(3) Retirement pension fund management company shall prepare information in the scope according to paragraph (1). Retirement pension fund management company shall, within the period of last three months before the euro introduction date in the Slovak Republic, provide such information, free of any charge, to each saver with whom such company enters into a contract on retirement pension saving in that period; the other savers and retirement pension beneficiaries shall be provided with such information, free of any charge, upon their request.

(4) Monetary data on amounts related with retirement pension saving, including monetary data on development in the value of assets, yields and average yields from the retirement pension fund's asset management, which are included in the retirement pension fund's documents or in other information designed for savers or retirement pension beneficiaries, shall, for the purpose of preparation for the changeover and the changeover from the Slovak currency to the euro, be converted according to the conversion rate and other rules governing the changeover from the Slovak currency to the euro. Monetary data on amounts related with retirement pension saving, including monetary data on development in the value of assets, yields and average yields from the retirement pension fund's asset management, which are included in information designed for savers or retirement pension beneficiaries, shall be subject to the dual display in the scope stipulated in separate legal provisions,<sup>98)</sup> if respective information is issued or published during the mandatory period of the dual display pursuant to separate legal provisions on introduction of the euro in the Slovak Republic.<sup>98)</sup>

(5) Retirement pension fund management companies shall, within one quarter of a year following the euro introduction date in the Slovak Republic at the latest, be required to inform to their savers in writing and free of any charge about the current value of pension unit and current value of their personal pension account as at the euro introduction date in the Slovak Republic, which information shall under this Act include also the conversion and rounding of such current values from the Slovak currency to the euros, performed in accordance with the conversion rate and other rules governing the changeover from the Slovak currency to the euro. Furthermore, retirement pension fund management companies shall, within one quarter of a year following the euro introduction date in the Slovak Republic at the latest, be required to inform their retirement pension beneficiaries in writing and free of any charge about the conversion and rounding of the value of retirement pension benefit from the Slovak currency to the euros, performed in accordance with the conversion rate and other rules governing the changeover from the Slovak currency to the euro.<sup>98)</sup>

(6) The scope and content of information to be published under paragraph (2) shall be set forth by a Provision which the National Bank of Slovakia is entitled to adopt and which shall then be published in the Collection of Laws of the Slovak Republic.

**ARTICLE 123k**  
**Transitional provision effective from 1 March 2008**

Article 123 f shall be applicable accordingly to a natural person to whom the Social Insurance Agency has assigned a pension fund management company. A written notice pursuant to Article 123 f (1) does not require an officially attested signature.

**ARTICLE 123l**  
**Transitional provisions effective from 15 November 2008**

An individual who is not a saver as at 15 November 2008 may enter into a retirement pension saving contract by 30 June 2009.

**ARTICLE 123m**

(1) A saver who entered into the retirement pension saving contract before 15 November 2008, or for whom a pension fund management company was determined by the Social Insurance Company, shall cease to participate in the retirement pension saving if a written notice is delivered to the Social Insurance Company by 30 June 2009, containing the expression of his/her will not to participate in the retirement pension saving.

(2) Participation in the retirement pension saving shall cease as at the date of receipt of the written notice under paragraph 1, but not earlier than on 1 January 2009, retrospectively from the date of the first participation. The retirement pension saving contract shall be terminated

- a) on 1 January 2009, if the Social Insurance Company receives the saver's written notice referred to in paragraph 1 before 1 January 2009;
- b) on the date of receipt of the written notice under paragraph 1, if the Social Insurance Company receives the saver's written notice referred to in paragraph 1 in the period from 1 January 2009 to 30 June 2009.

(3) The Social Insurance Company shall inform the pension fund management company promptly, upon receipt of the written notice under paragraph 1, but not later than on 31 December 2008, that the participation in the retirement pension saving ceased. The pension fund management company shall transfer promptly, from the date of receipt of the Social Insurance Company's notice under the first sentence, the amount corresponding to the current value of the personal pension account as at the date which precedes the transfer from the current account of the pension fund to the account of the Social Insurance Company kept in the State Treasury.

**Transitional provisions relating to amendments effective from 1 January 2009**

**ARTICLE 123n**

The pension fund management company shall align the composition of a pension fund's assets to the provisions of the Act effective from 1 January 2009 not later than on 31 December 2009. The National Bank of Slovakia may extend the period defined in the first sentence upon request of the pension fund management company by not more than one year.

### **ARTICLE 123o**

The depositary may keep two current accounts in euro, for each pension fund managed by the pension fund management company, for a period of six months after the introduction of the euro currency in the Slovak Republic.

### **ARTICLE 123p**

#### **Transitional provision relating to amendments effective from 1 January 2011**

If the period under Article 64(4) of the wording effective until 31 December 2010 is to expire after 31 December 2010, a saver referred to in Article 14(5) may, within that period, inform the relevant branch of the Social Insurance Agency of the fact that he has decided to participate in retirement pension saving; the participation of such savers in retirement pension saving until 31 December 2010 shall be subject to the legal regulation effective until 31 December 2010. As regards those savers referred to in the first sentence who have not, within the period stipulated in that sentence, informed the relevant branch of the Social Insurance Agency of the fact that they have decided to participate in retirement pension saving, the provision laid down in the first sentence shall be without prejudice to the establishment of their participation in retirement pension saving as from 1 January 2011 in accordance with the legal regulation effective from that date.

### **ARTICLE 123q**

#### **Transitional provisions relating to amendments effective from 1 November 2011**

(1) At his written request, a pension fund management company shall pay a natural person whose mandatory participation in retirement pension saving terminated under Article 123g (2) effective from 1 January 2008, a monetary amount equal to the number of his pension units recorded in his personal pension account as at 31 December 2007 for the reasons of receiving disablement pension in accordance with a separate regulation<sup>3)</sup>; these data shall be provided to a pension fund management company free of charge by the Social Insurance Agency. The amount paid must correspond to the value of the number of pension units as at the day preceding the payment date. The amount paid referred to in the first sentence may be reduced maximally by the payments which were provably paid from the personal pension account in the period from 1 January 2008 to 31 March 2012; details on the calculation of the amount paid and on its payment may be laid down by a generally binding legal regulation to be issued by the Ministry.

(2) A pension fund management company shall not pay the amount under paragraph (1) if a natural person has received at least 10-year retirement pension saving.

(3) The request under Paragraph (1) may be submitted by a natural person once this person has attained retirement age or has been awarded early retirement pension in accordance with a separate regulation<sup>3)</sup>; this fact shall be proved by the applicant. A pension fund management company shall pay the amount under paragraph (1) within 60 days from the receipt of the request.

### **ARTICLE 123r**

(1) A pension fund management company shall send to a saver in other than conservative pension fund a written notification that the obligation in accordance with Article 63d to transfer assets to a balanced pension fund and a growth pension fund has been cancelled and that the names of these funds will be changed from 1 April 2012, specifying that if a saver is interested in maintaining the obligation of the pension fund management company to transfer assets to a pension fund when the value of a pension unit decreases in the retirement pension saving, he should switch to a conservative pension fund; the letter of notification must also contain a return slip for specifying the saver's interest to change to a conservative pension fund and an Annex to the Contract on retirement pension saving, or an application form in the case of a saver whose pension fund management company was determined by the Social Insurance Agency, together with a notice that the return slip should be signed by the saver interested in maintaining the obligation of a pension fund management company to transfer assets to a pension fund when the value of a pension unit decreases, and sent as a registered letter to the address of his pension fund management company. The pension fund management company shall inform a saver in writing by 15 January 2012 about the basic changes under this Act.

(2) By 30 November 2011, a pension fund management company shall be obliged to publish on its website information referred to in paragraph (1), including a template of the return slip for a saver's change to a conservative pension fund with a notice that if a saver is interested in maintaining the obligation of a pension fund management company to transfer assets to a pension fund when the value of a pension unit decreases, he must sign the return slip and send it as a registered letter to the address of the pension fund management company.

### **ARTICLE 123s**

(1) Where a natural person concluded a retirement pensions savings contract in the period between 1 January 2005 and 30 June 2006, while the proof that this person has fulfilled conditions for registering the contract in the Register of Contracts is connected with excessive difficulties, this natural person shall be deemed to be a saver and the contract shall be deemed to be a contract concluded in accordance with this Act, unless he delivers, based on a request from the Social Insurance Agency, within six months from this request, a written notification showing his will not to participate in the retirement pension saving. Upon delivering a written notice according to the first sentence, the participation of the natural person in retirement pensions saving terminates as from the day of his first participation, and the retirement pension savings contract is also terminated. Upon delivering the written notice according to the first sentence, the retirement pension saving contract shall be deleted from the Register of Contracts, and the sum of money corresponding to the nominal value of contributions paid shall be transferred, in accordance with Article 64a(8) to (10).

## **PART THIRTEEN**

### **FINAL PROVISIONS**

#### **ARTICLE 124**

This Act transposes the legally binding acts of the European Union listed in Annex no. 2.

#### **ARTICLE 125**

##### **Repealing provisions**

The following shall be repealed:

1. Decree of the Ministry of Labour, Social Affairs and Family of the Slovak Republic No. 184/2004 Coll. on Qualification Test of a Mediator of Old-Age Pension Saving,
2. Decree of the Ministry of Finance of the Slovak Republic No. 737/2004 Coll. on Ways to Document Political and Economic Independence, Standard Character and Transparency of the Used Methodology and Market Recognition of an Agency Specializing in Evaluation of Investment Risk.

## **SECTION II Commencement**

This Act shall come into force on 1 January 2005, with the exception of Section I Articles 47 to 51, Articles 53 to 56, Articles 58, 62, 66, 109, Articles 113 to 115, Articles 120 and 124, Section II, and Section III points six, eighteen, fifty-eight, and sixty-six, which shall come into force on 1 February 2004, and Section I Article 52, Article 67, Article 111, Article 112, Article 117 and Article 123, which shall come into force on 15 April 2004.

Act No. 186/2004 Coll. came into force on 15 April 2004.

Act No. 439/2004 Coll. came into force on 1 August 2004.

Act No. 721/2004 Coll. came into force on 1 January 2005.

Act No. 747/2004 Coll. came into force on 1 January 2006.

Act No. 310/2006 Coll. came into force on 1 August 2006, with the exception of Article IV points thirty, thirty-seven, thirty-eight, fifty-three, and fifty-six to sixty-two, which came into force on 1 January 2007, and Article I points forty-three, forty-five, forty-nine, and fifty-six, which came into force on 1 January 2008.

Act No. 644/2006 Coll. came into force on 1 January 2007.

Act No. 677/2006 Coll. came into force on 1 January 2007.

Act No. 209/2007 Coll. came into force on 1 May 2007.

Act No. 519/2007 Coll. came into force on 1 January 2008.

Act No. 555/2007 Coll. came into force on 1 January 2008.

Act No. 659/2007 Coll. came into force on 1 January 2008, except for the provisions of Section XV points 1 and 2 [Article 23(11), Article 75(2)], which came into force on 1 January 2009.

Act No. 62/2008 Coll. came into force on 1 March 2008.

Act No. 434/2008 Coll. came into force on 15 November 2008.

Act No. 449/2008 Coll. provisions of Section II. came into force on 1 January 2009.

Act No. 137/2009 Coll. came into force on 1 July 2009.

Act No. 572/2009 Coll. came into force on 1 January 2010.

Act No. 105/2010 Coll. came into force on the day of its declaration (27 March 2010).

Judgement of the Constitutional Court of the Slovak Republic No. 355/2010 Coll. came into force on 14 September 2010.

Act No. 543/2010 came into force on 1 January 2011.

Act No. 334/2011 Coll. shall enter into force on 1 November 2011, with the exception of points one to four, point nine, points eleven to thirty-two, points thirty-four to eighty-five, points eighty-seven to one hundred twenty-seven, points one hundred thirty to one hundred fifty, Articles 123t to 123ab, point one hundred fifty-one, points one hundred fifty-two and one hundred fifty-three in Section I and points two, three, five to eight and point ten in Section II, which shall enter into force on 1 April 2012.

**FORMULAE FOR THE CALCULATION OF RETIREMENT PENSIONS FOR LIFE,  
EARLY RETIREMENT PENSIONS FOR LIFE AND SURVIVOR'S PENSIONS**

## 1. DEFINITIONS

Required unit capital (nc) – the level of funds or other assets in a saver's personal pension account which are required to finance a unit retirement pension for life (a pension of SKK 1 paid on a monthly basis) or a unit early retirement pension for life, or a survivor's pension for the survivors stipulated by law.

## 2. FORMULAE

The given formulae are used to calculate the level of assets required for the payment of a retirement pension for life or early retirement pension for life by the competent insurance company.

The quantities of the formulae and their definitions are as follows:

$$\begin{aligned} x &= \text{age of the saver (man or woman),} \\ y &= \text{age of husband/wife of saver (man or woman),} \\ h &= \text{age of the youngest surviving dependent child,} \\ z &= \text{average age after which a child is no longer entitled to an orphan's pension,} \\ nc &= \text{required unit capital,} \\ x' &= x + z - h \\ y' &= y + z - h \end{aligned}$$

$N_x, N_{xy}, D_x$  = commutative functions defined as follows:

$$\begin{aligned} D_x &= V_x l_x \\ N_x &= \text{sum of } D_{x+t} \\ D_{xy} &= V^{(x+y)/2} l_{xy} \\ l_{xy} &= k l_x l_y \\ N_{xy} &= \text{sum of } D_{x+t, y+t} \\ k &= 1/10, \end{aligned}$$

where

$$V = (1 + i)^{-1} \text{ ..... discount factor,}$$

$i$  = technical interest rate for the calculation of pensions paid for life,

$l_x$  = the number of living people at the age of  $x$  years. In order to calculate  $l_x$ , the combined mortality tables approved by the Financial Market Authority must be used.

2.1 Formula for the calculation of the required unit capital for a retirement pension or early retirement pension provided as a life annuity.

In the case of a retirement pension for life or an early retirement pension for life, the required unit capital (nc) is calculated from the view of the saver and his survivors as follows:

A. Beneficiary of a retirement pension for life or an early retirement pension for life:

$$nc = \left[ \frac{N_x}{D_x} \right]$$

B. Husband/wife receiving a survivor's pension with not more than one dependent child:

$$nc = 0.60 \left[ \frac{N_y}{D_y} \right]$$

C. Husband/wife receiving a survivor's pension with more than one dependent child:

$$nc = ps \left[ \frac{N_y}{D_y} \right] + \left[ \frac{N_x}{D_x} \right]$$

where ps represents the respective percentage share of the widow's or widower's pension in the case of more than one dependent child, and is calculated as follows:

$$ps = \frac{2}{2a + b}$$

where

a = the number of living parents (1 or 0),

b = the number of dependent children to whom an orphan's benefit is paid.

The said adjustment of the share of the widow's/widower's pension will be applied whenever  $0.6 * a + 0.3 * b > 1.0$ .

It will thereby be guaranteed that the sum of all the paid widow's or widower's pensions will never be greater than 1 or 100% of the relevant retirement pension for life or early retirement pension for life.

### 2.2 Formula for the calculation of a retirement pension for life or early retirement pension for life.

After the calculation of the required unit capital in point 2.1, the monthly amount of the retirement pension for life or early retirement pension for life shall be calculated as follows:

$$\text{Monthly retirement pension for life or early retirement pension for life} = \frac{\text{Sum of the funds or other assets within the current value of the saver's current account}}{[\text{Sum of the total required unit capital} \times 12]}$$

### 2.3 Formula for the calculation of a retirement pension for life or early retirement pension for life as a programmed withdrawal with life annuity.

In the case of a retirement pension for life or early retirement pension for life drawn as a programmed withdrawal with life annuity, the part of the personal pension account which remains under the management of the pension fund management company for the purpose of funding the retirement pension or early retirement pension as the disposable surplus within the programmed withdrawal must be deducted from the current value of the personal pension account. As a result, there is a balance in the personal pension account required for payment of the retirement pension or early retirement pension paid for life by the competent insurance company.

In this case, too, the general formula for the calculation of the required unit capital shall remain identical. The current value of the personal pension account shall be adjusted by deducting the amount remaining under the management of the pension fund management company for the funding of the retirement pension or early retirement pension as the disposable surplus within the programmed withdrawal. The monthly amount of a retirement pension for life or early retirement pension for life shall be calculated as follows:

Monthly retirement pension for life or early retirement pension for life = [Current value of the personal pension account – Balance assigned for payment of the retirement pension or early retirement pension as the disposable surplus under a programmed withdrawal]/[Sum of the total required unit capital [(Sum nc) x 12].

**as amended by Act No. 543/2010 Coll.**

**SCHEDULE OF TRANSPOSED LEGALLY BINDING ACTS OF THE EUROPEAN  
UNION**

1. Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ L 6 of 10.1.1979, Special Edition in Slovakian, Chapter 5, Volume 1).

2. Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity and on the protection of self-employed women during pregnancy and motherhood (OJ L 359 of 19.12.1986, Special Edition in Slovakian, Chapter 5, Volume 1).

3. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180 of 19.7.2000, Special Edition in Slovakian, Chapter 20, Volume 1).

4. Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345 of 19.12.2002 recast version).

5. Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (OJ L 204 of 26.7.2006).

### **METHOD OF FEES CALCULATION**

In the calculation of a fee under Article 63b these quantities, functions and their designations will be used:

$p$	= a fee on a guarantee account of a pension fund,
$\check{C}KH(t)$	= a net cumulative value as to the date of calculation
$\check{C}KH(t - 1)$	= a net cumulative value as to the date immediately preceding the date of calculation
$\check{C}KH(0)$	= a net cumulative value on 1 July 2009 expressed in euro,
$CF(t)$	= a net flow of contributions to a pension fund
$M(t)$	= a maximum net cumulative value in a pension fund from 1 July 2009,
$M(t-1)$	= a maximum net cumulative value in a pension fund as of the last day of a calendar month which immediately precedes a calendar month of calculation,
$M(0)$	= a maximum net cumulative value in a pension fund on 1 July 2009 expressed in euro,
$NAV(t)$	= a net value of assets in a pension fund as to the date of calculation,
$NAV(t - 1)$	= a net value of assets in a pension fund as to the date immediately preceding the date of calculation,
$NAV(0)$	= a net value of assets in a pension fund as of 1 July 2009 expressed in euro,
$PDJ(t)$	= a number of pension units in a pension fund as of the date of calculation
$PDJ(t - 1)$	= a number of pension units in a pension fund as of the last day of a calendar month which immediately precedes a calendar month of performance calculation,
Function $\text{Max}(a, b)$	= designation for larger values of digits $a$ and $b$ ; if $a \geq b$ then $\text{Max}(a, b) = a$ , otherwise $\text{Max}(a, b) = b$ .

#### **1. Formulae for calculation of a net cumulative value of a pension fund**

$$\check{C}KH(0) = 0 \text{ eur,}$$
$$\check{C}KH(t) = \check{C}KH(t - 1) + NAV(t) - NAV(t - 1) - CF(t),$$

where:

$CF(t)$  = an amount of contributions credited to the account of a pension fund as of the date of calculation, decreased by the decline in assets written off from an account of a pension fund as of the date of calculation.

#### **Formulae of a fee calculation**

$$p = 0.056 * \text{Max}(0, \check{C}KH(t) - M(t - 1)) * PDJ(t) / PDJ(t - 1), \text{ if } PDJ(t - 1) > 0, \text{ otherwise } p = 0.056 * \text{Max}(0, \check{C}KH(t) - M(t - 1)),$$

where

$$M(0) = 0 \text{eur},$$

$$M(t) = \text{Max} (\check{C}KH(t), M(t-1) * PDJ(t)/PDJ(t-1), \text{ if } PDJ(t) < PDJ(t-1), \text{ otherwise } M(t) = \text{Max} (\check{C}KH(t), M(t-1)).$$

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**Footnotes to the reference:**

1) Act No. 73/1998 Coll. on the civil service of members of the Police Force, the Slovak Intelligence Service, the Court Guards and Prison Wardens Corps, and the Railway Police, as amended;

Act No. 200/1998 Coll. on the civil service of customs officers (including consequential amendments), as amended.

Act No. 315/2001 Coll. on the Fire Brigade and Rescue Corps, as amended.

Act No. 544/2002 Coll. on the Mountain Life-Saving Service, as amended.

2) Act No. 346/2005 Coll. on civil service of professional soldiers of armed forces of the Slovak Republic and on amendments to certain laws, as amended.

3) Act No. 461/2003 Coll. on social insurance, as amended.

4) Article 4 of Act No. 461/2003 Coll., as amended by Act No. 543/2010 Coll.

5) Article 5 of Act No. 461/2003 Coll., as amended by Act No. 543/2010 Coll.

6) Article 27 of Act No. 461/2003 Coll.

7) Article 7 of Act No. 461/2003 Coll., as amended by Act No. 543/2010 Coll.

8) Act no. 8/2008 Coll. on insurance and on amendments to certain laws, as amended.

9) Article 51 of the Civil Code.

11) Article 15(1)(c) of Act No. 461/2003 Coll., as amended by Act No. 310/2006 Coll.

12) Article 15(1)(d) of Act No. 461/2003 Coll., as amended by Act No. 310/2006 Coll.

12a) Article 15(1)(e) of Act No. 461/2003 Coll., as amended by Act No. 310/2006 Coll.

14) Act No. 280/2002 Coll. on parental allowance, as amended.

19) Article 26 of Act No. 461/2003 Coll.

20) Article 138 of Act No. 461/2003 Coll., as amended by Act No. 543/2010 Coll.

22) Article 138(8) of Act No. 461/2003 Coll., as amended by Act No. 555/2007 Coll.

29) Article 139 of Act No. 461/2003 Coll.

30) Article 140(1) and (3) of Act No. 461/2003 Coll.

31) Article 140(1) and (4) of Act No. 461/2003 Coll.

- 32) Article 140(1) and (2) of Act No. 461/2003 Coll.
- 33) Article 12(4) of Act No. 291/2002 Coll. on the State Treasury (including consequential amendments), as amended.
- 34) Article 142(3) of Act No. 461/2003 Coll.
- 35) Article 142(4) of Act No. 461/2003 Coll.
- 36) Article 143(2) of Act No. 461/2003 Coll.
- 37) Article 2(a) of Act No. 601/2003 Coll. on the subsistence minimum (including consequential amendments).
- 38) Article 50a of the Civil Code.
- 39) Articles 9 and 10 of Act No. 461/2003 Coll.
- 40) Article 117(3) of Act No. 461/2003 Coll.
- 41) Act of the National Council of the Slovak Republic No. 156/1993 Coll. on the execution of custody, as amended by Act No. 451/2002 Coll.
- 42) Act No. 59/1965 Coll. on the implementation of prison sentences, as amended.
- 43) Act No. 747/2004 Coll. on financial market supervision (including consequential amendments).
- 44) Act No. 9/2010 Coll. on complaints.
- 45) The Commercial Code.
- 46) Article 8(f) of Act No. 566/2001 Coll. on securities and investment services (including consequential amendments) – the Securities Act - as amended.
- 47) Article 9(3) of the Labour Code.
- 48) Article 8(e) of Act No. 566/2001 Coll.
- 49) Act No. 328/1991 Coll. on bankruptcy and settlement, as amended.
- 50) Article 37(1) of Act No. 96/2002 Coll.
- 51) Article 144(7) of Act No. 566/2001 Coll.; Article 50(2) of Act No. 483/2001 Coll. on banks (including consequential amendments), as amended; Article 48(6) of Act No. 95/2002 Coll.; Article 60(3) of Act No. 429/2002 Coll. on the stock exchange.

- 52) Article 8(i) of Act No. 566/2001 Coll.
- 53) Article 8(j) of Act No. 566/2001 Coll.
- 54) Article 8(h) of Act No. 566/2001 Coll.
- 55) Article 35 of Act No. 96/2002 Coll.
- 56) Article 66b of the Commercial Code.
- 57) Act No. 136/2001 Coll. on protection of economic competition, amending Act of the Slovak National Council No. 347/1990 Coll. on the organization of ministries and other central state administration authorities of the Slovak Republic as amended by Act No. 465/2002 Coll.
- 58a) Article 4(5) and Article 7(3) of Act No. 428/2002 Coll. on protection of personal data, as amended.
- 58b) Article 3 of Act No. 428/2002 Coll. as amended.
- 58c) For example, Act No. 367/2000 Coll. on protection against the laundering of proceeds from criminal activity (including consequential amendments), as amended.
- 58d) Article 4(1)(a) to (c), Article 7(3), (5) in the second sentence, and (6) in the second sentence, Article 8(2) and Article 10(6) of Act No. 428/2002 Coll.
- 58e) Article 7(6) of Act No. 428/2002 Coll. as amended.
- 58f) Articles 23 and 55 of Act No. 428/2002 Coll. as amended.
- 59) Articles 17 to 23 of Act No. 431/2002 Coll. on accounting.
- 60) Article 116 of the Civil Code.
- 61) Articles 138 to 143 of Act No. 566/2001 Coll., Article 44 of Act No. 483/2001 Coll. as amended by Act No. 603/2003 Coll.  
Article 43 of Act No. 95/2002 Coll.
- 62) For example, Article 133 of Act No. 566/2001 Coll., Article 25 of Act No. 483/2001 Coll. as amended by Act No. 603/2003 Coll.
- 63) Article 3(4) of Act No. 429/2002 Coll.
- 64) The Civil Court Procedures Act.
- 65) The Penal Code.

- 66) Article 2(1)(d) and Article 4 of Act of the National Council of the Slovak Republic No. 171/1993 Coll. on the Police Force, as amended.
- 67) Act of the Slovak National Council No. 511/1992 Coll. on the administration of taxes and fees and on changes in the system of territorial financial authorities, as amended.
- 68) The Penal Code.
- 68a) Article 226(1)(k) of Act No. 461/2003 Coll., as amended by Act No. 572/2009 Coll.
- 69) Article 4 of Act No. 328/1991 Coll.
- 70) Article 5 of Act No. 566/2001 Coll.
- 71) Article 8(a) of Act No. 566/2001 Coll.
- 72) Act No. 566/2001 Coll. as amended.
- 73) Act No. 203/2011 Coll. on collective investment.
- 74) For example, Act No. 594/2003 Coll., Act No. 483/2001 Coll., as amended, Act No. 95/2002 Coll., as amended.
- 75) Article 2 of Act No. 566/2001 Coll.
- 76) Article 7(3) of Act No. 566/2001 Coll.
- 77) Article 7(1) of Act No. 566/2001 Coll.
- 78) Act No. 483/2001 Coll., as amended.
- 78a) Article 5(1) of Act No. 566/2001 Coll., as amended.
- 79) Article 113 of Act No. 566/2001 Coll.
- 79a) Article 6 (16) of Act No. 483/2001 Coll. on banks, including consequential amendments to certain laws, as amended.
- 80) Article 2(1), (5) and (8) of Act No. 483/2001 Coll.
- 81) Act No. 566/2001 Coll. as amended, Act No. 483/2001 Coll., as amended.
- 82) For example, the Commercial Code, Act No. 566/2001 Coll., as amended.
- 83) Articles 50 to 65 of Act No. 483/2001 Coll., as amended.
- 84) Article 156 of Act No. 566/2001 Coll.

- 85) Articles 708 to 715 of the Commercial Code.
- 86) Articles 716 to 719a of the Commercial Code.
- 87) For example, Article 2(1)(d) and Article 4(1) and (3) of Act of the National Council of the Slovak Republic No. 171/1993 Coll., Article 91(4)(h) of Act No. 483/2001 Coll., as amended.
- 88) The Civil Court Procedures Act; Act of the National Council of the Slovak Republic No. 233/1995 Coll. on court executors and execution activities (including consequential amendments) - the Execution Code – as amended.
- 89) Article 226 of Act No. 461/2003 Coll., as amended by Act No. 43/2004 Coll.
- 90) Act No. 540/2001 Coll. on state statistics.
- 91) Articles 642 to 651 of the Commercial Code.
- 92) Act No. 147/2001 Coll. on advertising (including consequential amendments).
- 93) Act No. 244/2002 Coll. on arbitration proceedings.
- 93a) For example, Act No. 367/2000 Coll., as amended, Act No. 659/2007 Coll. on the introduction of the euro currency in the Slovak Republic (including amendments to certain acts).
- 94) For example, the Penal Code, the Labour Code.
- 95) Article 178(1) and (2) of the Commercial Code.
- 96) Article 178(3) of the Commercial Code.
- 97) Article 28 of Act No. 566/2001 Coll.
- 98) Article 1(2)(i), Article 2, and Article 18 of Act No. 659/2007 Coll.