

183/2004 Coll.

DECREE

**of the Ministry of Labour, Social Matters, and the Family of the
Slovak Republic,**

dated 29 March 2004,

**stipulating the way of documenting compliance with the conditions
for the issue of a licence for the foundation and operation of a
pension management company**

Under the provisions of Article 48 paragraph 9 of Act No. 43/2004 Coll. on old-age pension saving and on amendments to certain laws (hereinafter referred to as 'Act'), the Ministry of Labour, Social Matters, and the Family of the Slovak Republic has enacted the following:

Article 1

(1) Compliance with the condition laid down in Article 48 paragraph 2 letter a) of the Act shall be proved by means of a statement of a current account or a deposit account kept at a bank or branch of a foreign bank operating in the Slovak Republic, which meets the conditions for operation as a depository pursuant to Article 99 paragraph 2 of the Act and with which the founder (founders) of a pension management company has (have) signed a preliminary contract for the provision of depository services for the pension management company by the date of issue by the Financial Market Authority (hereinafter referred to as 'Authority') of a licence for the foundation and operation of a pension management company.

(2) Compliance with the condition laid down in Article 48 paragraph 2 letter b) of the Act shall be proved by means of documents certifying the origin of the funds contributed to the registered capital of a future pension management company by its founder or founders and documents certifying the origin of the other financial resources of the future pension management company, in the following ways:

a) in the case of a natural person, by presenting a survey of the person's assets and financial situation, including documents certifying his assets and financial situation, i.e. a statement of a current account or a deposit account kept at a bank or a branch of a foreign bank, a statement of an account maintained by a member of the central depository, an extract from the 1 and

register, a document of income (in the case of an employee who is a personal income tax payer under separate regulations¹), or a document certifying the basis of assessment for income earned from business activity or other independent activity over the past ten calendar years, preceding the calendar year in which an application was submitted to the Authority for a licence to set up and operate a pension management company, etc.;

b) in the case of a legal entity, by presenting the financial statements for the last five fiscal years, preceding the calendar year in which an application was submitted to the Authority for a licence to set up and operate a pension management company, together with an auditor's report on the financial statements compiled in the form and according to the standards of auditing, and reports on the legal entity's business activity and financial position for the past five fiscal years, which were approved by the general meeting;

c) by presenting the commercial and financial plan of the pension management company for at least the next ten years following the year in which the application for a licence to set up and operate a pension management company was submitted, containing:

1. the expected range of foundation costs and the method of their financial coverage;
2. the expected share of the market and the further development of this share;
3. the expected method of financing the company's business activity, divided into financing from own and foreign resources;
4. the business plan of the pension management company, including its marketing plan and marketing strategy, as well as the estimated costs;
5. the draft plan of activity of the pension management company, containing a detailed estimate of the revenues and expenses, an estimated balance sheet, an estimate of the own funds adequacy, in realistic, optimistic, and pessimistic variants, as well as the security of own resources earmarked for an increase in registered capital if need be;
6. the expected developments in pension funds, including the estimated total amount of contributions to old-age pension saving, the expected number of savers, the expected placement of assets in the pension funds, expected developments in the value of assets in individual pension funds, the estimated level of revenues in pension funds, etc.

d) by presenting a feasibility study of the company's business plan.

(3) Compliance with the condition laid down in Article 48 paragraph 2 letter c) of the Act shall be proved by means of:

a) documents set out in paragraph 2 concerning shareholders with a qualified interest in the future pension management company;

b) the list of natural persons with a qualified interest in the future pension management company, including their share of the company's registered capital given in percentage terms, the list of closely related persons²⁾ who had, at the time when the application for a licence to set up and operate a pension management company was submitted, a labour-law relationship or a similar relationship with a pension management company or a financial institution pursuant to Article 48 paragraph 22 of the Act, including the business name, legal form, identification number, and registered office of the institution, and the full names of the closely related person²⁾;

c) the list of legal entities with a qualified interest in the future pension management company, including their business names, registered offices, legal forms, identification numbers, registered capital, and their percentual share in the registered capital of the future pension management company;

d) the list of legal entities, including their business names, registered offices, legal forms, identification numbers, registered capital, and percentual share in the registered capital of legal entities, in which

1. a natural person with a qualified interest in the future pension management company has a share in registered capital or voting rights of at least 10% or he is a member of the statutory body or supervisory board of the legal entity in which the natural person has a qualified interest or guarantees their liabilities with his total property, or

2. a legal entity with a qualified interest in the future pension management company has a share in registered capital or voting rights of at least 10% or is a member of the statutory body or supervisory board of the legal entity in which the relevant entity has a qualified interest or guarantees their liabilities with its total property;

e) a written declaration by the natural person with a qualified interest or by the legal entity with a qualified interest, stating that he/it is not a natural person or a legal entity which went into liquidation, whose assets were placed under control of a bankruptcy trustee, or the petition in whose bankruptcy was rejected for the lack of property, or within five years following the bankruptcy proceedings or following the re-

confirmation of the compulsory settlement, but no sooner than one year following the settlement of his/its liabilities that are tied to bankruptcy under a lawful decision of the court;

f) consolidated financial statements for the last five fiscal periods, preceding the calendar year in which an application was submitted to the Authority for a licence for the foundation and operation of a pension management company, if the natural person with a qualified interest or the legal entity with a qualified interest is part of a consolidated unit.

(4) Compliance with the conditions laid down in Article 48 paragraph 2 letter d) and m) of the Act in respect of natural persons nominated as members of the management board, members of the supervisory board, authorised representatives, managers reporting directly to the management board, responsible for professional activities under this Act, officers in charge of internal control in the future pension management company, members of the management board, authorised representatives, and managers of the depository who shall ensure the performance of depository activities, is to be proved by presenting:

a) a certificate of completed education and professional experience, in compliance with the conditions laid down in Article 48 paragraph 10 of the Act;

b) a brief professional curriculum vitae;

c) an extract from the penal register not older than three months or, in the case of a non-resident, a similar certificate of integrity issued by the competent body of the state of his permanent residence;

d) a statutory declaration that the conditions stipulated in Article 48 paragraph 11 letter a) to e) of the Act have been fulfilled.

(5) Compliance with the conditions laid down Article 48 paragraph 2 letters e) to g) of the Act shall be proved by presenting:

a) documents certifying the transparency of the group with close relations³⁾ to which the shareholder with a qualified interest in the future pension management company belongs, including the values of direct and indirect stakes in the registered capital or voting rights in the legal entity within this group, i.e. an extract from the commercial register, an extract from the issuer's register, or a statement of the owner's account of book-entry securities, etc.;

b) documents certifying that the close relations within the group with close relations³⁾ to which the shareholder with a qualified interest in the future pension management company belongs, do not hinder the exercise of supervision, including a graphical illustration of the structure of this group, etc.;

c) documents certifying that the exercise of supervision is not hindered by the legal system in the state in the territory of which the group with close relations has close relations³⁾, provided by the supervisory body of the state in which the group with close relations has close relations, etc.

(6) Compliance with the conditions laid down in Article 48 paragraph 2 letters i), n) and o) of the Act shall be documented by presenting the statutes of the pension management company, the draft statutes of pension funds, and the draft information prospectus of pension funds.

(7) Compliance with the conditions laid down in Article 48 paragraph 2 letter j) of the Act shall be proved by presenting:

a) a description of the technical equipment of the future pension management company, including data on the computer equipment (hardware, software), the information system, and the system for technical data processing, as well as information on the security of data transfer, through which the future pension management company will ensure the electronic transfer of data via safe communication to the register of insured persons and savers;

b) the drafts of internal working regulations, directives, and instructions governing the safety of the data transfer system, the making of backup copies of data within this system, and the method of its application;

c) documents certifying ownership to the real estate or its part, or authorisation to use this real property or its part in which the pension management company will operate;

d) documents certifying that the future pension management company will have an archive of documents in the range and manner stipulated by law.

(8) Compliance with the conditions laid down in Article 48 paragraph 2 letter k) of the Act shall be proved by presenting:

a) the drafts of the organisational structure and the organisation manual;

- b) the drafts of internal working regulations concerning the procedure to be followed in dealing with the complaints of savers;
- c) the drafts of internal working regulations concerning the system of internal control;
- d) the drafts of internal working regulations specifying the range of authorisation for the future pension management company's employees to manage assets in pension funds, including limits for the individual transactions and procedures for transactions exceeding the limits set by law;
- e) the rules of activity in relation to savers, including specimen forms used in dealing with savers;
- f) the drafts of internal working regulations governing the conflict of interests and procedures restricting the use of confidential information and the manipulation of securities prices;
- g) the drafts of internal working regulations governing the management of risks involved in the activities of pension management companies;
- h) information on the promoting and advertising strategy;
- i) information on procedures for the performance of analyses of the ways of asset investment in a pension fund;
- j) the drafts of internal working regulations governing the method of accounting;
- k) the drafts of internal working regulations governing the rules of archiving documents;
- l) the drafts of the investment strategies of pension funds for the period of the first twelve months, starting from the their foundation;
- m) the draft method for ensuring the meeting of the notification requirements in relation to the Authority;
- n) information on the way of ensuring the exchange of information between a pension management company and the intermediaries of old-age pension saving;

o) the draft plan of training for the employees of the pension management company and the intermediaries of old-age pension saving.

Article 2

This Decree shall become effective on 15 April 2004.

Ludovít Kaník

1) Article 3 paragraph 1 letter a) of Act No. 595/2003 Coll. on Income Tax.

2) Article 116 of the Commercial Code.

3) Article 8 letter e) of Act No. 566/2001 Coll. on Securities and Investment Services, and on amendments to certain laws (Securities Act).