

ORDINANCE

On the Boards of Trustees of Supplementary Obligatory Retirement Insurance Funds and the Advisory Boards of Supplementary Voluntary Retirement Insurance Funds

Adopted by Council of Ministers' Decree No. 29/18.02.2005, promulgated, State Gazette No.
19/01.03.2005, effective from 01.03.2005.

Chapter One General Provisions

Article. 1. This Ordinance provides for:

1. the rights and obligations of the boards of trustees of the supplementary obligatory retirement insurance funds;
2. the composition, rights and obligations of the advisory boards of the supplementary voluntary retirement insurance funds.

Article 2. The boards of trustees and advisory boards, hereinafter referred to as "the boards", shall represent and protect the interests of the insured persons and pensioners with the supplementary retirement insurance funds.

Article 3. One board of trustees shall be set up for each supplementary obligatory retirement insurance fund and one advisory board for each supplementary voluntary retirement insurance fund.

Chapter Two COMPOSITION, ESTABLISHMENT OF THE BOARDS AND TERM

Article 4. (1) The board of trustees shall include an equal number of representatives of the nationally representative organizations of workers and employers and one representative of the retirement insurance company.

(2) Within a month of entry in the court register of the respective supplementary obligatory retirement insurance fund or not later than two months prior to the expiry of the term of the board of trustees, the retirement insurance company shall send a written notice of invitation to the central leadership of each nationally representative organization of workers and employers to designate its representatives in the fund's board of trustees. The representatives of the organizations of workers and employers shall be designated by the managing bodies on a national level no later than a month after receipt of the notice of invitation.

(3) The representative of the retirement insurance company in the board of trustees shall be named by a decision of the managing body of the company within two months from the recording in the court register of the respective supplementary obligatory retirement insurance fund or no later than a month prior to the expiry of the term of the board of trustees.

(4) The first meeting of the board of trustees shall be convoked by the retirement insurance company within three months from entry in the court register of the respective supplementary obligatory retirement insurance fund or no later than seven days after the expiry of the term of the previous board of trustees.

Article 5. (1) The advisory board shall include:

1. representatives of the insured persons and pensioners with the respective supplementary voluntary retirement insurance fund;
2. representatives of the employers and bodies under Article 230, Item 3 of Paragraph 3 of the Social Insurance Code, who are paying social insurance contributions into the respective supplementary voluntary retirement insurance fund, hereinafter referred to as "social insurance contributors", and
3. one representative of the retirement insurance company.

(2) The advisory board shall have no less than five and no more than 11 members and the representatives of the insured persons and pensioners shall be of the same number as, or shall outnumber, the representatives of the social insurance contributors.

(3) The representatives of the insured persons and pensioners at the advisory board shall be chosen by the retirement insurance company randomly, the representatives of the insured persons being selected from amongst the 20 persons with the most personal contributions and highest amount from contributions in their personal accounts in the respective supplementary voluntary retirement insurance fund.

(4) The selection under Paragraph 3 shall be done within two months from the recording in the court register of the supplementary voluntary retirement insurance fund or no later than a month prior to the expiry of the term of the advisory board.

(5) Within a month from the recording in the court register of the supplementary voluntary retirement insurance fund or no later than two months prior to the expiry of the term of the advisory board, the retirement insurance company shall invite the social insurance contributors making social insurance contributions into the fund for the largest number of insured persons, to designate their representatives within the set time period. Where no representatives are designated within the said time period, the retirement insurance company shall invite the next social insurance contributors making social insurance contributions for the most insured persons.

(6) The representative of the retirement insurance company in the advisory board shall be named by a decision of the managing body of the company within the time period under Article 4.

(7) The first session of the advisory board shall be convoked by the retirement insurance company within three months from the recording in the court register of the supplementary voluntary retirement insurance fund or no later than seven days after the expiry of the term of the previous board.

Article 6. (1) The board members shall meet the following requirements:

1. to be legally capable natural persons;
2. to have no conviction of a premeditated offence as public law;
3. to be under no disqualification from occupying a position of property accountability;
4. to not be members of a management body or a supervisory body of, or employees in, another retirement insurance company;
5. to not be members of the board of trustees or an advisory board of a supplementary retirement insurance fund managed by another retirement insurance company;

(2) Within the time period under Article 4 (4) and Article 5 (7), the board members shall present to the retirement insurance company managing the respective supplementary retirement insurance fund a written declaration of compliance with the requirements under Paragraph 1, undertaking to notify the respective board of any change in the declared circumstances. The declarations shall be kept by the retirement insurance company.

Article 7. The board members shall have a term of five years.

Article 8. (1) The term of the members of boards of trustees shall be terminated prior to the expiry of the said term:

1. if the said members cease to satisfy the requirements established by Article 6 (1) herein;
2. in the event of actual inability to discharge the duties thereof in the course of a period exceeding six months;
3. if they disclose facts or particulars as may have come to the knowledge thereof in, or in connection with, the discharge of the board functions, where such facts and particulars are not known to the public;
4. by a decision of the managing bodies of the nationally representative organizations of workers and employers or by a decision of the management body of the retirement insurance company – each for its own representative.

(2) In the event of termination of the term of a member as set out in Items 1-3 of Paragraph 1, the chairperson of the board of trustees shall notify the body that has designated the discharged

board member and shall invite it to designate a new representative no later than a month after receipt of the invitation.

(3) Simultaneously with the decision on the termination of the mandate of the member under Item 4 of Paragraph 1 herein, the competent body shall designate a new representative to the board of trustees.

(4) The representative selected by the requisite procedure to replace the discharged member of the board of trustees shall serve out the discharged member's term to the end.

Article 9. (1) The term of advisory board members shall be terminated prior to the expiry of the said term:

1. if the said members cease to satisfy the requirements established by Article 6 (1) herein;;
2. in the event of actual inability to discharge the duties thereof in the course of a period exceeding six months;
3. in the event of disclosing facts and particulars as may have come to the knowledge thereof in the course of, or in connection with the discharge of the board functions, where such facts and particulars are not known to the public;
4. at their written request to the respective board – for the representatives of the insured persons and the pensioners;
5. by a decision of the social insurance contributor or the management body of the retirement insurance company – each for the representative designated thereby.

(2) In the event of termination of the term of a member as set out in Items 1-4 of Paragraph 1, the chairperson of the advisory board shall notify the social insurance contributor or the retirement insurance company of the time period of one month they have for designation of a new representative under the conditions and procedure of Article 5 (3, 5 and 6).

(3) Simultaneously with the decision on the discharge of a member under Item 5 of Paragraph 1 herein, the social insurance contributor or retirement insurance company, as the case may be, shall designate a new representative to the advisory board.

(4) The representative selected by the requisite procedure to replace the discharged advisory board member shall serve out the discharged member's term to the end.

Chapter Three

BOARD ORGANIZATION, OPERATION AND FUNCTIONS

Article 10. (1) Each board of trustees and advisory board shall elect from amongst its complement a chairperson and a deputy chairperson. The chairperson and the deputy chairperson shall have a term of one year

(2) The chairperson shall:

1. represent the board;
2. convoke and run the board meetings;
3. organize and control the operation of the board;
4. sign the protocols from the board meetings.

(3) The functions of the deputy chairperson shall be set out in the Rules of Operation under Article 12.

Article 11. The boards shall be serviced by a technical secretary appointed by the competent retirement insurance company, and the said secretary shall:

1. keep the records and store the documents of the board;
2. perform clerical work for the preparation and conduct of the board meetings;
3. draw up and sign the protocols from the board meetings;
4. notify interested persons of the decisions taken by the board in respect of complaints, petitions and tip-offs submitted thereby.

Article 12. Each board of trustees and advisory board shall adopt Rules of Operation within three months of holding its first meeting.

Article 13. (1) The boards shall hold meetings no less than once every three months in a manner and by a procedure set out in their Rules of Operation.

(2) The board meetings shall be regular if they are attended by two-thirds or more of the members.

(3) At the board's invitation, its meetings may be attended by representatives of the Financial Supervision Commission, the competent retirement insurance company, experts, in connection with specific matters of discussion, and representatives of other bodies and organizations.

Article 14. (1) Any member of a board of trustees or an advisory board shall have the right to one vote.

(2) The board decisions shall be taken by a majority of more than half of the board members.

(3) The board decisions shall have advisory character for the retirement insurance companies.

Article 15. (1) Any board of trustees and advisory board shall perform the following functions:

1. to oversee compliance with the obligations of the retirement insurance company to the insured persons and the pensioners with the respective supplementary retirement insurance fund;

2. to consider complaints, petitions and tip-offs in respect of violations of the rights of the insured persons and pensioners with the respective supplementary retirement insurance fund, to make inquiries and petitions in respect thereof to the retirement insurance company and/or other institutions and organizations, and to facilitate the settlement of disputes as have arisen;

3. to consider the annual financial report of the respective supplementary retirement insurance fund;

4. to draw up written proposals for improving the organization and operation of the retirement insurance company in respect of servicing the insured persons and pensioners with the respective supplementary retirement insurance fund;

5. to draw up written proposals in respect of other aspects of the operation of the retirement insurance company which concern the rights of the insured persons and the pensioners with the respective supplementary retirement insurance fund;

6. to prepare annual reports on its operation and submit it to the retirement insurance company managing the respective supplementary retirement insurance fund and to the Financial Supervision Commission by April 30 of the following year or, for a board whose term expires, by the day of expiry of its term.

(2) each board of trustees and advisory board shall address the proposals, inquiries and petitions under Paragraph 1 herein to the management body of the retirement insurance company managing the respective supplementary retirement insurance fund.

(3) The management body of the retirement insurance company shall consider the proposals, inquiries, petitions and the annual report under Paragraph 1 at its first meeting after the receipt thereof at the company, shall adopt a decision thereon and notify the chairperson of the respective board of the said decision in writing no later than seven days from the date of the said meeting.

Article 16. (1) Any board of trustees and advisory board shall perform its functions at the seat of the retirement insurance company managing the respective supplementary retirement insurance fund and shall have as its mailing address the address of management of the retirement insurance company.

(2) The operational costs of each board shall be at the expense of the retirement insurance company managing the respective supplementary retirement insurance fund.

(3) The board members shall not be entitled to remuneration for their activity.

Chapter Four

RIGHTS AND OBLIGATIONS OF THE BOARDS

Article 17. Each board of trustees and advisory board shall have the right to access to the documentation of the respective retirement insurance company in respect of the performance of the functions under Article 15 (1), and also the right to:

1. send its members to the meetings of the management body of the retirement insurance company when it is considering matters in respect whereof the board has presented proposals, inquiries and petitions;

2. present to the retirement insurance company written reasoned proposals for amending and supplementing the Rules of Organization and Operation of the respective supplementary retirement insurance fund;

3. present to the retirement insurance company written reasoned proposals for improving the activity in respect of supplementary retirement insurance at the relevant fund;

4. use free of charge premises, equipment and other facilities of the retirement insurance company as may be necessary for performing the functions under Article 15 (1);

5. require cooperation from the retirement insurance company in performing its functions;

6. inform the public in an appropriate manner of the results of its work, including on the Website of the relevant retirement insurance company.

Article 18. Any board of trustees and advisory board shall be obliged to:

1. investigate complaints, petitions and tip-offs received thereby, undertake action as necessary in compliance with its functions and answer the respective person in writing within the time period under Article 174 (2) of the Social Insurance Code;

2. inform forthwith the deputy chairperson of the Financial Supervision Commission in charge of Social Insurance Supervision in the event of reasonable suspicions of violations of the social insurance legislation performed by the retirement insurance company, its employees or sales agents.

Chapter Five

AVOIDANCE OF CONFLICTS OF INTEREST IN THE WORK OF THE BOARDS

Article 19. (1) No board member shall:

1. disclose facts and particulars as may have come to the knowledge thereof in the course of, or in connection with, the discharge of the functions under Article 15 (1), where such facts and particulars are not public;

2. use its position for personal benefit for receipt of gains, special privileges, exemption from obligations or avoidance of the consequences of own or another's unlawful actions;

3. provide personal favours or represent or protect the interests of a natural or juristic person in his or her activity or before the retirement insurance company, unless it is in the interest of the insured persons and the pensioners with the supplementary retirement insurance fund or is pursuant to a law and the provisions of this Ordinance.

(2) The board members shall sign an affidavit of having been advised of their obligation not to disclose to third parties facts or particulars they have come to the knowledge thereof in the course of, or in connection with, the discharge of their functions, where the said facts or particulars are not public. The affidavit shall be presented to the relevant company within the time period set out in Article 4 (4) and Article 5 (7) and shall be kept thereby.

Chapter Six

ADMINISTRATIVE PENALTY LIABILITY

Article 20. (1) A retirement insurance company or its employees shall be punishable under Article 351 of the Social Insurance Code for violating or allowing a violation of this Ordinance.

(2) Violations under this Ordinance shall be established through penalty determination acts drafted by officials authorized by the Deputy Chairperson of the Financial Supervision Commission in charge of Social Insurance Supervision.

(3) Penal ordinances shall be issued by the Deputy Chairperson of the Financial Supervision Commission in charge of Social Insurance Supervision or by an official authorized by him/ her.

(4) Establishment of violations, issuance, appeal and implementation of penal ordinances shall be performed pursuant to the Administrative Violations and Punishments Act.

TRANSITIONAL AND FINAL PROVISIONS

§ 1. Within six months of the entry into effect of the Ordinance, retirement insurance companies shall be obligated to bring the composition and operation of the boards of trustees and advisory boards of the supplementary retirement insurance funds managed thereby, in compliance with the provisions of this Ordinance, to effect the respective amendments to the Rules of Organization and Operation of the funds and present the necessary documents to the Financial Supervision Commission.

§ 2. The operation of the boards of trustees and the advisory boards of the supplementary retirement insurance funds, elected prior to the entry into force of this Ordinance, shall be terminated within the time period under § 1 with the establishment of new boards as per the procedure under Article 4 and 5.

§ 3. This Ordinance has been adopted pursuant to Article 155 (3) and Article 242 (2) of the Social Insurance Code and shall be effective from 01.03.2005.

§ 4. The Financial Supervision Commission shall provide guidelines for the implementation of the Ordinance.