ORDINANCE № 12

dated 10.12.2003

on the procedure for determining the minimum profitability of the asset management of supplementary compulsory pension insurance funds, for covering the difference to the minimum profitability and creating and using reserves to guarantee minimum profitability

Adopted with Decision № 12-H dated 10.12.2003 of the Financial Supervision Commission, prom. OG, No 110/19.12.2003, in force from 1.01.2004, cor., No 1/6.01.2004, amend. and suppl., No 17/2.03.2004, No 29/5.04.2005, No 57/13.07.2007.

Chapter One
GENERAL PROVISIONS

Art. 1. This Ordinance regulates the procedure for:

1. determining the minimum profitability of the asset management of supplementary compulsory pension insurance funds;
2. covering the gap to the minimum profitability;
3. creating and using the reserve to guarantee minimum profitability of a supplementary compulsory pension insurance fund and a pension insurance company.

Chapter Two
DETERMININF THE MINIMUM PROFITABILITY IN MANAGING THE ASSETS OF A SUPPLEMENTARY COMPULSORY PENSION INSURANCE FUND

Art. 2. (1) Minimum profitability shall be set on the basis of an average weighted profitability for each supplementary compulsory pension insurance fund as per art. 193, para 2 and 3 of the Social Insurance Code.

(2) For the purposes of this Ordinance the average weighted profitability shall be determined according to p. 1 of Appendix No 1 on the basis of:

1. the relative share of the value of net assets of each fund within the total amount of net assets of the funds of the respective type, participating in determining the average profitability as at the last working day of the reporting quarter, and
2. profitability in percent on year over year basis, achieved by the respective fund for the last 24-month period.

(3) In cases where the relative share as per para 2, p. 1 of a fund exceedes 20 percent of the total amount of net assets of the funds of the respective type, when determining the average weighted profitability the relative share of this fund shall be cut down to 20 percent. The remaining amount, obtained as a result of limiting the relative share of this fund to 20 percent, shall be distributed proportionately among the other funds, which have relative shares smaller than 20 percent.

(4) The procedure under para 3 shall be repeated till the relative share of each fund after distributing the remainder reaches a level not exceding 20 percent of the total amount of net

assets.

(5) Profitability under para 2, p. 2 shall be determined in accordance with p. 2 and 3 of Appendix № 1.

Chapter Three
CREATING RESERVES TO GUARANTEE MINIMUM PROFITABILITY

Section I
Reserve of a Supplementary Compulsory Pension Insurance Fund

Art. 3. A reserve shall be created by each supplementary compulsory pension insurance fund to guarantee minimum profitability.

Art. 4. (1) The funds in the reserve created as per art. 193, para 7 of the Social Insurance Code, shall constitute part of the fund's net assets.

(2) The funds in the reserve shall be accounted for and accumulated in a separate account, maintained in levs and shares.

(3) Putting funds into the reserve shall be executed by the pension insurance company on the first working day, following the day of announcing the minimum profitability by the Deputy Chairperson of the Financial Supervision Commission, heading Insurance Supervision Division.

Art. 5. (1) When funds are placed into the reserve, the number of shares on the reserve account is increased and the value of a share is reduced.

(2) The amount of funds in levs set in the reserve shall be determined as at the last working day of the 24-month period in accordance with p. 1 and 2 of Appendix № 2.

(3) The number of shares recorded in the reserve account shall be determined by dividing the amount of funds in levs, calculated in accordance with para 2, by that value of one share with which the bigger of the two values under art. 193, para 7 of SIC is reached (Appendix 2, p. 4).

(4) (New - OG, No 17/2004, amend., No 57/2007) Where with the value determined as per para 2 the reserve exceedes the limit of 1% of the net assets of the fund as at the end of the working day preceding the day of setting aside the reserve, then only that portion which is needed to reach the limit shall be placed in the reserve.

(5) (New - OG, No 17/2004) In the cases under para 4 the number of shares recorded in the reserve account shall be determined as a ratio of the amount of funds put in the reserve with which the limit of 1% is reached and the difference between:

1. the value of one share on the last working day of the 24-month period and

2. (Suppl. - OG, No 57/2007) the ratio of the amount of funds with which the limit of 1% is reached and the number of shares as at the end of the working day preceding the last working day of the 24-month period.

(6) (Prev. para 4 - OG, No 17/2004, amend., No 57/2007) The reduced value of a share as per para 1 shall be determined as a ratio of the value of the fund's net assets as at the end of the working day preceding the day of setting the reserve, and the number of shares in the fund after the reserve is set, and it shall be valid for the day of setting the reserve.

Art. 6. The pension insurance companies shall present information sheets about the reserve they have created to guarantee minimum profitability for each fund for supplementary compulsory pension insurance they manage, on a model form endorsed by the Deputy Chairperson of the Financial Supervision Commission, heading Insurance Supervision Division. The information shall be presented at the end of the working day on which the placing of funds in the reserve was conducted.

Section II
(In force from 19.12.2003)
Reserve of a Pension Insurance Company

Art. 7. (Suppl. - OG, No 29/2005) The size of the reserve under art. 193, para 8 of the Social Insurance Code shall be determined and maintained as percent of the value of the net assets of the respective fund as at the end of every month, reduced with the funds on the account of the reserve for guaranteeing minimum profitability of the fund.

Art. 8. The reserve funds shall be invested and accounted for separately from the own resources of a pension insurance company in accordance with the procedure as per art. 193, para 10 of the Social Insurance Code.

Art. 9. The pension insurance companies shall present, till the 20th day of the month following the reporting month, information sheets about the reserves they have created from own resources, to guarantee minimum profitability, on a model form endorsed by the Deputy Chairperson of the Financial Supervision Commission, heading Insurance Supervision Division.

Chapter Four
COVERING THE DIFFERENCE TO THE MINIMUM PROFITABILITY AND USING THE RESERVES

Art. 10. (1) The amount of funds necessary to cover the difference to the minimum profitability of a supplementary compulsory pension insurance fund, shall be determined as a product of:

1. (Suppl. - OG, No 57/2007) the number of shares by the end of the working day preceding the last working day of the 24-month period, by

2. the difference between the value of one share, with which the minimum profitability is reached and the value of one share for the last working day of the 24-month period.

(2) The value of one share with which the minimum profitability is reached, shall be the product of the value of one share for the last working day of the 24-month period multiplied by a co-efficient, determined in accordance with p. 5 of Appendix № 2.

Art. 11. (1) The difference to the minimum profitability shall be covered with funds from the reserve of the supplementary compulsory pension insurance fund by reducing the number of shares of the reserve of the fund and increasing the value of one share.

(2) The number of shares by which the reserve account is reduced, shall be determined as a ratio of the amount of funds for covering the difference to the minimum profitability, to the value of one share as per art. 10, para 2.

Art. 12. (1) The amount of funds which a pension insurance company shall cover in the case as per art. 193, para 9, sentence 2 of SIC, shall be determined as the difference between the amount of funds under art. 10, para 1 and the value, covered by the fund’s reserve.

(2) Covering the difference as per para 1 shall be performed by transfering funds from the respective reserve of the company on the day of covering the deficit as per art. 11, para 2 .

Art. 13. Where a supplementary compulsory pension insurance fund has not created a reserve, the amount as per art. 10, para 1 shall be covered from the reserve of the pension insurance company, which manages the fund.

Art. 14. The value of one share of a supplementary compulsory pension insurance fund after covering the difference to the minimum profitability shall be determined by dividing the value of the fund's net assets, which includes the funds transferred from the reserve of the managing company, by the number of shares of the fund, reduced with the number of shares as per art. 11, para 2.

Art. 15. The pension insurance companies shall present information on the covering of the difference to the minimum profitability on a model form endorsed by the Deputy Chairperson of the Financial Supervision Commission, heading Insurance Supervision Division, by the end of the working day in which the covering of said difference to the minimum profitability was executed.

Chapter Five
(New - OG, No 17/2004)
ADMINISTRATIVE AND PENAL LIABILITY

Art. 16. (New - OG, No 17/2004) (1) Who commits or allows the commitment of a violation of this Ordinance shall be punished in accordance with art. 351 of the Social Insuurance Code.

(2) The violations of the provisions of this Ordinance shall be established by acts issued by officials authorized by the Deputy Chairperson of the Financial Supervision Commission, heading Insurance Supervision Division.

(3) Penal decrees shall be issued by the Deputy Chairperson of the Financial Supervision Commission, heading Insurance Supervision Division or an official authorized by him/her.

(4) The establishment of violations, issuing, appealing and execution of penal decrees shall be done pursuant to the procedures of the Administrative Violations and Sanctions Act.

TRANSITIONAL AND FINAL PROVISIONS

§ 1. Until 1 July 2004 the profitability of a supplementary compulsory pension insurance fund shall be determined in accordance with p. 1.1, 1.2 and 1.3 of Appendix № 3 in the following sequence:

1. the profitability in percent on a monthly basis for a calendar month is determined;

2.the profitability in percent on an year over year basis for a calendar month is determined;

3. the profitability reached on an y-o-y basis for the preceding 24-month period is determined.

§ 2. Until 1 July 2004 the amount as per art. 10, para 1 shall be covered from the reserve of the pension insurance company.

§ 3. For the period from 1 July 2004 till 30 June 2006 the profitability of a supplementary compulsory pension insurance fund shall be determined in accordance with p. 2.1, 2.2 and 2.3 of Appendix № 3.

§ 4. This Ordinance was issued on the grounds of art. 193, para 12 of the Social Insurance Code with Decision № 12-H dated 10.12.2003 of the Financial Supervision Commission.

§ 5. The Ordinance shall enter into force on 1 January 2004, except for the provisions of Chapter Three, Section Two, which shall enter into force on the date of promulgation.

§ 6. The Financial Supervision Commission shall issue guidelines for the implementation of this Ordinance.

Appendix No 1

To art. 2, para 2 and 5 (Amend. – OG No 29/2005; No 57/2007)

1. (Amend. - OG, No 29/2005) The average weighted profitability for the last 24-month period in per cent on year-over-year basis of the supplementary compulsory pension insurance funds shall be calculated according to the formula:

$$R_a = \sum_{i=1}^{n} R_{igod} \frac{w_i}{100},$$

where:

R_a is the average weighted profitability for the latest 24-month period in per cent on y-o-y basis of the supplementary compulsory pension insurance funds of the respective type;

R_{godi} - the achieved profitability of the ith supplementary compulsory pension insurance fund of the respective type for the last 24-month period in percent on y-o-y basis;

w_i - the relatice share of the ith supplementary compulsory pension insurance fund of the respective type, adjusted in accordance with art. 2, para 3 and 4;

n – the number of supplementary compulsory pension insurance funds of the respective type, participating in the defining of the minimum profitability.

2. (Amend. - OG, No 29/2005) The reached profitability in percent on y-o-y basis for the last 24-month period shall be calculated according to the formula:

$$R_{god} = \left(\sqrt{\left(1 + \frac{R}{100}\right)} - 1 \right) \times 100,$$

where:

R_{god} is the reached profitability profitability of the respective fund for the last 24 month period, in per cent on y-o-y basis;

R – the profitability of the respective fund in per cent for the last 24-month period.

3. (Amend. - OG, No 57/2007) The profitability of the respective fund in percent, for the last 24-month period shall be calculatedaccording to the formula:

$$R = \frac{U_b - U_a}{U_a} \times 100,$$

where:

R is the profitability of the respective fund in per cent for the last 24-month period;

U_b - is the value of one share of the respective fund for the last working day of the last 24-month period;

U_a - is the value of one share of the respective fund for the last working day of the month preceding the 24-month period.

Appendix No 2

To art. 5, para 2 and 3 and art. 10, para 2 (Amend. OG No 29/2005; No 57/2007)

1. The value of one share, with which the bigger of the two values as per art. 193, para 7 of SIC is achieved, shall be calculated according to the following formula:

$$U_{max} = U_b \times f,$$

where:

U_{max} is the value of one share with which the bigger of the two values as per art. 193, para 7 of SIC is achieved;

U_b - cis the value of one share of the respective fund for the last working day of the 24-month period;

f – is the co-efficient with which the value of one share is determined, with which the bigger of the two values as per art. 193, para 7 of SIC is achieved.

2. The co-efficient with which the value of one share is determined, with which the bigger of the two values as per art. 193, para 7 of SIC is achieved:

$$f = \left(\frac{1 + \max\left(1{,}4\frac{R_a}{100}; \frac{R_a}{100} + 0{,}03\right)}{1 + \frac{R_{god}}{100}} \right)^2,$$

where:

f is the co-efficient with which the value of one share is determined, with which the bigger of the two values as per art. 193, para 7 of SIC is achieved;

R_a - is the average weighted profitability of the funds for supplementary compulsory pension insurance of the respective type, in percent, on year over year basis for the last 24-month period;

R_{god} - the achieved profitability of the respective fund in per cent on y-o-y basis for the last 24-month period.

3. (Amend. - OG, No 29/2005, No 57/2007) The size of the funds in BGN, which are set as reserve for guaranteeing the minimum profitability of the supplementary compulsory pension insurance fund shall be calculated according to the following formula:

$$\mathrm{Res}^{BGN} = (U_b - U_{max}) \times s,$$

where:

Res^{BGN} is the amount in BGN set as reserve for guaranteeing the minimum profitability of the respective fund;

Umax – the value of one share, with which the bigger of the two values as per art. 193, para 7 of SIC is achieved;

Ub – the value of a share of the respective fund for the last working day of the last 24-month period;

s – the number of shares in the respective fund as at the end of the working day preceding the last working day of the 24-month period.

4. (Amend. - OG, No 29/2005) The number of shares by which the number of shares on the reserve account of the respective fund for compulsory supplementary pension insurance is increased, shall be calculated according to the following formula:

$$\mathrm{Res}^{U} = \frac{\mathrm{Res}^{BGN}}{U_{\max}},$$

where:

Res^{U} is the number of shares by which the number of shares on the reserve account of the respective fund is increased;

Res^{BGN} - the amount of funds put in the reserve in order to guarantee the minimum profitability of the respective fund;

Umax – the value of a share with which the bigger of the two values as per art. 193, para 7 of SIC is achieved.

5. The co-efficient for determining the value of one share, with which the minimum profitability of a supplementary compulsory pension insurance fund is achieved, shall be computed according to the following formula:

$$g = \left(\frac{1 + R_{\min}/100}{1 + R_{god}/100} \right)^2,$$

where:

g is the co-efficient for determining the value of one share with which the minimum profitability is achieved;

R_{min} - is the minimum profitability of the funds for supplementary compulsory pension insurance of the respective type for the last 24-month period, announced by the Deputy Chairperson of the Financial Supervision Commission, heading Insurance Supervision Division;

R_{god} - is the achivede profitability of the respective fund for the last 24-month period in percent, on y-o-y- basis.

Appendix № 3

To § 1 and 3 (Cor. – OG, No 1/2004, amend. No 17/2004, No 57/2007)

1.1. The profitability r_m in percent on y-o-y basis for a calendar month m shall be calculated according to the following formula:

$$r_m = \frac{A_m - \sum_{j=0}^{p} F_j}{F_0 + \frac{1}{p}\sum_{j=1}^{p} F_j (p - j + 1)} \times 100,$$

where:

A_m shows the net assets of the respective fund at the end of month m before deducting the investment fee as per art. 201, para 1, p. 2 of SIC;

F_j - shows the net proceeds to the pension fund during the j^{th} day of month m, where the investment fee as per art. 201, para 1, p. 2 of SIC is not deducted for the month m;

F - the nedt assets at the end of month m-1;

$$F_j^0 = I_j - M_j - N_j;$$

I_j the gross proceeds of the pension fund during the j[th] day of month m;

M_j is the amount of charged liabilities during the j[th] day of month m with the exception of the liabilities to insured persons and pensioners;

N_j are the repaid obligations during the j[th] day of month m to insured persons and pensioners;

p is the number of calendar days in month m.

1.2. The profitability in percent on year over year basis for the respective month m shall be calculated according to the following formula:

$$R_m = \left\{\left(1+\frac{r_m}{100}\right)^{12} - 1\right\}\times 100,$$

where:

R_m is the profitability in percent on y-o-y basis for month m of a universal or a professional pension fund;

r_m is the profitability in percent for calendar month m of a universal or a professional pension fund.

1.3. The achieved profitability in percent, on y-o-y basis for the preceding 24-month period shall be calculated according to the following formula:

$$R_{god} = \left\{\sqrt[24]{\left(1+\frac{R_{m-23}}{100}\right)\times\left(1+\frac{R_{m-22}}{100}\right)\times\cdots\times\left(1+\frac{R_m}{100}\right)} - 1\right\}\times 100,$$

where:

R_{god} is the acgieved profitability of a fund for the last 24-month period, in percent, on year over year basis;

R_m, R_{m-1},..., R_{m-23} - profitability in percent, on y-o-y basis for the separate months m, m-1, ..., m-23 for the respective fund.

2.1. (Cor. - OG, No 1/2004, amend., No 17/2004)

The achieved profitability for the last 24-month period, in percent, on y-o-y basis for a supplementary complusory pension insurance fund till the expiring of the 24-month period from the introduction of the shares, shall be calculated according to the following formula:

$$R_{god} = \left\{\sqrt[24]{\left(1+\frac{R_1}{100}\right)\times\left(1+\frac{R_2}{100}\right)\times\cdots\times\left(1+\frac{R_{24-k}}{100}\right)\times\left(1+\frac{R_{kgod}}{100}\right)^{k}} - 1\right\}\times 100$$

where:

R_{god} is the achieved profitability of a fund for the last 24-month period in percent, on year over year basis;

R - achieved profitability of a fund for the last k-month period

kgod
in percent, on y-o-y basis since the introduction of the shares;

$R_1, \ldots, R_{24-k}$ - profitability in percent on y-o-y basis for the consecutive 1 month after the beginning of the 24-month period till 30 June 2004 as obtained pursuant to p. 1.1 and 1.2.

2.2. Profitability in percent on year over year basis for the part of the 24-month period after 1 July 2004 shall be calculated according to the following formula:

$$R_{kgod} = \left(\sqrt[k]{\left(1 + \frac{R_k}{100}\right)^{12}} - 1 \right) \times 100,$$

where:

k is the number of months after 1 July 2004 till the end of the last 24-month period;

R_{kgod} - achieved profitability of a fund for the last k-month period since the introduction of shares, in percent, on y-o-y basis;

R_k - profitability of the respective fund in percent for the k-month period since 1 July 2004.

2.3. (Amend. - OG, No 57/2007) The profitability of the respective fund in percent for the k-month period after 1 July 2004 shall be calculated according to the following formula:

$$R_k = \left(U_b^k - 1\right) \times 100,$$

where:

R_k is the profitability of the respective fund in percent for the k-month period after 1 July 2004.;

U_b^k - the value of a share for the last working day of month k after 1 July 2004.