ODRINANCE No 19 of 8 December 2004 on the order for the setting aside of pension reserves by the pension insurance companies which manage universal pension fund and / or additional voluntary pension insurance fund

Passed by virtue of Decision No 30-N of 8 December 2004 of the Financial Supervision Commission, promulgated SG, issue 110 of 17 December 2004, in effect as of 30 December 2004

Section I
General provisions

Art. 1. This ordinance shall regulate the order for the formation of pension reserves by the pension insurance companies which manage universal pension fund and / or additional voluntary pension insurance fund, hereunder referred to as the voluntary pension fund and which pay life-long pensions therefrom.

Art. 2. The pension reserves shall be used only for the payment of life-long pensions to the retired people who have lived longer than the preliminary actuarial calculations.

Section II
Formation of pension reserves

Art. 3. (1) The pension insurance company managing a universal pension fund shall set aside pension reserve to pay additional life-long pensions for old age.

(2) The pension reserve under para 1 shall be formed using the following sources:

1. own funds of the pension insurance company;
2. funds under art. 170, para 3 of the Social Security Code (SSC).

Art. 4. (1) A pension insurance company managing a voluntary pension fund and paying life-long pensions therefrom, shall set aside pension reserve to cover the payment of such pensions.

(2) The pension reserve under para 1 shall be formed by the following sources:

1. own funds of the pension insurance company;
2. funds under art. 245, para 3 and 5 of the SSC.

Art. 5. (1) The pension insurance company shall report each pension reserve through a separate account.

(2) The sources forming each pension reserve shall be reported through separate sub-accounts to the respective account.

(3) Within one month as of the date of finding of the existence of the conditions under art. 170, para 3 and art. 245, para 3 and 5 of SSC the funds under art. 3, para 2, item 2 and art. 4, para 2, item 2 shall be transferred to an account of the pension insurance company and shall be recorded as an increase in the respective pension reserve.

Art. 6. (1) The funds required for the respective pension reserve shall be determined using a prospective method and shall be equal to the positive difference between the present value of the commitments to the retired people with granted life-long pensions and the amount of funds in their individual batches.

(2) The present value of the commitments undertaken to the retired people for the purpose of formation of the respective pension fund shall be calculated by the pension insurance company based on technical interest rate and biometric mortality tables in the respective year, separately in respect of:

1. payment of additional life-long pensions for old age from the universal pension funds;
2. payment of personal life-long pensions for old age and hereditary life-long pensions from the voluntary pension funds;
3. payment of personal life-long pensions for disability from the voluntary pension funds.

(3) (in effect as of 1 January 2005) The pension insurance companies shall apply uniform technical interest rates and biometric mortality tables under para 2, which shall be approved by the deputy chairperson of the Financial Supervision Commission, head of Social Security Supervision Division, separately for a universal and for a voluntary pension fund by 31 December each year.

Art. 7. Each pension insurance company shall set aside the respective pension reserve and shall start calculating its amount as provided for in art. 6 as of the beginning of the year following the year of the granting of the first life-long pension.

Art. 8. (1) The pension insurance company shall recalculate the amount of the formed pension reserve as at 31 December each calendar year.

(2) When the pension reserve at the year-end shall be lower than the amount calculated as provided for in art. 6, the pension insurance company shall supplement the difference using its own funds, by recording it in the pension reserve account by 1 March of the following calendar year.

(3) In the cases when the yield achieved by a universal pension fund shall be lower than the minimum yield set out in art. 193 of the SSC, recalculation of the pension reserve shall be made also on the day following the day for the definition of the amount of funds in the individual batches of retired people and following coverage of the difference to the minimum yield.

Art. 9. (1) The maximum amount of the pension reserve set aside for the respective fund at the year-end may not exceed 110 % of the amount calculated as provided for in art. 6, with the exception of the cases under para 3.

(2) Any funds in excess of the maximum amount under para 1 having as a source the proceeds under art. 3, para 2, item 1 and art. 4, para 2, item 1 shall be released from the pension reserve and shall be recorded into the pension insurance company account by 1 March of the following calendar year.

(3) When as a result of proceeds to the pension reserve under art. 3, para 2, item 2 and art. 4, para 2, item 2 the maximum amount under para 1 shall be exceeded, the difference shall not be released in favour of the pension insurance company, but it shall remain in the account of the pension reserve.

Art. 10. (1) Together with the filing of the annual financial statements and within the deadline set in art. 190, para 1 of SSC the pension insurance companies shall file with the deputy chairperson of the Financial Supervision Commission in charge of Social Security Supervision Division a schedule in a format approved by the deputy chairperson on the position of each pension reserve as at the end of the reporting year.

(2) In the cases under art. 8, para 3 the schedule under para 1 shall be filed together with the filing of the monthly financial statements within the deadline set in art. 186a, para 1 of the SSC.

Section III
Administrative – penal liability

Art. 11. (1) A person who shall commit or shall allow a violation under this Ordinance shall be sanctions as provided for in art. 351 of the SSC.

(2) The violations of the provisions of the Ordinance shall be established by virtue of acts drawn up by officials authorised by the deputy chairperson of the Financial Supervision Commission, head of Social Security Supervision Division.

(3) The penal pronouncements shall be issued by a deputy chairperson of the Financial Supervision Commission, head of Social Security Supervision Division or a person authorised by him.

(4) The establishment of the violations, the issuance, appeal and enforcement of the penal pronouncements shall be made as provided for in the Law on Administrative Violations and Sanctions.

ADDITIONAL PROVISIONS

§ 1. Under this Ordinance:

1. "Pension reserve" shall represent the amounts duly set aside, which shall be used to pay additional life-long pensions for old age, personal life-long pensions for old age, personal life-long

pensions for disability and hereditary life-long pensions to the retired people, who have survived longer than the preliminary actuarial calculations.

2. "Biometric mortality table" used for the purpose of calculation of the amount of pension reserves shall represent a theoretical model, presented in the form of statistic table, characterising the ageing pattern of survival and mortality for a certain community.

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 2. The funds necessary for the pension reserve of a pension insurance company managing a voluntary pension fund, which on the grounds of § 114 of the transitional and concluding provisions of the Law on Amendment and Supplementation of the Mandatory Social Security Code (SG, issue 67 of 2003) (LASMSSC) has terminated the implementation of pension schemes with common accounts, shall be determined using a prospective method and shall be equal to the positive difference between the present value of the commitments to the retired people and the funds available on their individual batches and the current amount of the funds set aside in accordance with § 114, para 3, first sentence of the LASMSSC.

§ 3. This Ordinance shall be issued on the grounds of art. 192, para 2 and art. 213, para 2 of the Social Security Code and has been passed by virtue of Decision No 30-N of 8 December 2004 of the Financial Supervision Commission.

§ 4. (1) The Ordinance shall enter into force as of 30 December 2004, with the exception of art. 6, para 3, which shall enter into force as of 1 January 2005.

(2) By 31 March 2005 a deputy chairperson of the Financial Supervision Commission, head of Social Security Supervision Division, shall approve uniform technical interest rates and biometric mortality tables, which shall be applied by the pension insurance companies in calculating the pension reserves as at 31 December 2005.

(3) In calculating the pension reserves as at 31 December 2004 the pension insurance companies shall apply technical interest rates and biometric mortality tables, approved and confirmed in the due manner prior to the entering into force of this Ordinance.

§ 5. The Financial Supervision Commission shall issue guidelines on the implementation of the Ordinance.