ORDINANCE No 36 of 15 November 2006 on the technical reserves to a fund for additional voluntary pension insurance by professional schemes

Passed by virtue of Decision No 69-N of 15 November 2006 of the Financial Supervision Commission, promulgated SG, issue 96 of 28 November 2006

Section I
General provisions

Art. 1. This Ordinance shall regulate:

1. the types of technical reserves which shall be set aside to a fund for additional voluntary pension insurance by professional schemes, hereunder referred to as "technical reserves", as well as the order, methodology and actuarial methods used for their formation and calculation;

2. the maximum amount of the technical interest rate used to calculate the technical reserves;

3. the order and manner of investment of the funds to cover the technical reserves, as well as the restrictions related to their investment;

4. the rules to determine and measure the assets used to cover the technical reserves.

Art. 2. (1) The technical reserves shall be set aside by the pension insurance company to the fund for additional voluntary pension insurance by professional schemes in the cases when biometric risks are covered, the minimum yield level or pension amount is guaranteed.

(2) The technical reserves shall only be used to meet the obligations of the pension insurance company under concluded pension contracts.

Art. 3. The technical reserves shall be formed using the following sources:

1. the funds from the individual batches of retired people transferred under the provisions of art. 234, para 13 of the Social Security Code (SSC);

2. the yield generated through the investing of the funds under item 1.

Section II
Types of technical reserves. Order, methodology and actuarial method used for their formation and calculation

Art. 4. In the cases under art. 2, para 1 the pension insurance company shall set aside the following technical reserves to the fund for additional voluntary pension insurance by professional schemes:

1. capitalised value of the pensions;
2. residual reserve.

Art. 5. (1) The capitalised value of the pensions shall be set to cover the future payments under concluded pension contracts and shall represent an amount of the reserves calculated for each concluded pension contract.

(2) The capitalised value of the pensions shall be calculated using a prospective method, including the present value of the future pension payments, resulting from the terms and conditions of the concluded pension contracts.

(3) When the application of the prospective method shall be impossible, the capitalised value of the pensions shall be calculated using the retrospective method and it shall equal the difference between the present value of the funds transferred from the individual batches of the retired people under the provisions of art. 234, para 13 of the SSC and the present value of the pension payments made.

Art. 6. (1) The following calculation bases are used in calculating the capitalised value of the pensions:

1. biometric mortality tables developed in accordance with the requirements of art. 213a, para 5, item 4 of the SSC;

2. technical interest rate not exceeding the maximum technical interest rate set out in art. 8, para 1 .

(2) The method and the calculation bases used in computing the capitalised value of the pensions may be revised only in the case of changes in the legal, demographic and economic environment within which they have been passed. In such cases the pension insurance company shall provide the required justification to the Financial Supervision Commission.

Art. 7. (1) The residual reserve shall be equal to the positive difference between the estimated value of the assets used to cover the technical reserves and the present value of the future obligations to pay pensions.

(2) When the value of the residual reserve shall exceed the capitalised value of the pensions by more than 20 percent in the course of 24 consecutive months, the pensions shall be updated with the excess over 15 percent under an order and in a manner set out in the actuarial calculations of the fund for additional voluntary pension insurance by professional schemes.

(3) When the difference between the funds used to cover the technical reserves and the capitalised amount of the pensions shall be negative, the pension insurance company shall meet its obligations under the concluded pension contracts using its own funds under art. 121c, para 11 of the SSC.

Section III
Maximum amount of the technical interest rate

Art. 8. (1) The technical interest rate used in the calculation of the future pension liabilities shall have a maximum value of 3.5 percent, but it may not exceed the technical interest rate applied by the respective pension fund for the calculation of the pensions under the concluded pension contracts.

(2) The specific amount of the technical interest rate shall be determined based on the

prudence principle and in compliance with the requirements of art. 213a, para 5, item 3 of the SSC.

Section IV
Order and manner of investment of the funds to cover the technical reserves. Restrictions to their investment

Art. 9. (1) The funds for the covering of the technical reserves shall be invested in the best interest of the retired people in compliance with the principles for prudence, reliability, liquidity, profitability and diversification.

(2) The rules on the organisation and operation of the fund for additional voluntary pension insurance by professional schemes shall set out the investment policy and quantity restrictions which shall be complied with in the investment of the funds to cover the technical reserves.

(3) The funds shall be invested in accordance with the maturity structure and the size of pension payments.

(4) Securities included in the assets used to cover the technical reserves should be listed or traded at a regulated securities market.

(5) The pension insurance company may close deals under art. 179b of the SSC with the assets used to cover the technical reserves only for the purpose of reducing their investment risk.

(6) Not more than 5 percent of the assets used to cover the technical reserves may be invested in securities issued by one issuer. When the issuer shall be a bank the restriction under the preceding sentence shall also include funds invested in bank deposits in the issuing bank.

(7) The pension insurance company may invest the funds used to cover the technical reserves in no more than 5 percent of securities issued by one issuer.

(8) Not more than 30 percent of the assets used to cover the technical reserves may be denominated in a currency other than the currency in which the obligations under the concluded pension contracts are undertaken.

(9) The bank – trustee of the fund for additional voluntary pension insurance by professional schemes shall carry out the instructions of the pension insurance company as to the investment of the assets used to cover the technical reserves, which it shall store and report separately from the other fund assets in accordance with the requirements of the SSC and the rules on the organisation and operations of the fund.

Section V
Valuation of the assets used to cover the technical reserves

Art. 10. (1) The assets used to cover the technical reserves shall be valued as at the end of each month in compliance with the requirements of Ordinance No 9 of 2003 on the manner and order of valuation of the assets and liabilities of the additional pension insurance funds and the pension insurance company, the value of the net fund assets to calculate and announce the value of one share and on the requirements to the keeping of individual batches (promulgated, SG, issue 109 of 2003; amended and supplemented, issue 34 of 2004, issue 57 of 2005, issue 32 of 2006).

(2) By the 20^{th} day of the month following the reporting month the pension insurance company shall submit to the Financial Supervision Commission a schedule on the value of assets used to cover the technical reserve in a standard format approved by the deputy chair person of the FSC, head of Social Security Supervision Division.

(3) The funds under para 1 shall be recorded in Bulgarian levs.

Art. 11. (1) The pension insurance company shall prepare monthly and annual financial statements of the dedicated property under art. 213a, para 2 of the SSC in compliance with the requirements of the applicable accounting standards.

(2) The pension insurance company shall file with the deputy chair person of the FSC in charge of Social Security Supervision Division the statements under para 1 in accordance with the provisions of art. 252 of the SSC.

Section VI
Administrative – penal provision

Art. 12. (1) Any person who shall violate or shall allow violation of this Ordinance shall be sanctioned 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 chair person of the FSC head of Social Security Supervision Division.

(3) The penal pronouncements shall be issued by a deputy chair person of the FSC, 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.

CONCLUDING PROVISIONS

§ 1. This Ordinance shall be issued on the grounds of art. 213a, para 3 and 4 and art. 251b, para 5 of the Social Security Code and is passed by virtue of Decision No 69-N of 15 November 2006 of the Financial Supervision Commission.

§ 2. The Financial Supervision Commission shall provide guidelines on the implementation of the Ordinance.