Text consolidated by Valsts valodas centrs (State Language Centre) with amending laws of:

23 September 2021 [shall come into force on 20 October 2021].

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*1 has adopted and

the President has proclaimed the following law:

**Private Pension Fund Law**

**Chapter I**

**General Provisions**

**Section 1. Terms Used in this Law**

(1) The following terms are used in this Law:

1) **biometric risks** – risks linked to death, disability, and longevity of a person;

2) **sponsoring employer** (hereinafter – the employer) – a person who is an employer and who is making contributions in private pension funds in favour of its employees, or a self-employed person who makes contributions in his or her own favour;

3) **concerned country**– a country of the European Union or European Economic Area (hereinafter – the Member State) which is not a home country and in which the private pension fund (hereinafter also – the pension fund) of the home country is providing its services;

4) **individual participation contract** – a contract entered into between a natural person and the pension fund for the participation of such natural person in a specific pension scheme;

5) **collective participation contract** – a contract entered into between an employer and the pension fund for the participation of employees of such employer in a specific pension scheme;

6) **competent authority** – a state authority which supervises the conformity of the activity of the private pension fund with the requirements of this Law, or an authority of another Member State which supervises the conformity of the activity of the pension fund registered or licensed in the abovementioned Member State with the laws and regulations governing the activity of the pension fund of the relevant Member State;

7) **manager of funds** – a commercial company which manages the funds accumulated according to a pension scheme;

8) **custodian** – a commercial company which stores the assets of the pension fund and fulfils other obligations specified in this Law and in the contract of the custodian;

9) **home country** – the Member State in which the pension fund is registered or licensed and in which the pension fund decisions are taken;

10) **defined contribution scheme** – a pension scheme which provides for regular or irregular contributions for a pension scheme member and in which the coverage of biometric risks may be provided for or a defined return on investments may be guaranteed;

11) **defined disbursement scheme** – a pension scheme which provides for specific disbursements of the supplementary pension to a pension scheme member after attaining the retirement age and in which the coverage of biometric risks may be provided for;

12) **key function –** a capacity of the pension fund to undertake practical tasks comprising the risk management function, the internal audit function, and the actuary function within the framework of management;

13) **supplementary pension** – the supplementary pension capital accumulated in accordance with the defined contribution scheme or payments or services specified for the beneficiary of the supplementary pension according to the defined disbursement scheme. Payments may be specified as a payment throughout the life of the beneficiary of the supplementary pension or a payment in a specific period of time, or a single disbursement, or combination of any abovementioned types of disbursements;

14) **supplementary pension capital** – monetary means that have been accumulated in favour of a member to a pension scheme of defined contributions during any specific period of time in accordance with this Law;

15) **beneficiary of the supplementary pension**– a person who receives a supplementary pension after attaining the age specified in the pension scheme;

16) **person responsible for actuary function**– an official of the pension fund who assesses the liabilities included in pension schemes and the sufficiency of technical provisions established;

17) **cross-border activity** – management of such pension scheme where the relationship between the employer and the pension scheme members and beneficiaries of the supplementary pension is governed by the laws and regulations in relation to the field of supplementary pension of a Member State other than the home country of the pension fund;

18) **durable medium** – an instrument which enables a pension scheme member or a beneficiary of the supplementary pension to store information addressed personally to that member or beneficiary in a way that is accessible for future reference and for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

19) **retirement age** – the age of a pension scheme member from which such member has the right to receive the supplementary pension accumulated in the pension fund in accordance with the procedures laid down in this Law;

20) **transferring pension scheme** – a pension fund transferring all or a part of a pension scheme’s liabilities, technical provisions, and other rights and obligations related to contributions by the employer, and also corresponding assets or cash amount equivalent thereto, to a pension fund registered or licensed in another Member State;

21) **pension scheme member** – a natural person who herself or himself or for whom the employer or another natural person makes contributions in the pension fund and who has the right to receive a supplementary pension in accordance with this Law and the pension scheme, but who is not a beneficiary of the supplementary pension or a prospective pension scheme member;

22) **pension scheme committee** – a control authority of the pension scheme which controls the management and execution of the relevant pension scheme according to the provisions of the collective participation contract;

23) **pension scheme** – an aggregate of systematised provisions according to which a supplementary pension is accumulated in the pension fund, funds are invested, and the funds accumulated are disbursed;

24) **prospective pension scheme member** – a natural person who is eligible to become a pension scheme member;

25) **private pension fund**– a pension fund which is a capital company registered with the Commercial Register of the Enterprise Register of the Republic of Latvia the management (the headquarters of the company) of which is located in the Republic of Latvia and to which a licence for the activity of the pension fund (hereinafter – the licence) has been issued by the Financial and Capital Market Commission (hereinafter – the Commission ) in accordance with the procedures laid down in this Law;

26) **risk profile –** a risk level which covers all risks to which the activity of the pension fund is exposed to, taking into account the degree of their effect;

27) **related persons** – two or several persons if they comply with at least one of the features of related persons referred to in the law On Taxes and Duties;

28) **receiving pension fund** – a pension fund transferring all or a part of a pension scheme’s liabilities, technical provisions, and other rights and obligations in relation to contributions of the employer, and also corresponding assets or cash amount equivalent thereto, to a pension fund registered or licensed in another Member State;

29) **stress test** – an analysis conducted by the pension fund in order to determine and evaluate the potential impact of different extraordinary but potentially unfavourable events or changes in market conditions on the investment portfolio of the pension scheme;

30) **technical provisions**– the potential liabilities of the pension fund which have been calculated according to the defined contribution schemes of the pension fund with guaranteed profitability, the defined disbursement schemes, and the pension schemes with a planned coverage of biometric risks;

31) **environmental, climate, social and governance factors** – the factors conforming to responsible investment principles of the United Nations Organisation;

32) **commercial companies belonging to one group**– commercial companies the financial statements of which are to be consolidated according to the international accounting standards adopted in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (hereinafter – Regulation No 1606/2002) or in accordance with the requirements of the laws and regulations of a country other than a Member State.

(2) The term “alternative investment fund” used in this Law conforms to the term used in the Law on Alternative Investment Funds and Managers Thereof, the term “investment fund” – to the term used in the Law on Investment Management Companies, but the terms “regulated market” and “trading venue” – to the terms used in the Financial Instrument Market Law.

**Section 2. Purpose and Scope of Application of the Law**

(1) The purpose of this Law is to create legal preconditions for the operation of pension funds in order to protect pension scheme members and beneficiaries of the supplementary pension, to ensure good management of pension funds and pensions schemes and transparency and safety of the accumulation of supplementary pension capital.

(2) This Law prescribes the procedures for the accumulation of supplementary pension in the defined contribution scheme and defined disbursement scheme, the types of pension funds, the principles for their operation, the types of pension schemes, the rights and obligations of pension scheme members, the procedures for the management of funds, the competence of a custodian, and also the procedures for the State supervision of the abovementioned activities.

**Section 3. Principles of the Activity of a Private Pension Fund**

(1) The pension fund shall, in accordance with this Law and pension schemes, accumulate and invest contributions of monetary means made by pension scheme members themselves and made in their favour in order to ensure supplementary pension for them.

(2) The pension fund shall ensure equal risk and benefit distribution in its activity among generations in respect of the pension scheme type on which it is binding.

(3) The pension fund may issue registered stocks only. Stocks of the pension fund may not be issued for public circulation.

(4) The pension fund may only carry out the activities provided for in this Law.

(5) The excess of income over expenditure may not be withdrawn or disbursed from the pension fund which offers only a defined contribution scheme without guaranteed profitability or does not provide for the coverage of biometric risks in such scheme to stockholders or members, and it shall be fully included in individual accounts of pension scheme members in accordance with the requirements of this Law.

(6) Only monetary means may be invested in the equity capital of the pension fund, except for the cases when the pension fund is reorganised by a permission of the Commission.

(7) The pension fund may not take loans for the fulfilment of liabilities arising from a pension scheme, except for the loans for the provision of short-term liquidity for a time period of up to three months.

**Section 4. Types of Pension Funds**

(1) Pension funds may be closed and open.

(2) A closed pension fund may have one or several pension schemes. Only such persons may be pension scheme members of a closed pension fund who, upon commencing participation in a pension scheme, are employees of one founder or several founders of the relevant pension fund.

(3) An open pension fund may have one or several pension schemes. Any natural person may become a member to such pension schemes on the basis of a contract in accordance with the procedures laid down in this Law.

**Section 5. Firm Name of the Pension Fund**

The firm name of the pension fund shall include the expression “*pensiju fonds*” [pension fund] with a reference whether it is a closed or an open pension fund. Only the pension funds founded in accordance with the procedures laid down in this Law have the right to use such expression in their firm name.

**Chapter II**

**Founding of Pension Funds**

**Section 6. Stockholders or Members of the Pension Fund**

(1) Only such persons (employers) who enter into a collective participation contract with the pension fund may be the stockholders or members of a closed pension fund.

(2) Only the following persons may be the stockholders or members of an open pension fund:

1) a credit institution that has received a licence for the carrying out of operation of a credit institution in a Member State or a Member State of the Organisation for Economic Co-operation and Development;

2) a life insurance company that has received a licence for the carrying out of life insurance in a Member State or a Member State of the Organisation for Economic Co-operation and Development;

3) an investment management company that has received a licence for the provision of management services in a Member State or a Member State of the Organisation for Economic Co-operation and Development.

(3) A person who wishes to acquire a capital share of the pension fund shall, at least a month before the performance of the transaction, inform the Commission thereof, indicating the capital share and the person who is going to sell it. The Commission may, within a month after receipt of the information, request the additional information necessary for taking of the decision or prohibit the performance of such transaction.

(4) If after commencing of the activity of an open pension fund a stockholder or member thereof no longer complies with the requirements of Paragraph two of this Section, the capital shares owned by him or her shall be alienated in accordance with the procedures laid down in the Commercial Law. If none of the stockholders or members of the open pension fund complies with the requirements of Paragraph two of this Section anymore, the Commission shall determine the time period by which the stockholders or members have an obligation to alienate capital shares from such person who complies with the requirements laid down in Paragraph two of this Section for stockholders or members of an open pension fund, or determine other measures which are to be performed for continuation of the activity of such pension fund.

**Section 7. Articles of Association of the Pension Fund**

(1) Founders of the pension fund shall develop and sign the articles of association of the pension fund in accordance with this Law and the Commercial Law.

(2) Amendments to the articles of association of the pension fund may not deteriorate the state of pension scheme members or third parties and may not restrict such rights that have actually been acquired up to the adoption of the relevant amendments to the articles of association.

**Section 8. Licensing of the Pension Fund**

(1) A licence issued by the Commission shall be necessary for the carrying out of activity of the pension fund. The pension fund which is registered with the Commercial Register of the Enterprise Register of the Republic of Latvia and the management (the headquarters of the company) of which is located in the Republic of Latvia is entitled to commence activity only after receipt of such licence. The pension fund is entitled to offer a pension scheme which conforms to the conditions of the licence. The conditions of the licence shall contain the type of the pension scheme and information on whether guaranteed profitability may be included in such pension scheme or the coverage of biometric risks may be provided for.

(2) The licence shall be issued without a limited term of validity. If the Commission has cancelled the licence for the pension fund, it shall not be renewed.

(3) In order to receive the licence, the pension fund shall submit the following documents to the Commission:

1) an application for the receipt of the licence in which all the documents appended thereto are indicated;

2) a document which confirms the payment of the initial capital;

3) a list of stockholders or members of the pension fund, indicating their firm name, legal address, registration number and place. Legal persons registered abroad shall also submit a registration document in accordance with that laid down in the Document Legalisation Law;

4) a notification which is filled out by every member of the council of the pension fund (if any has been established) and that of the board, the person responsible for the risk management function, the person responsible for the internal audit function, the person responsible for the actuary function, and also the person who is authorised to take decisions on behalf of the pension fund. The person shall indicate the following information in the notification:

a) the firm name of the pension fund and the position for which the person is applying;

b) the given name, surname, year and date of birth, personal identity number (if any) and citizenship;

c) education (academic degree);

d) the measures taken for improvement of qualification;

e) whether he or she has been punished for an intentional criminal offence against property or a criminal offence of an economic nature;

f) whether the right to perform commercial activity has been suspended from him or her;

g) previous working places during the last 10 years and a short description of work duties;

5) a certified copy of the personal identification document referred to in the introductory part of Clause 4 of this Paragraph;

6) an extract from the Punishment Register on the person referred to in the introductory part of Clause 4 of this Paragraph or, if the person is a citizen of another such Member State in which there is no Punishment Register, a document equivalent thereto which has been issued by the competent court or administrative institution or sworn notary of the Member State in which the relevant person is a citizen;

7) a description of the organisational and management structure in which the rights and obligations of the member of the council (if any has been established), the member of the board, and other persons referred to in the introductory part of Clause 4 of this Paragraph are explicitly indicated;

8) a description of the accounting policy in which the main principles for organising record-keeping are indicated;

9) a description of the management information system;

10) regulations for the protection of the information system;

11) a description of the internal control system;

12) a description of the procedure for identification of suspicious financial transactions;

13) an operational plan for the subsequent three years in which the projection of the number of members of each pension scheme, the projections of the amount of contributions and disbursements shall be indicated, indicating separately the projection of the amount of contributions and disbursements for the coverage of biometric risks, the projection of administrative expenditures of the pension fund and the sources for covering them;

14) a contract corresponding to the requirements of Section 21, Paragraph nine of this Law with the manager of funds;

15) a contract corresponding to the requirements of Section 22, Paragraph fourteen of this Law with the custodian;

16) a pension scheme developed in accordance with the requirements of Section 12 of this Law. The abovementioned pension scheme shall be submitted in one of the following forms:

a) in the form of an electronic document in accordance with the laws and regulations regarding drawing up of electronic documents;

b) in the form of a printed document (in such case the pension scheme shall also be submitted in electronic form by sending it to the official electronic address of the Commission);

17) a description of the investment policy developed for each pension scheme in accordance with the requirements of Section 27, Paragraph two of this Law;

18) a sample individual participation contract if direct participation of members is provided for in the pension scheme of the pension fund by entering into an individual participation contract;

19) a description of the procedures by which the pension fund shall register and perform record-keeping of individual and collective participation contracts (hereinafter also – the participation contract). Registration and record-keeping of participation contracts shall be carried out only in electronic form, ensuring the third parties with an opportunity of tracing the making of amendments to entries of the register. The pension fund shall be responsible for immediate registration and record-keeping of the participation contracts in accordance with the approved procedures. The terms and conditions of the participation contract shall not be in contradiction with the provisions of the pension scheme;

20) in the case referred to in Section 20, Paragraph fourteen of this Law – a description of the policy developed by the pension fund for the prevention of a conflict of interests;

21) a document in which it is described and explained how the exercising of the stockholder rights in the management of the stock company is included in the investment strategy of the pension scheme (hereinafter – the engagement policy) if the investment policy of the pension scheme provides for the investment of the assets of the pension scheme in the shares of the joint stock company the legal address of which is in a Member State and the shares of which are admitted to trading on a regulated market of the Member State.

(4) If the pension fund wishes to offer a defined disbursement scheme or a defined contribution scheme with guaranteed profitability or to provide the coverage of the biometric risks in the pension scheme, it shall submit the following documents in addition to the documents referred to in Paragraph three of this Section:

1) a description of the guaranteed profitability, supplementary pensions, and biometric risks provided for in the pension scheme;

2) the methodology for the calculation of contributions, indicating separately how the contributions for the coverage of biometric risks will be calculated;

3) the methodology for the calculation of technical provisions;

4) the projection of the amount of technical provisions for the subsequent three years of activity;

5) the projection of the amount of own capital necessary for the activity for the subsequent three years of activity and the procedures for the provision thereof.

(5) The veracity of the information provided in the notification referred to in Paragraph three, Clause 4 of this Section shall be certified with a signature by the person who prepared the notification, and also by the chairperson of the board of the pension fund.

(6) The Commission shall examine the application of the pension fund for the receipt of a licence and take a decision within three months from the day when all the documents specified in this Law which are necessary for taking of the decision and which have been prepared and developed in accordance with the requirements of laws and regulations have been received.

(7) If changes occur in the information or amendments are made to the documents provided to the Commission until the time when the decision to issue the relevant licence is taken, the pension fund has an obligation to submit to the Commission the new information or the full text of the relevant documents with the amendments made without delay.

(8) If the decision to issue a licence has been taken, the Commission shall inform the European Insurance and Occupational Pensions Authority thereof.

(9) The Commission shall take the decision to refuse to issue the licence if:

1) upon establishing the pension fund, this Law or other laws and regulations governing commercial activity have not been conformed to;

2) the members of the council (if any has been established) or board of the pension fund, the person responsible for the internal audit function, the person responsible for the risk management function, or the person responsible for the actuary function fails to comply with the requirements of this Law;

3) the record-keeping and accounting system of the pension fund or the system for keeping of individual accounts of pension scheme members does not conform to the description submitted, the description of the organisational and management structure of the pension fund, or the pension scheme of the pension fund submitted for registration;

4) the submitted documents contain false or incomplete information;

5) the planned activity of the pension fund does not conform to the requirements of this Law and other laws and regulations governing commercial activity.

**Section 9. Re-registration of the Licence and Issuing of a Duplicate**

(1) If the firm name of the pension fund is changed, the Commission shall re-register the licence.

(2) An application of the pension fund for the re-registration of the licence shall be submitted to the Commission within five working days after changes have been registered in the firm name.

(3) The Commission shall re-register the licence within five working days after receipt of the relevant submission.

(4) If the licence has been lost, the pension fund shall, without delay, submit an application to the Commission for the issuance of a duplicate of the licence.

(5) The Commission shall issue a duplicate of the licence within five working days after receipt of the relevant submission.

**Section 10. Changing of the Conditions of the Licence**

(1) If the pension fund wishes that conditions are changed in the licence issued thereto, it shall submit a relevant application to the Commission and the documents referred to in Section 8, Paragraph three, Clauses 13, 16, 17, and 18 of this Law updated according to the changes in the conditions of the licence, and also, where necessary, amendments to contracts with the manager of funds and the custodian.

(2) If the pension fund wishes to offer a defined disbursement scheme or a defined contribution scheme with guaranteed profitability or to provide the coverage of the biometric risks in the pension scheme, in addition to the documents referred to in Paragraph one of this Section it shall submit the rest of the documents referred to in Section 8, Paragraph three of this Law to the Commission, and also the information on the person responsible for the actuary function in accordance with Section 8, Paragraph three, Clause 4 of this Law.

(3) The Commission shall, within a month after receipt of all the documents provided for in this Section and prepared in accordance with the requirements of laws and regulations, examine the submission of the pension fund.

(4) The Commission may take a decision not to change the conditions of the licence if:

1) the submitted documents contain false or incomplete information;

2) the record-keeping and accounting system of the pension fund or the system for keeping of individual accounts of pension scheme members does not conform to the description submitted, the description of the organisational and management structure of the pension fund, or the pension scheme of the pension fund submitted for registration;

3) the planned activity of the pension fund does not conform to the requirements of this Law and other laws and regulations governing commercial activity;

4) the person responsible for the actuary function does not comply with the requirements of this Law;

5) the plan for the improvement of the financial situation is implemented in the pension fund;

6) the pension fund has not eliminated the violations detected by the Commission within the time period stipulated thereby.

(5) The State duty for changing the conditions of the licence need not be paid.

**Section 11. Use of Outsourced Services**

(1) The pension fund may delegate the activities which are necessary for the provision of activity of the pension fund within the meaning of this Law to one or several providers of outsourced services which, on the basis of a written contract with the pension fund, undertake to provide or provide outsourced services to the pension fund and which have a corresponding qualification and experience in the provision of the abovementioned services.

(2) Managing and holding of the funds accumulated according to the provisions of a pension scheme shall be carried out by the manager of funds of the pension scheme and the custodian of the pension scheme selected by the pension fund in accordance with the procedures laid down in Sections 21, 22, and 23 of this Law.

(3) The obligations comprised in the internal audit function of the pension fund may be delegated as an outsourced service only to a sworn auditor or a commercial company of sworn auditors which is not carrying out the audit of the annual statements of the pension fund. The pension fund may delegate the obligations comprised in the internal audit function as an outsourced service to the internal audit (examination) service of the subsidiary company of the Member State of the pension fund only in such case if the appropriate procedure is developed, determining how efficient management of the situations of the conflict of interests is ensured.

(4) The pension fund may not delegate:

1) the obligations of the administrative bodies of the pension fund;

2) the performance of the aggregate of the functions permitted in the licence of the pension fund in totality.

(5) In order for the pension fund to commence the receipt of an outsourced service, it shall develop a relevant policy and procedure for the use of outsourced services, determining therein:

1) the procedures by which decisions on the use of an outsourced service are taken in the pension fund;

2) the procedures for entering into an outsourced service contract, for the supervision of execution and termination thereof;

3) the persons (officials and employees) and units responsible for the co-operation with the outsourced service provider and for the supervision of the amount and quality of the outsourced service received, and also the rights and obligations of such persons;

4) the action of the pension fund in case when the outsourced service provider does not fulfil or is going to be unable to fulfil the provisions of the outsourced service contract .

(6) The pension fund shall submit to the Commission a description of the policy and procedure referred to in Paragraph five of this Section, and also the procedure referred to in Paragraph three of this Section before receipt of the outsourced service. The Commission shall, within a month after receipt of the abovementioned documents, examine and evaluate their conformity with the requirements of this Law and inform the pension fund of the results of the examination.

(7) If keeping of accounting, management or development of information technology systems, organising of the internal control system or risk control functions, fulfilment of the duties within the internal audit function and actuary function of the pension fund are delegated, the pension fund shall submit an application to the Commission on the use of the outsourced service and the original or certified copy of the outsourced service contract in addition to the documents referred to in Paragraph five of this Section.

(8) The outsourced service provider may commence the provision of the service referred to in Paragraph seven of this Section, if the Commission, within a month after receipt of the outsourced service contract, does not send a decision to the pension fund by which it prohibits the pension fund to receive the relevant outsourced service. In cases of delegating other such outsourced services which are arising from the requirements of this Law and are related to the provision of the main activity of the pension fund, the pension fund shall, within five working days after entering into the outsourced service contract, inform the Commission thereof.

(9) At least the following provisions shall be included in the outsourced service contract:

1) a description of the outsourced service to be received;

2) precise requirements for the amount and quality of the outsourced service;

3) the rights and obligations of the pension fund and the outsourced service provider, including:

a) the right of the pension fund to continuously supervise the quality of the provision of the outsourced service;

b) the right of the pension fund to give the outsourced service provider instructions to be executed on a mandatory basis in issues which are related to the execution of the outsourced service in good faith, good quality, timely manner and in conformity with laws and regulations;

c) the right of the pension fund to request the outsourced service provider and the obligation of the outsourced service provider to terminate the outsourced service contract without delay after receipt of a written request;

4) the right of the Commission to become acquainted with the documents and to request other information from the outsourced service provider which is related to the provision of the outsourced service and is necessary for the carrying out of the supervisory functions.

(10) If amendments are made to the documents referred to in this Section, the pension fund shall, within five working days after approval of the relevant amendments, submit them to the Commission.

(11) The Commission has the right to conduct an inspection of activity of the outsourced service provider at the location thereof or at the location of the outsourced service provision, to become acquainted with document and accounting registers, to make copies thereof, to request information from the outsourced service provider which is related to the outsourced service provision, and also to become acquainted with other documents which are necessary for the Commission for the carrying out of the supervisory functions.

(12) The Commission shall prohibit the pension fund to receive the planned outsourced service from the outsourced service provider if:

1) the requirements of this Law have not been conformed to;

2) the receipt of the outsourced service may infringe the lawful interests of the pension scheme members or beneficiaries of the supplementary pension;

3) the receipt of the outsourced service may cause restrictions in the provision of services to the pension scheme members and beneficiaries of the supplementary pension or have a negative effect on the quality of these services;

4) the receipt of the outsourced service will preclude or restrict the possibilities of the Commission to carry out the supervisory functions specified in this Law;

5) the outsourced service contract does not provide a clear and true idea of the intended co-operation of the pension fund and the outsourced service provider and the amount and quality of the outsourced service;

6) the use of the outsourced service will significantly deteriorate efficient functioning of the internal control system of the pension fund and its elements;

7) the receipt of the outsourced service may cause significant increase of operational risk.

(13) The Commission is entitled to request that the pension fund which receives the outsourced service terminates the outsourced service contract without delay if the Commission detects than any of the circumstances referred to in Paragraph twelve of this Section has set in.

(14) Receipt of the outsourced service shall not release the pension fund from liability for non-fulfilment of the liabilities specified in this Law or the outsourced service contract.

**Chapter III**

**Pension Scheme and Participation Therein**

**Section 12. Pension Scheme and Amendments Thereto**

(1) A pension scheme shall be developed by the relevant pension fund and registered by the Commission.

(2) The name of the pension scheme shall include the expression “*pensiju plāns*” [pension scheme]. The expression “*pensiju plāns*” [pension scheme] may be included only in the name of such pension schemes which have been established and registered in accordance with the procedures laid down in this Law.

(3) Any contribution, accumulation, investment of monetary means in the pension fund or disbursement for the provision of the supplementary pension may take place only according to the pension scheme registered by the Commission.

(4) The pension fund shall submit documents for the registration of a pension scheme concurrently with an application for the receipt of a licence.

(5) If after obtaining of a licence the pension fund develops a new pension scheme and wishes to register it, it shall submit an application to the Commission for the registration of the pension scheme and the documents referred to in Section 8, Paragraph three, Clauses 16, 17, and 18 of this Law, and also, where necessary, amendments to contracts with the manager of funds and the custodian. The Commission shall examine the documents submitted by the pension fund and take a decision on registration of the pension scheme or refusal to register the pension scheme within a month after all the documents specified in this Law which are necessary for taking of the decision and which have been prepared in accordance with the requirements of laws and regulations have been received.

(6) The following shall be indicated in a pension scheme:

1) the type, firm name, and legal address of the pension fund;

2) the name of the pension scheme;

3) the information on the manager of funds and the custodian, including on the fulfilment of the provisions of Section 22, Paragraph eight of this Law;

4) the criteria and procedures relating to the members who are withdrawing from the pension scheme;

5) the procedures for the contribution of funds and consequences in case these procedures are infringed;

6) the system for keeping of the individual accounts of the pension scheme members;

7) the provisions for the calculation and record-keeping of contributions made and the supplementary pension capital accumulated;

8) the provisions in respect of the retirement age;

9) the procedures by which the supplementary pension capital shall be disbursed to the beneficiary of the supplementary pension according to the defined contribution scheme;

10) other cases when the disbursement of the supplementary pension capital shall be carried out, and the procedures by which it shall be disbursed;

11) the investment provisions that will be conformed to in the pension scheme, and a description of the risks related to investments and the procedures for income distribution;

12) the procedures for covering the expenses of the pension scheme and provision of information on maximum payments to the management of the pension scheme and to the manager of funds, and the amount of remuneration to be disbursed to the custodian, and also the procedures by which pension scheme members shall be informed of such disbursements of the pension scheme;

13) the procedures by which the information referred to in Section 33 of this Law will be provided to the pension scheme member and the beneficiary of the supplementary pension;

14) in relation to the defined contribution scheme with guaranteed profitability – in addition also a description of guarantees;

15) in relation to the defined disbursement scheme – in addition also the amount and period of disbursement of the supplementary pension, and also the procedures for the disbursement of the supplementary pension;

16) in relation the pension scheme with the coverage of biometric risks – in addition also the biometric risks to be covered, the amount of and procedures for the payments in case of risks setting in.

(7) It may be provided for in the pension scheme that its member, upon attaining the age specified in the pension scheme, may continue participation in the scheme by making an additional agreement with the pension fund on the procedures for the disbursement of the supplementary pension. In such case the norms of this Law which apply to the pension scheme member shall also be applied to the beneficiary of the supplementary pension. If the pension fund provides for a possibility to receive the supplementary pension capital in parts, the pension fund shall submit to the Commission, concurrently with a pension scheme, the methodology for the disbursement of the supplementary pension capital approved by the board of the pension fund.

(8) The pension scheme the fulfilment of the liabilities of which has been undertaken by the employer may only have one participation contract which has been entered into with the sponsoring employer.

(9) After registration of the pension scheme with the Commission, amendments thereto may be made only with a written consent of the Commission.

(10) A written consent of the Commission for the amendments to the pension scheme shall not be required if amendments thereto are made due to the change of a member of the council or board of the pension fund, the firm name or legal address of the pension fund, the manager of funds or custodian of the pension fund. In such case amendments to the pension scheme shall enter into effect on the day following approval thereof, and the pension fund shall, within five working days after approval of amendments, submit them to the Commission.

(11) In order to receive a permit for making amendments to the pension scheme, the pension fund shall submit the following documents to the Commission:

1) an application for making amendments to the pension scheme;

2) a certified copy of the decision of the board of the pension fund with justification for the necessity of amendments to the pension scheme;

3) the text of the pension scheme containing amendments (in two copies). The pension fund shall submit a full text of the pension scheme to the Commission in one of the forms referred to in Section 8, Paragraph three, Clause 16 of this Law.

(12) The Commission shall examine an application for making amendments to the pension scheme and take a decision within a month after all the documents specified in this Law which are necessary for taking of the decision and which have been prepared in accordance with the requirements of laws and regulations have been received.

(13) If amendments to the pension scheme apply to the investment provisions or provide for increasing the administrative costs or the amount of remuneration to be paid to the manager of funds or the custodian, the pension fund shall determine that amendments to the pension scheme shall enter into effect not earlier than six months (if at least one collective participation contract has been entered into for the participation in the relevant pension scheme) or not earlier than a month (if only individual participation contracts have been entered into for the participation in the relevant pension scheme) after a written consent of the Commission to make amendments to the pension scheme has been received and a written notification of amendments to the pension scheme has been sent to the members of the relevant pension scheme and the beneficiaries of the supplementary pension.

(14) The pension fund need not conform to the time periods referred to in Paragraph thirteen of this Section if a certification that the relevant pension scheme committee (in the case of collective participation) or pension scheme members (in the case of individual participation) do not object to making the relevant amendments to the pension scheme is submitted to the Commission together with the amendments to the pension scheme.

**Section 13. Public Announcement (Advertising) of Services to be Provided**

(1) Public announcement (hereinafter – the advertising) of the activity and services to be provided by the pension fund in any form may take place only according to the pension scheme registered by the Commission. Upon advertising such defined contribution scheme offered by the pension fund which does not guarantee profitability, it shall not be allowed to guarantee profit or specific level of profitability in any way. If a reference to the profitability of the pension scheme is included, it shall be necessary to inform that the previous profitability does not guarantee similar profitability in the future.

(2) The following shall be indicated in the advertising of a pension scheme:

1) the title of the pension scheme;

2) the firm name and legal address of the pension fund;

3) the firm name and legal address of the manager of funds of the pension scheme;

4) the firm name and legal address of the custodian of the pension scheme;

5) the place where one may become acquainted with the pension scheme and the investment policy thereof.

**Section 14. Transfer of the Pension Scheme**

(1) An open pension fund is entitled to transfer its pension scheme to another open pension fund. The pension funds involved in the transfer of the pension scheme shall submit the following to the Commission:

1) an application prepared by the pension fund which transfers a pension scheme. The following information shall be included in the application:

a) the transferable pension scheme;

b) the pension fund to which it is intended to transfer the pension scheme;

c) the reason for the transfer of the pension scheme, indicating how the intended changes will affect the lawful interests of the pension scheme members and the beneficiaries of the supplementary pension;

d) other information of significance within the meaning of the pension fund;

2) the contract entered into by and between the pension funds on the transfer of the assets and liabilities of the pension scheme;

3) the calendar plan of the transfer of the pension scheme prepared by the pension fund which transfers a pension scheme. The activities to be carried out, the date or time period when it is intended to implement them, and the responsible persons shall be indicated in the calendar plan. The calendar plan shall be signed by the relevant officials of both pension funds;

4) in accordance with the procedures laid down in Section 12 of this Law the prepared amendments to the transferable pension scheme, clarifying the information on the pension fund, and, where necessary, the name of the pension scheme, the manager of funds, and the custodian;

5) the contract which the pension fund to which the pension scheme is transferred has entered into with the manager of funds, or amendments to the contract already entered into with the manager of funds on the management of the funds of the transferable pension scheme;

6) the contract which the pension fund to which the pension scheme is transferred has entered into with the custodian, or amendments to the contract already entered into with the custodian on the holding of the funds of the transferable pension scheme.

(2) The Commission shall, within a month after receipt of the application and the documents appended thereto, examine the documents referred to in Paragraph one of this Section, and also take the decision to permit or refuse to transfer such scheme and send it to the pension funds involved in the transfer of the pension scheme. The Commission shall take a decision to refuse if:

1) the requirements of the laws and regulations governing the activity of pension funds are not conformed to;

2) the transfer of the pension scheme infringes or may infringe the lawful interests of members of the relevant pension scheme or the beneficiaries of the supplementary pension;

3) the transfer of the pension scheme endangers or may endanger the activity of the pension fund to which the pension scheme is transferred, or stable activity of the entire sector of pension funds.

(3) If the administrative act of the Commission on refusal to transfer the relevant pension scheme to another pension fund is appealed, such appeal shall not suspend the operation thereof.

(4) The pension fund which transfers a pension scheme shall, within a month after receipt of the Commission decision referred to in Paragraph two of this Section to permit to transfer the relevant pension scheme to another pension fund, send the notification regarding the transfer of the pension scheme to the members of the transferable pension scheme. The following shall be indicated in the notification:

1) the information on changes which are related to the transfer of the pension scheme;

2) the date from which the transfer of the pension scheme will be commenced;

3) the right of the pension scheme members to change a pension scheme or pension fund before the transfer of the pension scheme is commenced;

4) other information of significance within the meaning of the pension fund which is necessary for the pension scheme members.

(5) Amendments to the pension scheme which are related to its transfer to another pension fund shall enter into effect not earlier that three months after their registration with the Commission. The pension fund is entitled to commence the transfer of the funds of the pension scheme only after entering into effect of the amendments referred to in this Paragraph.

(6) The pension fund to which the pension scheme is transferred is entitled to make new amendments to the transferred pension scheme not earlier than six months after the transfer of the pension scheme is completed.

(7) The pension fund to which the pension scheme is transferred shall, within two working days after completion of the transfer of the pension scheme, submit a written certification to the Commission that the transfer of the pension scheme is completed. The certification shall be signed by both pension funds, the custodian, if it is not changed, or both custodians, if the custodian is changed, and the manager of funds, if it is not changed, or both managers of funds, if the manager of funds is changed.

(8) In order to transfer a pension scheme to another pension fund, a consent of the members of the relevant pension scheme, employers, or pension scheme committees shall not be required.

**Section 15. Merging of Pension Schemes**

(1) The pension fund is entitled to merge one pension scheme with another pension scheme or schemes established by the same pension fund by merging all assets and liabilities of the pension schemes. The pension fund which wishes to merge pension schemes shall prepare and submit the following to the Commission:

1) an application in which the pension schemes which are intended to be merged, the reasons for merging of the pension schemes are indicated, indicating how the relevant changes will affect the lawful interests of the pension scheme members and the beneficiaries of the supplementary pension, and also other information of significance within the meaning of the pension fund;

2) the documents referred to in Section 8, Paragraph three, Clauses 16, 17, and 18 of this Law;

3) the amendments to the contract with the custodian and the manager of funds, if any are necessary;

4) the calendar plan and description of merging of pension schemes signed by the authorised persons of the pension fund, the custodian, and the manager of funds in which the procedures for the execution of merging of assets and fulfilment of liabilities, and also the planned date of merging or the time period and responsible persons are indicated.

(2) The Commission shall, within a month after receipt of the application and the documents appended thereto, examine the documents referred to in Paragraph one of this Section, and also take the decision to permit or refuse to merge pension schemes and send it to the pension fund. The Commission shall take a decision to refuse if:

1) the requirements of the laws and regulations governing the activity of pension funds are not conformed to;

2) the merging of pension schemes infringes or may infringe the lawful interests of members of the relevant pension schemes or the beneficiaries of the supplementary pension;

3) the merging of pension schemes endangers or may endanger stable activity of the pension fund or the entire sector of pension funds.

(3) If the administrative act of the Commission on refusal to merge pension schemes is appealed, the appeal shall not suspend the operation thereof.

(4) The pension fund shall, within a month after receipt of the Commission decision referred to in Paragraph two of this Section to permit to merge pension schemes, send the notification regarding the intended merging to the members of the pension schemes to be merged. The following shall be indicated in the notification:

1) the information on changes which are related to merging of pension schemes;

2) the date from which merging of pension schemes will be commenced;

3) the right of the pension scheme members to change the pension scheme or pension fund before the merging of pension schemes is commenced;

4) other information of significance within the meaning of the pension fund which is necessary for the pension scheme members in order for them to continue participation in the pension scheme.

(5) Amendments to a pension scheme which are related to the merging of pension schemes shall enter into effect not earlier than three months after registration thereof with the Commission. The pension fund is entitled to commence the merging of the funds of pension schemes only after entering into effect of the amendments to pension schemes referred to in this Paragraph.

(6) The pension fund shall, within two working days after the merging of pension schemes is completed, submit a written certification to the Commission that the merging of pension schemes is completed. The certification shall be signed by the pension fund, the custodian, and the manager of funds.

(7) In order to merge a pension scheme with another pension scheme or schemes established by the same pension fund, the consent of the members of the relevant pension scheme, employers, or pension scheme committees shall not be required.

**Section 16. Participation in a Pension Scheme**

(1) A pension scheme member may accumulate a supplementary pension only when participating in a specific pension scheme.

(2) A pension scheme member may participate in a pension scheme both directly and with the intermediation of his or her employer.

(3) A pension scheme member shall participate in a pension scheme directly by entering into an individual participation contract with an open pension fund. If in the case of individual participation the contributions in favour of a pension scheme member are made by another person, the given name, surname, and personal identity number, if a person does not have a personal identity number – the year and date of birth and the number of a personal identification document, but for a legal person – the firm name and registration number of the merchant, shall be indicated in the individual participation contract. The board of the pension fund shall submit the provisions of an individual participation contract to the Commission. The pension fund may enter into individual participation contracts according to the provisions submitted to the Commission if the Commission, within 10 working days after receipt of the provisions of the individual participation contract, has not raised reasoned objections on non-conformity thereof with the requirements of this Law.

(4) Pension scheme members shall participate in a pension scheme with the intermediation of their employer if the employer has entered into a collective participation contract with an open or closed pension fund, moreover, a collective participation contract with a closed pension fund may be entered into only in such case if the relevant employer is also one of the stockholders or members of the same closed pension fund. Legal relationships of the employer and employees arising in connection with the implementation of a pension scheme and participation of employees therein shall be regulated by the employment contract or collective work agreement.

(5) If an employer has entered into a collective participation contract with an open or closed pension fund, the employer and employees who participate in the pension scheme shall jointly establish a pension scheme committee with equal representation of the employer and employees. If less than 100 employees of the employer participate in the pension scheme, the establishment of the pension scheme committee is not mandatory.

**Section 17. Mandatory Conditions of the Pension Scheme and Participation Contract**

(1) Such collective or individual participation contracts are not in effect which deteriorate the situation of pension scheme members in comparison with the situation provided for in this Law.

(2) If the employer undertakes to guarantee a specific amount of disbursements for the beneficiaries of the supplementary pension of a pension scheme, such provision shall be included in the pension scheme and collective participation contract that the employer has an obligation to make contributions in favour of its employees in such amount as to ensure the amount of the abovementioned disbursements.

(3) If the employer takes a decision to make contributions in a pension scheme in order to ensure supplementary pension for its employees, such decision shall be applicable to all employees of the employer according to their profession, employment duration, and office held, and also with other objective criteria.

(4) Issues on the participation of those persons to whom the same objective criteria referred to in Paragraph three of this Section apply shall be settled equally and no discrimination is allowed – regardless of race, skin colour, gender, age, disability, religious, political or other affiliation, national or social origin, material or family situation, sexual orientation of the person or other circumstances.

(5) Upon attaining the retirement age specified in a pension scheme, a pension scheme member may act as follows:

1) to receive supplementary pension according to the provisions of the pension scheme;

2) to continue participation in the pension scheme according to the provisions of the pension scheme or the individual participation contract.

(6) The retirement age specified in the pension scheme may not be less than 55 years, except for persons employed in such special professions the list of which and the minimum necessary employment duration in the relevant profession for which are determined by the Cabinet.

(7) A pension scheme member who has been recognised to be a first group disabled person for life, or – in case of death of a pension scheme member – the person indicated by the pension scheme member in the individual or collective participation contract or in another document of his or her choice according to the procedures specified by the pension fund, but if such person is not indicated – the heirs of the pension scheme member has the right to receive disbursements according to the provisions of the pension scheme before attaining the retirement age.

(8) A pension scheme member has the right to transfer the supplementary pension capital or a part thereof to another pension scheme.

**Section 18. Guarantees to Pension Scheme Members**

(1) A pension scheme member without any additional conditions has the right to all supplementary pension capital accumulated in his or her individual account.

(2) Monetary means, financial instruments, and other property of pension schemes shall be kept, recorded, and managed separately from the funds of the pension fund, custodian, and also manager of funds itself and other funds under its management.

(3) If the pension fund, custodian, or manager of funds has been declared insolvent or is being liquidated, the funds of pension schemes may not be included in the property of the pension fund, custodian, or manager of funds – debtor.

(4) Monetary means of the pension scheme member itself or contributed to the pension fund in his or her favour by a natural person or employer shall be, without delay (not later than the following working day after the day when they were transferred into the account opened for the pension scheme), transferred into the individual account of the pension scheme member.

(5) The supplementary pension capital accumulated in the individual account may not become the property of the manager of funds, custodian, or employer in any case. Recovery against the supplementary pension capital may be directed only if it has been recognised by a court judgment that the pension scheme member has caused losses to the third parties by committing a criminal offence.

(6) A pension scheme member is ensured with a possibility of continuing participation in the pension scheme, receiving the supplementary pension capital and the information specified in this Law to be provided to pension scheme members also in case when he or she moves for permanent residence to a Member State or another foreign country after he or she has commenced participation in the pension scheme.

**Section 19. Termination of Participation and Transfer of Supplementary Pension to Another Pension Scheme**

(1) If the employer wishes to terminate the collective participation contract in order to participate in another pension fund, he or she shall, at least a month in advance, submit a relevant request to the pension fund and the Commission.

(2) If a pension scheme member wishes to terminate participation in the pension scheme in order to participate in another pension scheme, or, without terminating participation in the pension scheme, transfer a part of the accumulated supplementary pension capital to another pension scheme, he or she shall, at least a month in advance, submit a relevant request to the pension fund. If the pension scheme member participates in the pension scheme on the basis of the collective participation contract and wishes to terminate participation in the pension scheme, he or she shall submit a relevant request to the employer.

(3) The pension fund shall ensure that the request form is simple, understandable and freely available for a pension scheme member at least on the website of the pension fund or, if the pension fund does not have its own website – on the website of a stockholder or member (hereinafter – the website), and at such places where any of the activities referred to in Paragraph six or seven of this Section may be carried out. The pension scheme member shall indicate the following information in the request:

1) his or her given name, surname, and personal identity number, but if the pension scheme member does not have a personal identity number – the year and date of birth and the number of a personal identification document;

2) the relevant pension fund and pension scheme or several pension schemes (if the supplementary pension capital is to be transferred to several pension schemes) to which the supplementary pension capital is to be transferred;

3) how large a part of the supplementary pension capital in the current pension scheme or several pension schemes (if the supplementary pension capital is to be transferred from several pension schemes) to transfer to another pension scheme or several other pension schemes;

4) how large a part of the supplementary pension capital to transfer to each pension scheme (if the supplementary pension capital is to be transferred to several other pension schemes);

5) whether he or she wishes to continue participation in the pension scheme from which all the supplementary pension capital is to be transferred;

6) a certification that he or she is a member of such pension scheme to which the supplementary pension capital is to be transferred.

(4) The amount of the supplementary pension capital referred to in Paragraph three, Clauses 3 and 4 of this Section may be indicated in figures or per cent. If the amount indicated at the time of making the transfer exceeds the funds accumulated by the pension scheme member, only the supplementary pension capital shall be transferred.

(5) The pension fund shall ensure that all the names and registration numbers of the pension funds registered in Latvia according to the information available on the website of the Commission, and also the names of the pension schemes of those pension funds on which the information is available to general public or which are known by the relevant pension fund are indicated as menu on the request form. The pension fund shall, without delay, inform other pension funds of new registered pension schemes and change in the existing details of the pension scheme. The pension fund shall, within one month from the day when the information on new pension schemes of another pension fund or change in the details of the pension scheme is received, ensure indication of the details of such pension scheme as menu on the request form. The transfer shall be made within two months after the day of receipt of the request for the termination of participation in the pension scheme or transfer of the supplementary pension capital to another pension scheme without terminating participation in the pension scheme.

(6) The pension fund shall ensure that the request for the transfer of the supplementary pension capital to another pension scheme (regardless of whether the participation in the previous pension scheme is terminated thereby) may be prepared and submitted by the pension scheme member according to the same identification or authentication requirements specified by the pension fund or a service provider thereof which are specified on the day of submitting the request in order for the pension scheme member to join to the pension fund or to transfer the supplementary pension capital among several pension schemes of such pension fund. The pension fund shall indicate the information on the abovementioned requirements at least on the website and places where the pension scheme member may request transfer of the supplementary pension capital.

(7) If the pension fund has provided for the right for the pension scheme member to choose the pension scheme or to obtain the information on the payment service provider (within the meaning of the Law on Payment Services and Electronic Money) on the website, it shall ensure that the request to transfer the supplementary pension capital to another pension scheme (regardless of whether the participation in the previous pension scheme is terminated thereby) may be prepared and submitted by the pension scheme member on the website of such payment service provider with the personalised authentication means of the customer accepted by the payment service provider which are sufficient in order for the customer of the payment service provider to be able to authorise the payment remotely.

(8) If the request to terminate a collective participation contract and to transfer the supplementary pension capital to another pension fund is submitted by the employer which is making contributions in the pension fund in favour of its employees, such transfer shall be made only with a written consent of the Commission.

(9) Only the supplementary pension capital of such employees may be transferred whose written consent has been received by the employer.

**Section 20. Administrative Body of the Pension Fund**

(1) The establishment and activity of administrative bodies of the pension fund shall be governed by The Commercial Law unless it is laid down otherwise in this Law.

(2) The pension fund shall ensure that the administrative body thereof consists of at least two members. The pension fund shall establish the council. Establishment of the council for a closed pension fund is not mandatory.

(3) The pension fund shall create an efficient internal control system appropriate for the nature, scope, and complexity of its activity in order to ensure timely identification and management of all risks related to activity of the pension fund, efficient protection of the assets of pension schemes, the veracity and timeliness of the information provided to administrative bodies of the pension fund, the conformity with laws, regulatory provisions of the Commission, other laws and regulations, and Commission decisions, the conformity with the policies and procedures developed by the pension fund, and also shall ensure continuous supervision of the pension fund which does not depend on the internal control system of the executive body.

(4) A member of the board of the pension fund, the person responsible for the risk management function, the person responsible for the internal audit function, the person responsible for the actuary function, and also the person who is authorised to take decisions on behalf of the pension fund may be a person who complies with the following requirements:

1) he or she is competent in the field for which he or she is responsible so that the pension fund would be able to carry out the accumulation of the supplementary pension continuously, professionally, in good quality and in accordance with the requirements of laws and regulations;

2) he or she has a higher education and corresponding professional work experience of not less than three years;

3) he or she has not been punished for an intentional criminal offence against property or a criminal offence of an economic nature;

4) his or her right to perform commercial activity is not withdrawn and has not been withdrawn;

5) he or she has an impeccable reputation;

6) the person responsible for the actuary function – also the knowledge of and experience in actuarial mathematics and financial mathematics which conform to the type of activity and risk complexity characteristic to the activity of the pension fund and it can be clearly demonstrated.

(5) A person who conforms to the following requirements may be a member of the council (if any has been established) of the pension fund:

1) he or she is competent in the financial management issues;

2) he or she has an impeccable reputation;

3) he or she has not been punished for an intentional criminal offence against property or a criminal offence of an economic nature;

4) his or her right to perform commercial activity is not withdrawn and has not been withdrawn.

(6) The pension fund shall ensure that in both the board and the council (if any has been established) of the pension fund at least one third of all the members thereof or two persons, depending on whichever of these two numbers is smaller, have no conflict of interests in respect of the administrative body of the manager of funds or the custodian of pension schemes.

(7) Any changes which are related to the composition of the council (if any has been established) and the board of the pension fund, and also changes in relation to the candidates of members of the council and the board of the pension fund, the person responsible for the risk management function, the person responsible for the internal audit function, the person responsible for the actuary function, and persons who are authorised to take decisions on behalf of the pension fund shall be in effect if they have been coordinated with the Commission in advance.

(8) In order to coordinate the candidates for the persons referred to in Paragraph four of this Section, the pension fund shall submit the following documents to the Commission in respect of each of them:

1) an application in which the documents appended thereto are indicated;

2) the decision of the administrative body of the pension fund on appointing of the abovementioned person to the relevant office (a certified copy);

3) the documents (they shall be submitted in accordance with the requirements of Section 8, Paragraph three, Clauses 4, 5, and 6 of this Law) and information on the persons who are candidates for the relevant offices.

(9) Persons who are candidates for the office of the member of the council (if any has been established) or the board of the pension fund, the person responsible for the risk management function, the person responsible for the internal audit function, the person responsible for the actuary function shall commence the fulfilment of the duties of the relevant office if the Commission, within a month after receipt of the application and the documents specified in this Law on the appointed persons, has not expressed justified objections in respect of compliance of these persons with the requirements of the law.

(10) The administrative body of the pension fund has an obligation, upon its own initiative or upon request of the Commission, to remove the persons referred to in Paragraph four of this Section from the office without delay if they do not comply with the requirements of this Section.

(11) If an administrative act issued by the Commission regarding removal of the persons referred to in Paragraphs four and five of this Section from the office is appealed, the appeal shall not suspend the operation thereof.

(12) The pension fund shall ensure efficient management and prevention of the situations of conflict of interests at least in respect of the decisions taken by the pension fund and the persons related thereto on transactions with the funds of the pension fund if the abovementioned persons concurrently ensure execution or control of execution of such decisions.

(13) For the prevention of a conflict of interests a member of the council (if any has been established) and the board of the pension fund, the person responsible for the risk management function, the person responsible for the internal audit function, the person responsible for the actuary function, and persons who are entitled to take decisions on behalf of the pension fund shall, upon performance of office duties, refrain from taking decisions on transactions of the pension fund in which such persons find or may find themselves in a conflict of interests, and also notify the board or the council (if any has been established) of the pension fund regarding such transactions.

(14) If the pension fund, the manager of funds, the custodian, the outsourced service provider, or the employer are related persons, the pension fund shall develop a description of the policy for the prevention of conflict of interests situations in order to ensure timely identification and management of the potential conflict of interests situations. The description of the policy for the prevention of conflict of interests situations shall include the action of employees for the prevention of conflict of interests situations, including it shall determine:

1) restricted access to information which is not necessary for the carrying out of work duties and which causes or may cause a conflict of interests;

2) a different organisational subordination that ensures mutual independence of the its units which perform activities that cause or may cause a conflict of interests;

3) that conditions for the transactions of the pension fund with the persons who are related to the pension fund do not differ from the conditions for similar transactions of the pension fund with the persons who are not related to the pension fund and are not in contradiction with the pension scheme and interests of its members.

(15) An employee of a commercial company belonging to one group with the pension fund who, in the commercial company belonging to the relevant group, directly carries out the functions in relation to the performance of the contracts for the management or holding of the funds of the pension fund schemes may not be an employee of the pension fund.

(16) The Commission shall determine the requirements in respect of the pension fund management system and the establishment and operation of its elements.

**Chapter IV**

**Management and Holding of Funds of a Pension Scheme**

**Section 21. Manager of Funds**

(1) Assets of a pension scheme may be managed only by the following commercial companies:

1) a credit institution which is entitled to provide investment services and non-core investment services in Latvia;

2) an insurance stock company which is entitled to engage in life insurance in Latvia;

3) an investment firm which is entitled to provide investment services in Latvia;

4) an investment management company which is entitled to provide management services in Latvia;

5) an alternative investment fund manager which is entitled to provide the services referred to in Section 5, Paragraphs seven and eight of the Law on Alternative Investment Funds and Managers Thereof in Latvia.

(2) In addition to the managers of funds referred to in Paragraph one of this Section the functions of a manager of funds of one’s own pension scheme may also be carried out by the pension fund which meets the requirements Section 25 of this Law in relation to own capital.

(3) Each pension fund shall freely select the manager of funds in accordance with this Law.

(4) The provisions for the management of monetary means and other assets are provided for in the contract entered into by and between the board of the pension fund and the manager of funds. The board of the pension fund shall take a decision on entering into such contract. The contract with the manager of funds and any further amendments thereto shall be submitted to the Commission within three working days after signing thereof.

(5) The manager of funds shall ensure implementation of the investment strategy approved in the pension scheme and the conformity with the provisions in relation to the pension scheme investments, settle accounts using monetary means contributed according to the pension scheme, perform transactions with financial instruments and other transactions with the assets of the pension scheme in accordance with the requirements of this Law and the pension schemes registered by the Commission.

(6) Upon managing the funds of a pension scheme, in addition to the requirements of this Law the manager of funds shall comply with the requirements of the laws and regulations governing the activity of investment management companies in relation to the obligations of an investment management company in provision of administration services, due diligence in provision of administration services, provision of the best results and execution of transaction orders.

(7) Upon applying Paragraph six of this Section, a pension scheme shall be equalled to a prospectus of an investment fund or the by-laws of a fund administration. The investment policy of the pension scheme and the investment restrictions included therein shall be equalled to the investment policy and investment restrictions specified in the prospectus of the investment fund or the by-laws of the fund administration within the meaning of the Law on Investment Management Companies.

(8) The manager of funds shall be liable for the conformity of transactions involving the supplementary pension capital accumulated in the pension fund with the requirements of the law and with the provisions of the pension scheme registered by the Commission.

(9) The following shall be provided for in the contract with the manager of funds:

1) such procedures for the exchange of information which ensure the fulfilment of the obligations of the manager of funds specified in this Law and the preparation of operational reports of the pension fund;

2) the obligation of the manager of funds to inform the pension fund of changes in its status in accordance with the requirements of this Law;

3) the provision that the contract will cease to be in effect only after a contract with a new manager of funds has been entered into;

4) the right of the pension fund to request that the manager of funds, upon receipt of a written request, terminates a contract for the management of funds without delay.

(10) The Commission is entitled to request that the pension fund terminates the contract with the manager of funds if it detects that the manager of funds fails to comply with the requirements of laws and regulations. In such case the Commission, upon taking a decision, is entitled to determine conditions to the pension fund for attraction of a new manager of funds.

(11) If according to the provisions of the pension scheme the accumulated funds are managed by a manager of funds selected by the pension fund, the pension fund shall publish the following information on the contract entered into with the manager of funds:

1) how the conformity of the investment strategy and decisions of the manager of funds with the term structure and investment policy of the long-term liabilities of the pension scheme is promoted;

2) how the conformity of decisions of the manager of funds with the medium-term and long-term financial and non-financial performance results of such joint stock company the legal address of which is in a Member State and the shares of which are admitted to trading on a regulated market of the Member State (hereinafter in this Section – the joint stock company) is promoted;

3) how the involvement of the manager of funds in the management of the joint stock company is promoted in order to improve the medium-term and long-term performance results of the joint stock company;

4) how the assessment method of the performance results of the manager of funds and the time period, and also payment for the services of the manager of funds conform to the term structure and investment policy of the long-term liabilities of the pension scheme and how the absolute performance results are taken into account in a long term;

5) how the pension fund supervises the costs of the activity of the investment portfolio of the pension scheme which have arisen to the manager of funds, and how it determines and supervises the turnover of the investment portfolio of the pension scheme;

6) the validity period of the contract.

(12) If any of the provisions of Paragraph nine of this Section is not included in the contract of the pension fund with the manager of funds, the pension fund shall provide substantiation for such action.

(13) The pension fund shall ensure public availability of the information referred to in Paragraph eleven of this Section on the website free of charge within three months from the day when the contract with the manager of funds is entered into. The pension fund shall update the information not less than once a year.

(14) The manager of funds shall provide a report to the pension fund in which it explains how the investment strategy and implementation thereof conform to the conditions of the contract entered into with the pension fund and how the investment strategy ensures medium-term and long-term performance results of the pension scheme. The following information shall be included in the report:

1) the most significant medium-term and long-term investment risks;

2) the investment portfolio composition of the pension scheme;

3) the operational costs and turnover of the investment portfolio of the pension scheme;

4) the use of the services of authorised advisers (within the meaning of Section 1, Paragraph one, Clause 106 of the Financial Instrument Market Law);

5) the loan policy of securities and implementation of such policy in the shareholders meeting of such joint stock company in the shares of which the investment is made, and also implementation of other shareholder involvement measures;

6) the information on the impact of the evaluation of the medium-term and long-term performance results of the joint stock company on taking of investment decisions;

7) the information on conflicts of interests which have arisen due to involvement in the management of the joint stock company and how the manager of funds has implemented conflict management.

(15) The manager of funds shall provide the information referred to in Paragraph fourteen of this Section to the pension fund each year by 1 August.

**Section 22. Custodian**

(1) The custodian shall, according to the written contract entered into with the board of the pension fund, accept contributions in accounts of the pension scheme, receive and hold financial instruments, and also keep originals of documents in relation to monetary means and other property forming the pension scheme assets, the payment documents regarding the money crediting or debiting for holding the monetary means of the pension scheme in the accounts opened in a credit institution, execute orders relating to the transfers of funds and financial instruments of the pension scheme.

(2) Upon fulfilling the obligations specified in this Law, the pension fund and the custodian shall act fairly, professionally, independently and only in the interests of the pension scheme members and the beneficiaries of the supplementary pension.

(3) Only the following commercial companies may hold the funds of the pension scheme:

1) a credit institution which is entitled to provide investment services and non-core investment services in Latvia;

2) an investment firm which is entitled to provide investment services in Latvia.

(4) The board of the pension fund shall take a decision to enter into a written contract with the custodian for safe keeping of monetary means, financial instruments, and other property. Such contract and any future amendments thereto shall be submitted to the Commission within three working days after signing thereof.

(5) The custodian shall accept for keeping such financial instruments belonging to the pension scheme which may be recorded in the account of financial instruments opened in a credit institution, and such financial instruments which may be transferred to the custodian, and shall ensure recording thereof in separate accounts of the custodian which are opened on behalf of the pension scheme so as they could be always identifiable as belonging to the pension fund or pension scheme members and beneficiaries of the supplementary pension.

(6) The custodian shall accept for keeping assets of the relevant pension scheme of the pension fund other than referred to in Paragraph five of this Section if the custodian has ascertained that the pension fund has property rights to such assets and it keeps the information and documentation on such assets. The custodian shall constantly conduct an inspection of the abovementioned property rights and update record-keeping on the basis of the documents certifying the property rights provided by the pension fund, and also the information acquired from public registers, if any is available.

(7) The custodian shall settle accounts using monetary means, and also receive and transfer financial instruments relating to the transactions performed by it.

(8) The custodian shall execute orders of the manager of funds, if they are not in contradiction with the laws and regulations, the provisions of the pension scheme, and the contract of the manager of funds.

(9) The custodian shall ensure that in transactions in which assets of the pension fund related to a pension scheme are involved any consideration to the pension scheme is disbursed in a timely manner and income from assets of the pension scheme is utilised in accordance with the provisions of this Law and the pension scheme.

(10) The custodian shall follow whether the manager of funds complies with the requirements of this Law and other laws and regulations in relation to pension scheme investments and the pension scheme registered by the Commission, and also with the provisions of contributions (investments). If the manager of funds fails to comply with these requirements and provisions, the custodian shall notify the Commission and the pension fund thereof.

(11) The custodian may not perform activities which may cause a conflict of interests between the custodian and the pension fund, pension scheme members and beneficiaries of the supplementary pension, except for the case when the custodian has functionally and hierarchically separated obligations of the custodian from other obligations which may cause conflicts of interests, and such potential conflicts of interests are duly identified, managed, and supervised in conformity with internal procedures, it is specified in the pension scheme, and pension scheme members, beneficiaries of the supplementary pension, and the board, council (if any has been established) of the pension fund and employees of the pension fund have been informed thereof.

(12) The custodian shall be held fully liable against the pension fund, pension scheme members, and beneficiaries of the supplementary pension for the damages incurred if the custodian has infringed this Law or the contract of the custodian or has negligently performed its obligations.

(13) Complete or partial keeping with the third persons of financial instruments or other assets of the pension fund transferred for keeping to the custodian shall not release the custodian from the liability specified in Paragraph twelve of this Section.

(14) The following shall be provided for in the contract with the custodian:

1) such procedures for the exchange of information which ensure the fulfilment of the obligations and tasks of the custodian specified in this Law, and also the preparation of operational reports of the pension fund;

2) the obligation of the custodian to inform the pension fund of changes in the status of the custodian in accordance with the requirements of this Law;

3) the obligation of the custodian to follow that the activity of the manager of funds with the funds of the relevant pension scheme of the pension plan conforms to the requirements of laws and regulations and the provisions of the pension scheme;

4) the control procedure which has been determined by the custodian in relation to orders of the manager of funds regarding transactions with the funds of the pension scheme of the pension fund;

5) the right of the pension fund to request that the custodian, upon receipt of a written request, terminates the contract for holding of funds without delay.

(15) The Commission is entitled to request that the pension fund terminates the contract with the custodian if the Commission detects that the custodian does not comply with the requirements of this Law or the regulatory provisions of the Commission. In such case the Commission, upon taking a decision, is entitled to stipulate conditions to the pension fund for attraction of a new custodian.

**Section 23. Change of the Manager of Funds or Custodian**

(1) If the pension fund decides to change the manager of funds or custodian, it shall, within three working days after entering into the new contract, submit the following documents to the Commission in addition to such contract:

1) a justified decision of the board of the pension fund on the necessity of change of the manager of funds or custodian and a calendar plan of change of the manager of funds or custodian approved by the board;

2) information on measures for the protection of the funds of the pension scheme in case of insolvency or liquidation of the manager of funds or custodian.

(2) The pension fund shall, within a month after a new contract with the custodian has been entered into, submit such documents to the Commission which certify that the new custodian has received the monetary means and other assets accumulated in the relevant pension scheme, and also monetary means and documents certifying the property rights of other assets. If necessary, the Commission is entitled to request an extraordinary report on the activity of the pension fund which has been prepared in accordance with the laws and regulations governing the development of annual statements of pension funds, and an auditor’s report.

**Section 24. Individual Accounts**

(1) The pension fund shall ensure the calculation and record-keeping of the accumulated supplementary pension capital for each pension scheme member regardless of whether such member participates in the pension scheme on the basis of a collective or individual participation contract. If the pension fund guarantees a specific profitability or a specific amount of disbursements or provides for the coverage of biometric risks, the board thereof shall ensure separate record-keeping of all contributions and disbursements, and also the creation of technical provisions for each pension scheme member.

(2) All the contributions in the pension fund which are made by the pension scheme members and beneficiaries of the supplementary pension or contributions made in their favour, and also all the income obtained from investments are registered in individual accounts, registering separately the contributions for the provision of the coverage of biometric risks.

(3) The sworn auditor of the pension fund or a commercial company of sworn auditors shall each year provide a report on whether individual accounts are kept in accordance with the requirements of this Law and other laws and regulations, the articles of association of the pension fund, and the provisions of the pension scheme and participation contract.

(4) The Commission shall determine the general procedures for the calculation of the supplementary pension capital accumulated.

**Section 25. Own Capital**

(1) For the pension fund which offers a defined contribution scheme with guaranteed profitability or a defined disbursement scheme, or provides for the coverage of biometric risks in the pension scheme, the minimum size of own capital shall be EUR 3 000 000.The requirements of this Section shall not be applicable to a closed pension fund if the employer has undertaken responsibility for the fulfilment of the liabilities specified in pension schemes of the pension fund.

(2) In order to ensure the stability of the financial activity of the pension fund referred to in Paragraph one of this Section, the own capital corresponding to the requirements of this Section shall be at the continuous disposal thereof.

(3) The pension fund referred to in Paragraph one of this Section shall inform the Commission without delay of the reasons for decrease of the own capital if they have decreased by 10 per cent and more in comparison with the amount indicated in the previous financial statement.

(4) In order to assess the financial stability of the pension fund referred to in Paragraph one of this Section, the own capital thereof shall be compared to the norm of solvency. The pension fund shall be deemed to have conformed to the requirement of solvency, if the own capital thereof is equal to the norm of solvency or exceeds it.

(5) The norm of solvency may not be less than the minimum size of the own capital.

(6) The procedures for the calculation of the norm of solvency and own capital shall be determined by the Commission.

(7) If the own capital of the pension fund referred to in Paragraph one of this Section is less than the calculated norm of solvency, but higher than the minimum size of the own capital, the pension fund shall, without delay, inform the Commission thereof and, within 10 working days, submit a plan for the improvement of the financial situation for coordination to the Commission for restoration of the own capital up to the calculated norm of solvency.

(8) If the own capital of the pension fund referred to in Paragraph one of this Section is less than minimum size of the own capital, the pension fund shall, without delay, inform the Commission thereof and, within 10 working days, submit a plan for the improvement of the financial situation for coordination to the Commission for immediate restoration of the own capital up to the minimum size of the own capital.

(9) The pension fund which offers only the defined contribution scheme without a guaranteed profitability or the coverage of biometric risks is not provided for in this plan, the fulfilment of the following conditions shall be ensured:

1) the paid equity capital of the open pension fund is not less than EUR 400 000;

2) the paid equity capital of the closed pension fund is not less than EUR 35 000;

3) if the losses of the pension fund exceed half of its equity capital, the pension fund shall, without delay, inform the Commission thereof and, within 10 working days, submit a plan for the improvement of the financial situation for co-ordination to the Commission, indicating the activities to be performed and time periods for the performance thereof.

(10) If in the cases referred to in Paragraphs seven and eight of this Section the pension fund refuses to submit a plan for the improvement of the financial situation or carrying out of the measures provided for in the plan does not ensure restoration of the own capital, or the plan submitted is not being implemented, the Commission may take a decision:

1) to prohibit the pension fund to make free use of its assets and to undertake new liabilities;

2) to determine that all the disbursements to be performed by the pension fund or a part thereof are subject to mandatory coordination with the Commission in advance;

3) to cancel the licence issued to the pension fund.

**Section 26. Principles and Provisions for Investment of Pension Scheme Assets**

(1) The pension scheme assets shall be managed according to the provisions of the particular pension scheme and invested in conformity with the investment provisions of the relevant pension scheme, implementing such an investment policy that ensures the increase of the supplementary pension of the pension scheme members within a longer period of time. Upon investing the pension scheme assets, the pension fund shall act as a careful and diligent proprietor only in the interests of the pension scheme members and beneficiaries of the supplementary pension, taking into account the potential long-term impact of investments on the environmental, social and management factors, and also conform to the prudential principles that ensure reduction of risk, safety, quality, and liquidity of investments according to the liabilities of the pension scheme to disburse the supplementary pension to the pension scheme members.

(2) The pension scheme assets may be invested in investment objects specified in this Law in conformity with the investment restrictions specified.

(3) The pension scheme assets may be invested in:

1) securities issued or guaranteed by the State and local governments or monetary market instruments of Latvia and other Member States;

2) securities issued or guaranteed by or monetary market instruments of the Member States of the Organisation for Economic Co-operation and Development if the long-term credit rating of the relevant state in foreign currency according to the evaluation of international rating agencies is in the investment category;

3) securities issued or guaranteed by or monetary market instruments of such international financial institutions the members of which are one or several Member States;

4) securities issued or guaranteed by or monetary market instruments of the State and international financial institutions which do not conform to the requirements of Clauses 1, 2, and 3 of this Paragraph, however, are admitted to trading on a regulated market which is organised in the Member State;

5) shares and other capital securities if they are admitted to trading on a regulated market which is organised in the Member State or the state referred to in Clause 2 of this Paragraph;

6) debt securities of commercial companies if they are admitted to trading on a regulated market which is organised in the Member State or the state referred to in Clause 2 of this Paragraph;

7) securities issued or guaranteed by or monetary market instruments of the State and international financial institutions, capital and debt securities of commercial companies if they are not admitted to trading on a regulated market, however, it is intended in the provisions for the issue of the relevant securities that securities will be admitted to trading on a regulated market which is organised in the Member State or the state referred to in Clause 2 of this Paragraph from the day when subscription to them has started;

8) deposits in the credit institution which has obtained a licence for the activity of a credit institution in the Member State or a state which is a Member State of the Organisation for Economic Co-operation and Development and which, in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, has been recognised to be a state in which the requirements governing supervision and activity equal to those applied in Member States are applied;

9) investment funds;

10) alternative investment funds or joint investment undertakings equal to them which are registered in the state referred to in Clause 1 or 2 of this Paragraph, and also in the European risk capital funds the activity of which is governed by Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds, the European social entrepreneurship funds the activity of which is governed by Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds, the European long-term investment funds the activity of which is governed by Regulation (EU) No 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds;

11) immovable property registered in the states referred to in Clause 1 of this Paragraph. The immovable property acquired for the funds of a pension scheme shall be registered in the Land Register in the name of the pension fund with a note that the immovable property has been acquired for the funds of the particular pension scheme and it may not be alienated or encumbered without a consent of the custodian of the pension scheme. In the case of insolvency of the pension fund the immovable property shall not be included in the property of the pension fund. If the pension fund is located in the territory of another Member State, the pension fund shall ensure the fulfilment of the requirements of this Clause in accordance with the requirements of the legal acts of the relevant Member State;

12) derived financial instruments;

13) capital or debt securities which are not admitted to trading on a trading venue and are intended to be investments in a longer period of time – for a period of time not less than five years.

(4) The pension scheme assets in accordance with that specified in Paragraph three of this Section shall be invested in conformity with the following restrictions for investments:

1) investments in securities issued or guaranteed by or monetary market instruments of one State, local government or international financial institution may not exceed 35 per cent of the pension scheme assets. The abovementioned restriction may be exceeded in relation to State issued securities or monetary market instruments if the pension scheme assets have securities or monetary market instruments at least from six issues of one issuer and the value of securities of each issue and monetary market instruments separately does not exceed 20 per cent of the pension scheme assets;

2) investments in capital securities issued by one commercial company may not exceed 10 per cent of the pension scheme assets and 10 per cent of the equity capital or number of voting stocks of the relevant issuer;

3) investments in debt securities issued by one commercial company may not exceed 10 per cent of the pension scheme assets;

4) the total amount of investments in the securities referred to in Paragraph three, Clause 4 of this Section or monetary market instruments may not exceed 10 per cent of the pension scheme assets;

5) investments in one credit institution may not exceed 20 per cent of the pension scheme assets, but the total amount of claims against one credit institution may not exceed 25 per cent of the pension fund assets, except for claims on the basis on claims against the custodian;

6) investments in one investment fund or alternative investment fund may not exceed 10 per cent of the pension scheme assets and 30 per cent of net assets of the relevant fund. An investment in one investment fund may be increased up to 25 per cent of the pension scheme assets if its investment policy provides for the replication of the capital or debt securities index;

7) the total amount of investments in investment funds and alternative investments funds managed by commercial companies belonging to one group with the pension fund, the manager of funds thereof, or the sponsoring employer may not exceed 10 per cent of the pension scheme assets and 10 per cent of net assets of the relevant fund and, by performing an investment or alienating an investment from the relevant fund, the commission is not charged from the pension scheme funds;

8) investments in one immovable property may not exceed 10 per cent of the pension scheme assets, but the total investments in immovable property – 15 per cent of the pension scheme assets;

9) investments in financial instruments issued by the commercial companies belonging to one group with the pension fund may not exceed five per cent of the total assets of pension schemes established by the relevant pension fund, and investments may be made only with the intermediation of the regulated market;

10) investments in financial instruments issued by the commercial companies that have entered into a collective participation contract with the pension fund may not exceed five per cent of the pension scheme assets, the total amount of investments in commercial companies belonging to one group with the employer may not exceed 10 per cent of the pension scheme assets, and investments may be made only with the intermediation of the regulated market;

11) investments in financial instruments issued by the commercial companies belonging to one group may not exceed 25 per cent of the pension scheme assets.

(5) The restrictions referred to in Paragraph four, Clauses 1 and 5 of this Section may be exceeded within 12 months after the first contribution is made by the pension scheme member if the value of the pension scheme assets is less than EUR 142 300.

(6) At least 70 per cent of the total investments of the pension scheme in securities, monetary market instruments, investment shares of investment funds and alternative investment funds or joint investment undertakings equal to them shall be invested in such investment objects (financial instruments) which are admitted to trading at a trading venue on a regulated market organised by a Member State or a Member State of the Organisation for Economic Co-operation and Development.

(7) Except for the case referred to in Paragraph eight of this Section, the pension scheme assets may not be used for a loan and it is prohibited to grant the monetary means of the pension scheme as loans, and also to issue as guarantees.

(8) The pension scheme assets may be used for a borrowing of up to 10 per cent of the pension scheme assets for the provision of a short-term liquidity for a time period of up to three months. The pension scheme assets may be used in transactions with re-purchase conditions only for the provision of a short-term liquidity of the pension scheme for a time period of up to three months. The total amount of liabilities of borrowings for the provision of a short-term liquidity and transactions with re-purchase conditions may not exceed 50 per cent of the pension scheme assets.

(9) The pension scheme assets may be invested in derived financial instruments in conformity with the following conditions:

1) it has been specified in the investment policy approved by the board of the pension fund;

2) the board of the pension fund has created a corresponding system for the preparation of reports, risk management and control which ensures continuous, precise, and objective evaluation of derived financial instruments;

3) the relevant investments are made to secure against the risk of specific fluctuations in value of the pension scheme assets which may occur upon changing of the price of the relevant asset or currency exchange rate, or to ensure an efficient management of the portfolio;

4) transactions with derived financial instruments are carried out on the regulated market organised by a Member State or the country referred to in Paragraph three, Clause 2 of this Section, or the partner in transactions with derived financial instruments is a credit institution which conforms to the requirements of Paragraph three, Clause 8 of this Section;

5) investments in derived financial instruments issued by one issuer (the total amount of transactions entered into with one partner of transactions) may not exceed five per cent of the pension scheme assets.

(10) The open item of the defined contribution pension scheme in foreign currency may not exceed:

1) in an individual foreign currency – 10 per cent of the pension scheme assets;

2) in total in all foreign currencies – 20 per cent of the pension scheme assets.

(11) The Commission shall determine the procedures for the calculation of the open item of foreign currency.

[*23 September 2021 /* *Amendment regarding the replacement of the word “Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023.* *See Paragraph 7 of Transitional Provisions*]

**Section 27. Obligations of the Board of the Pension Fund in Respect of Investment of Pension Scheme Assets**

(1) The board of the pension fund has an obligation:

1) according to the investment provisions of the relevant pension scheme, to prepare and submit information to the Commission on the investment policy of the relevant pension scheme;

2) not less frequently than once every three years, to evaluate the specified investment policy and to submit to the Commission a detailed description of the investment policy of the pension scheme to be implemented in future;

3) within three working days, to submit information to the Commission on changes in the investment policy of the pension scheme.

(2) The principles for investment of the pension scheme assets, the methods for determination of the risks related to investments, and the risk management system shall be included in the investment policy of the pension scheme. At least the following information on the investment policy shall be indicated:

1) the objectives and conditions of the investment policy;

2) the strategy for the placement of assets (division of long-term assets according to main investment categories);

3) the tactics for the placement of assets (geographically, according to markets, sectors, transaction partners, and currencies);

4) the general policy for individual selection of financial instruments and other investments;

5) the quantitative restrictions of investments, conformity with them and control thereof;

6) the limit upon reaching which holding of the particular type of assets is terminated or restricted;

7) whether it is intended to use the derived financial instruments, to enter into purchase agreements with reverse repurchase conditions;

8) if using of derived financial instruments is intended – the policy for the use of general derived financial instruments, the methods for the assessment of derived financial instruments, and the risk management policy, and also the economic impact of the use of derived financial instrument on investment portfolio;

9) if it is intended to invest in the securities referred to in Section 26, Paragraph three, Clause 13 of this Law – the type of the security and the time period for the intended investment;

10) the distribution of liability in decision-making;

11) the methods for the determination, control, and management of risks;

12) the criteria by which return on investments is assessed;

13) a description of the policy of voting in relation to investments which provides for participation in decision-making related to investments, also the procedure for the decision-making regarding exercising of the voting rights;

14) information on the custodian and the manager of funds, and also the methods for the assessment of their activity;

15) the policy for the prevention of the potential conflict of interests providing for a way, in case of a potential conflict of interests, the pension fund will ensure that the manager of funds invests the pension scheme assets only in the interests of the pension scheme members and beneficiaries of the supplementary pension;

16) whether references to credit ratings which are provided by the credit rating agencies defined in Article 3(1)(b) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies are used in the investment policy, and if credit ratings are used as the only indicator for the assessment of the credit risk – what measures will be taken in order to reduce mechanical reliance on such credit ratings;

17) how the environmental, social and management factors will be taken into account in the investment policy.

(3) The board of the pension fund shall ensure the creation of a corresponding reporting and control system in order to ascertain that the manager of funds manages the funds of the pension scheme according to the policy and procedures stipulated by the board of the pension fund.

(4) The board of the pension fund shall ensure free access to the information on the investment policy for pension scheme members and shareholders of the pension fund, and also post the abovementioned information on the website.

(5) The pension fund and the manager of funds are not entitled to manage the immovable property by themselves.

(6) The pension fund shall, at least once a year, perform the stress test in which the potential development scenarios shall be evaluated and documented. Sensitivity tests and a scenario analysis shall be used for the stress test. Sensitivity tests shall be performed in order to determine an unfavourable impact of changes in a separate factor on the investment portfolio of the pension scheme. Sensitivity tests shall be performed in order to determine an unfavourable impact of several factors on the pension scheme investment portfolio, detecting the cause for the relevant events or changes.

(7) The board of the pension fund shall approve the results of the stress test and take a decision on the activities to be performed in the case of setting in of unfavourable events or changes detected during the stress test. An analysis approved by the board of the pension fund and a decision thereof on the activities to be performed shall be submitted to the Commission.

(8) The Commission has the right to determine additional requirements and procedures by which a stress test shall be performed, and also to specify the potential factors and scenarios to be tested.

(9) In addition to the rights specified in Paragraph eight of this Section the Commission has the right to request that the pension fund performs an extraordinary stress test and submits the results of such test to the Commission.

**Section 28. Technical Provisions**

(1) The pension fund which offers a defined contribution scheme with guaranteed profitability or a defined disbursement scheme, or provides for the coverage of biometric risks in the pension scheme shall, according to the relevant pension scheme, establish technical provisions of pensions in sufficient amount in order to be able to fulfil the liabilities specified in the scheme in full extent and to ensure the stability of its activity.

(2) The board of the pension fund referred to in Paragraph one of this Section shall approve the procedures for the creation of technical provisions and shall be responsible for the conformity with such procedures. The pension fund shall submit the procedures for the creation of technical provisions or changes therein to the Commission in writing within 10 working days after approval of such procedures or changes therein.

(3) Technical provisions shall be created in the same currency in which the pension fund has undertaken the liabilities according to the pension schemes offered.

(4) Technical provisions shall be continuously covered by the coverage of technical provisions, taking into account the principles and provisions for the investment of pension scheme assets specified in Section 26 of this Law. Assets for the coverage of technical provisions are invested, taking into account the term structure of the foreseeable disbursements of the supplementary pension.

(5) The pension fund shall establish the coverage of technical provisions from its own assets in such currency in which technical provisions have been established in order to fulfil the liabilities of the pension scheme against its members. The coverage of technical provisions with assets not co-ordinated by currency may not exceed 30 per cent of the amount of technical provisions in the relevant currency.

(6) If in case of setting in of the potential biometric risks provided for in the pension scheme the amount of disbursement provided for one pension scheme member exceeds 0.5 per cent from the own funds of the pension fund, the pension fund shall re-insure such risk in accordance with the requirements of the laws and regulations governing re-insurance activity.

(7) Technical provisions shall be calculated for each pension scheme separately not less than once a year.

(8) The Commission shall determine the methods for the calculation of technical provisions.

(9) If the Commission detects that the procedures for the creation of technical provisions developed by the pension fund do not completely ensure the fulfilment of the liabilities specified in the pension scheme and participation contracts, the Commission has the right to request the application of a specific method for the calculation of technical provisions in order to ensure an appropriate protection of the rights of the pension scheme members and beneficiaries of the supplementary pension, and also the fulfilment of the liabilities specified in the pension scheme and participation contracts.

(10) If technical provisions are not covered, taking into account the principles and provisions for the investment of the pension scheme assets specified in Section 26 of this Law, the pension fund shall, without delay, inform the Commission thereof and within 10 working days submit a plan for the improvement of the financial situation thereto. The measures planned by the pension fund for the restoration of the coverage of technical provisions and the time periods for execution thereof shall be indicated in the plan. After coordination of the plan for the improvement of the financial situation with the Commission, the pension fund shall provide the pension scheme members with a possibility of becoming acquainted therewith. Upon preparing the plan for the improvement of the financial situation, the current financial situation of the pension fund is taken into account, especially the structure of assets and liabilities, the risk profile, the plan for the provision of liquidity, the age structure of those pension scheme members who have the right to receive disbursement of the supplementary pension capital, and the level of the funding of the disbursements specified in the pension scheme.

(11) If the pension fund has engaged in cross-border activity and technical provisions have not been covered in accordance with the requirements of this Law, the pension fund shall ensure separation of liabilities arising from cross-border activity and relevant assets and indicate the planned measures within the scope of the plan for the improvement of the financial situation referred to in Paragraph ten of this Section which are to be performed in order to restore the coverage of technical provisions applicable to cross-border activity with the relevant assets without delay.

(12) If a pension scheme is reorganised within the time periods indicated in the plan for the improvement of the financial situation indicated in Paragraph ten of this Section, the pension fund shall, without delay, inform the Commission thereof. The pension fund shall develop the procedure for the transfer of technical provisions of the relevant pension fund and assets corresponding to the coverage thereof to another pension fund and submit it to the Commission. The pension fund shall ensure the availability of a general description of the procedure for the transfer of assets corresponding to technical provisions and the coverage thereof to the pension scheme members or their authorised representatives, conforming to the requirements for the protection of restricted access information.

(13) The pension fund which offers a defined contribution scheme with guaranteed profitability or provides for the coverage of biometric risks in the pension scheme or a defined disbursement pension scheme shall append an actuarial assessment to the annual statement the amount and structure of which shall be determined by the Commission.

**Section 29. Engagement Policy**

(1) If the investment policy of the pension scheme provides for investing of pension scheme assets in shares of such joint stock company the legal address of which is in the Member State and the shares of which are admitted to trading on a regulated market of the Member State (hereinafter in this Section – the joint stock company), the pension fund shall develop the engagement policy. In the engagement policy the pension fund shall provide for how it supervises the activity of the joint stock company at least in the following issues:

1) strategy;

2) results and risks of financial and non-financial activity;

3) capital structure;

4) social impact;

5) impact on the environment;

6) corporate management.

(2) In the engagement policy, in addition to the information referred to in Paragraph one of this Section, it shall be provided for how the pension fund:

1) implements a dialogue with the joint stock company;

2) exercises voting rights and other rights arising from shares in the joint stock company, including providing for the criteria for the determination of less significant votes;

3) co-operates with other shareholders of the joint stock company;

4) communicates with interested persons of the joint stock company;

5) implements management of actual and potential conflicts of interests in respect of involvement in the administration of the joint stock company.

(3) The pension fund shall, each year by 1 August, publish a report on the implementation of the engagement policy. The report shall be provided for the period from the day when the engagement policy or the last report on the implementation of the engagement policy was published for the first time. In addition the following information shall be included in the report:

1) general information on how the pension fund is implementing voting rights;

2) explanation of the most important votes;

3) information on the use of the services of authorised advisories (within the meaning of Section 1, Paragraph one, Clause 106 of the Financial Instrument Market Law).

(4) In addition to the information referred to in Paragraph one of this Section the pension fund shall publish its votes in the meetings of the shareholders of the joint stock company. The pension fund need not disclose votes which according the engagement policy are to be considered insignificant.

(5) The pension fund need not to apply one or several requirements of Paragraphs one, two, three, and four of this Section. If the pension fund does not apply any of the requirements of Paragraph one, two, three, or four of this Section, it shall provide information on which requirement is not being applied and the justification for such action.

(6) The pension fund shall ensure public availability of the information referred to in Paragraphs one, two, three, four, and five of this Section free of charge on the website thereof.

(7) If the engagement policy is implemented and voting rights are exercised by the manager of funds on behalf of the pension fund, the pension fund shall publish information in which the report on the implementation of the engagement policy of the manager of funds is included.

(8) The pension fund shall publish information on the conformity of the investment strategy of the pension scheme with the term structure of the liabilities of the relevant pension scheme and the investment policy of the pension scheme, and on how the investment strategy influences the performance results of the pension scheme in a medium term and long term. The pension fund shall ensure public availability of the abovementioned information free of charge on the website thereof. The pension fund shall update the information once a year.

**Section 30. Own Risk Assessment**

(1) The pension fund shall carry out and document an own risk assessment according to the volume and internal structure thereof, and also taking into account the nature, amount, and complexity of its activities, which shall include the following:

1) a description on how own risk assessment is integrated in the management process and decision-making of the pension fund;

2) an efficiency assessment of the risk management system;

3) a description on how the potential conflict of interests between the pension fund and the employer is prevented in case when the carrying out of the key functions is transferred in an outsourced service to the employer;

4) a general assessment of funding needs, including the plan for the improvement of the financial situation if any is to be prepared in accordance with the requirements of Section 25, Paragraphs seven and eight or Section 28, Paragraph ten of this Law;

5) a risk assessment of such risks to which pension scheme members and beneficiaries of the supplementary pension are exposed in relation to disbursement of the supplementary pension, and also in case of efficiency assessment of corresponding corrective activities when the pension fund guarantees guaranteed profitability or specific amount of disbursements or provides for the coverage of biometric risks, taking into account:

a) indexing mechanisms;

b) mechanisms for reduction of the guaranteed increase of the payments specified for a beneficiary of the supplementary pension, including the decision-making process, the amount of reduction, and the circumstances under which the increase may be reduced;

6) an assessment of those mechanisms which protect disbursements for beneficiaries of the supplementary pension, including in case when the pension fund guarantees a guaranteed profitability or specific amount of disbursements or provides for the coverage of biometric risks for guarantees, agreements, or financial provision of other type which is provided by the employer, insurer, or re-insurer;

7) a qualitative assessment of the operational risk;

8) an assessment of such new or potentially possible risks which could arise in addition to the environmental, social, and management factors which were taken into account in the investment policy, including an assessment of those risks which could arise as a result of climate change or as a result of environmental and resource use, and also an assessment of those social risks and risks related to asset amortisation which could arise due to amendments to laws and regulations.

(2) For the needs of the own risk assessment the pension fund shall, according to the nature of the risks characteristic to its activity, and also the nature, scope, and complexity of its activity, ensure the use of such methods which allow to identify and assess the risks to which the pension fund is exposed or could be exposed in a short term and long term and which could influence the ability of the pension fund to perform its liabilities. The description of the methods used is included in the own risk assessment prepared by the pension fund.

(3) The results of the own risk assessment are continuously taken into account in the strategic decision-making process of the pension fund.

(4) The own risk assessment shall be carried out at least once in three years or without delay after any significant changes in the risk profile of the pension fund or pension schemes established thereby. If significant changes in the risk profile concern only a separate pension scheme, the pension fund is entitled to carry out the own risk assessment only in relation to such pension scheme.

**Section 31. General Requirements in Relation to the Information Provided to Pension Scheme Members, Prospective Pension Scheme Members and Beneficiaries of the Supplementary Pension**

(1) Each pension fund or pension fund of another Member State which is entitled to provide services in Latvia, taking into account the type of the established pension scheme, shall provide the information to:

1) the prospective pension scheme members – at least the information referred to in Section 32 of this Law;

2) those pension scheme members in whose favour the employer is making contributions in the pension scheme – at least the information referred to in Sections 32, 33, and 34 of this Law;

3) the beneficiaries of the supplementary pension – at least the information referred to in Section 33 of this Law.

(2) The information which the pension fund or pension fund of another Member State which is entitled to provide services in Latvia:

1) shall be provided on a regular basis not less than once a year, and it shall be updated;

2) shall be given in easily comprehensible form, using clear, precise, and understandable language without using complicated terminology;

3) shall be unequivocally formulated, ensuring consistency of the vocabulary and content;

4) shall be provided, using the characters of appropriate size, shall be drawn up and designed so as the information would be easily legible;

5) shall be prepared in the official language of the Member State the social and employment rights of which in relation to the field of the supplementary pension are applied to the relevant pension scheme;

6) shall be provided free of charge to prospective pension scheme members, pension scheme members, and beneficiaries of the supplementary pension, including ensuring a durable medium.

**Section 32. Information to be Provided to Prospective Pension Scheme Members and Pension Scheme Members**

(1) The pension fund or pension fund of another Member State which is entitled to provide services in Latvia shall inform a prospective pension scheme member before entering into the individual participation contract or a pension scheme member after entering into the collective participation contract of:

1) the provisions of the pension scheme;

2) any options available for him or her, including pension scheme options;

3) significant conditions for the participation in the pension scheme, including the type of the supplementary pension, the amount of deductions applicable to the pension scheme member, the conditions for the termination of participation, and the procedures for the disbursement of the supplementary pension capital;

4) whether and how, upon performing investment activities with the pension scheme assets, the environmental, social and management factors are being taken into account;

5) where the additional information is available.

(2) In the case of a defined contribution scheme in which a defined return on investments is not guaranteed and investment risk is undertaken by a pension scheme member, the information on the profitability of the relevant pension scheme at least for the last five years or, if the time period of activity of the pension scheme is less than five years – on the profitability of the pension scheme during the years of actual activity thereof, and also the structure of deductions applicable to the pension scheme members and beneficiaries of the supplementary pension, including deductions for the pension fund, the manager of funds, the custodian, the Commission, and other eligible deductions shall be provided in addition to the information referred to in Paragraph one of this Section.

**Section 33. Information to be Provided to Pension Scheme Members and Beneficiaries of the Supplementary Pension**

(1) Upon request of a pension scheme member or beneficiary of the supplementary pension, or duly authorised representative of such persons, the pension fund or pension fund of another Member State which is entitled to provide services in Latvia shall provide the following information:

1) annual statement of the pension fund and annual statement of the relevant pension scheme;

2) a description of the investment policy of the relevant pension scheme;

3) information on assumptions used for projections of pension disbursements and included in the report on the supplementary pension.

(2) The pension fund shall, within five working days after a written consent of the Commission for making of amendments to the pension scheme has been received, inform the members of the relevant pension scheme and the beneficiaries of the supplementary pension thereof, except for the cases specified in Section 12, Paragraph ten of this Law when the pension fund shall inform the members of the relevant pension scheme and the beneficiaries of the supplementary pension of the amendments made within seven days after approval thereof at the board of the pension fund.

(3) The pension fund or pension fund of another Member State which is entitled to provide services in Latvia shall provide at least the following detailed information to the pension scheme member and the beneficiary of the supplementary pension according to the requirements specified in the pension scheme:

1) the full firm name of the pension fund, state of registration or state in which the pension fund is entitled to provide its services, and also the authority which carries out the supervision of the pension fund;

2) the rights and obligations of the pension scheme member, the beneficiary of the supplementary pension, and the pension fund;

3) the investment strategy;

4) the financial risks which are undertaken by the pension scheme members and the beneficiaries of the supplementary pension;

5) the conditions included in the pension scheme on guarantees or partial guarantees to pension scheme members or the guaranteed profitability of investments, or, if the pension scheme does not provide for guarantees of any type – a relevant notification thereon;

6) the mechanisms which ensure the protection of the accumulated individual supplementary pension capital in the case of non-performance of the obligations of the employer and the mechanisms for the reduction of the supplementary pension if any are intended;

7) the procedures by which the pension scheme member, upon terminating employment relationships with the employer, may transfer the supplementary pension capital to another pension fund or pension scheme;

8) profitability of the relevant pension scheme during the last five years or, if the time period of activity of the pension scheme is less than five years – during the years of actual activity thereof – in the case of the defined contribution scheme if defined return on investments is not guaranteed and the investment risk is undertaken by the pension scheme member;

9) the structure of those deductions which are covered by the defined contribution pension scheme members and the beneficiaries of the supplementary pension;

10) the options available to pension scheme members and beneficiaries of the supplementary pension for the receipt of the accumulated supplementary pension capital;

11) the right to receive the supplementary pension accumulated in the pension scheme, transferring it to another pension scheme if such right is provided for;

12) changes in the provisions of the pension scheme, including changes in the procedures for the calculation of technical provisions, and their influence on the pension scheme members and beneficiaries of the supplementary pension.

(4) The pension fund or pension fund of another Member State which is entitled to provide services in Latvia shall, at least once a year, make the report on the relevant reporting period accessible to each pension scheme member, except for those to whom the report on the supplementary pension referred to in Section 34 of this Law is ensured, and to the beneficiary of the supplementary pension free of charge. The following information shall be included in such report:

1) the contributions made in favour of the pension scheme member;

2) the supplementary pension disbursed to the pension scheme member or the supplementary pension capital or a part thereof transferred upon the order of the pension scheme member;

3) the supplementary pension capital;

4) the total amount of deductions applied to the member which includes deductions to the pension fund, the manager of funds, the custodian, the Commission, and other eligible deductions;

5) the given name and surname of the sworn auditor or the firm name of the commercial company of sworn auditors who or which inspected the annual statement of the pension fund;

6) whether the opinion on the financial statement included in the auditor’s report on audit of the annual statement is without reservations, with reservations, or negative, or a statement on a refusal to provide an opinion is included therein;

7) where the pension scheme member may become acquainted with the annual statement of the pension fund and the relevant pension scheme.

(5) In addition to the requirements of Paragraphs three and four of this Section the pension fund shall ensure that each month the pension scheme member has access to the information on the performance results of the pension scheme. The pension fund shall publish the relevant information on the website.

(6) The board of the pension fund has an obligation to notify the pension scheme members on any changes related to appointing of a sworn auditor or a commercial company of sworn auditors, the manager of funds, or the custodian, and also to provide other substantial information on activity of the pension fund during the time after provision of the previous statement.

(7) The pension fund or pension fund of another Member State which is entitled to provide services in Latvia shall, in respect of each beneficiary of the supplementary pension:

1) inform, on a regular basis, of the amount of the supplementary pension due to him or her and the options related thereto;

2) inform without delay of the fact that the decision on reduction in the amount of the supplementary pension is taken and such decision enters into effect not earlier than after three months;

3) inform, on a regular basis, of the profitability of the defined contribution scheme if during the period of receipt of the supplementary pension the pension scheme member undertakes an investment risk.

(8) The pension fund or pension fund of another Member State which is entitled to provide services in Latvia shall, in a timely manner however not later than six months before the member attains the retirement age or upon request of the member, inform the member of the options available to him or her for the receipt of the supplementary pension.

**Section 34. Report on the Supplementary Pension**

(1) The pension fund or pension fund of another Member State which is entitled to provide services in Latvia shall develop a report on the supplementary pension for each pension scheme member in whose favour the employer is making contributions in the pension scheme, taking into account the requirements of the laws and regulations governing the pension system of Latvia, social sector, employment and taxes. The name of the document shall contain the expression “report on the supplementary pension”.

(2) The report on the supplementary pension shall contain precise information which is updated at least once a year and which the pension fund makes accessible to the pension scheme member on the relevant reporting period free of charge, choosing appropriate means of electronic communication. In addition to the report on the supplementary pension which is available electronically the pension fund shall, upon request of the pension scheme member, ensure the availability of the report in paper form.

(3) At least the following basic information intended for each pension scheme member shall be included in the report on the supplementary pension:

1) the date to which the information indicated in the report on the supplementary pension applies;

2) the given name, surname, and personal identity number of the relevant pension scheme member, but, if the pension scheme member does not have a personal identity number – the year and date of birth and the number of the personal identification document, and also the retirement age specified in the pension scheme;

3) the firm name and address of the pension fund and the identification data of the pension scheme of the pension scheme member;

4) the information on the provisions of the pension scheme in relation to guarantees or partial guarantees for the pension scheme member, if any have been intended, and an indication where it is possible to become acquainted with additional information;

5) the information on the projections of disbursements of the pension with a disclaimer that such projections may differ from the actual amount of the supplementary pension to be received;

6) the amount of the individual supplementary pension accumulated according to the provisions of the relevant pension scheme;

7) the amount of contributions made by the employer in favour of the pension scheme member or by the pension scheme member himself or herself in accordance with the provisions of the relevant pension scheme for the period of at least last 12 months;

8) the amount of deductions applied to the pension scheme member during the last 12 months in which the deductions to the pension fund, the custodian, the manager of funds, the Commission, and other eligible deductions are included;

9) the information on the total amount of the supplementary pension accumulated in the relevant pension scheme;

10) the changes in the information indicated in the report on the supplementary pension compared to the previous year.

(4) The Commission shall determine the procedures by which information on the projections of pension disbursements shall be prepared.

(5) In addition to that specified in Paragraph three of this Section it shall be indicated in the report on the supplementary pension where and how the information may be obtained on:

1) the provisions of the relevant pension scheme which is useful for the pension scheme member;

2) the annual statement and the investment policy of the pension fund and the relevant pension scheme;

3) assumptions which are used for the calculation of payments to be made during the life-time of the beneficiary of the supplementary pension, if the provisions of the pension scheme provide for such option, including information on the applicable rates, service provider, and time period;

4) the amount of the supplementary pension in case of termination of employment relationships.

(6) In case of the defined contribution scheme where defined return on investments is not guaranteed and the investment risk is undertaken by the pension scheme member, it shall be indicated in the report on the supplementary pension where it is possible to become acquainted with the conditions in relation to investments.

(7) If the pension scheme member is such concurrently on the basis of both the individual and collective participation contract, the pension fund or pension fund of another Member State which is entitled to provide services in Latvia may withdraw from that referred to in Paragraph four of this Section and provide only the report on the supplementary pension referred to in this Section to such pension scheme member.

**Section 35. Procedures for the Provision of Information**

The pension fund or pension fund of another Member State which is entitled to provide services in Latvia may provide the information specified in Sections 31, 32, 33, and 34 of this Law, using any means of electronic communication, website, also an information system maintained by third parties on the service portal of the State administration, or, if a separate written request by the pension scheme member or beneficiary of the supplementary pension is received – in paper form.

**Chapter V**

**Supervision, Reorganisation, and Liquidation of Pension Funds**

**Section 36. Accounting, Record-keeping, and Inspection of Pension Funds**

(1) Pension funds shall keep accounting and prepare an annual statement in accordance with this Law, the law On Accounting, and the regulatory provisions of the Commission. The annual statement of the pension fund as a unified aggregate shall consist of the financial statements of the pension fund, the management report of the pension fund, and the notification on the responsibility of the management of the pension fund, and also all financial statements of the registered pension schemes and the report on the relevant pension scheme. The Commission shall issue the regulatory provisions on the preparation of the annual statement according to the international accounting standards adopted in accordance with Regulation No 1606/2002.

(2) The pension fund shall, within 10 working days after approval of the annual statement and not later than four months after the end of the reporting year, submit to the State Revenue Service a copy of the annual statement and of the auditor’s report prepared by a sworn auditor or a commercial company of sworn auditors together with an extract from the minutes of the meeting of stockholders or shareholders of the capital company on approval of the annual statement. The pension fund shall submit the documents referred to in this Paragraph in paper form or in electronic form.

(3) The annual statement prepared by the pension fund shall be audited and the auditor’s report on the results of the audit carried out shall be provided by a sworn auditor or a commercial company of sworn auditors in accordance with the Law on Audit Services.

(4) If the opinion included in the auditor’s report referred to in Paragraph three of this Section is with reservations or the opinion is negative, or a statement on a refusal to provide an opinion is provided, the pension fund shall, at least 10 working days before publishing the annual statement, provide written proposals to the Commission for the improvement of its further activity.

(5) The State Revenue Service shall, within five working days, hand over the documents referred to in Paragraph two of this Section, if they have been submitted in electronic form, or electronic copies of such documents, if they have been submitted in paper form, to the Enterprise Register of the Republic of Latvia by electronic means. The Enterprise Register of the Republic of Latvia shall ensure public access to the documents received. The procedures for the handing over and certification of electronic documents shall be determined by an interdepartmental agreement entered into by and between the State Revenue Service and the Enterprise Register of the Republic of Latvia.

(6) After receipt of the documents referred to in Paragraph five of this Section, the Enterprise Register of the Republic of Latvia shall publish them on its website.

(7) In addition to that specified in Paragraph two of this Section the pension fund shall ensure that the annual statement is published together with the auditor’s report prepared by a sworn auditor or a commercial company of sworn auditors not later than four months after the end of the reporting year. The abovementioned annual statement shall be identical to that inspected by the sworn auditor or the commercial company of sworn auditors. The pension fund shall publish the relevant information on the website.

(8) In addition to that specified in Paragraph three of this Section a sworn auditor or commercial company of sworn auditors shall prepare a report to the management of the pension fund. The particular deficiencies shall be indicated, and also specific issues related to the activity of the pension fund shall be considered in the report. The pension fund shall submit a copy of the report to the Commission within 10 working days after approval of the annual statement and not later than four months after the end of the reporting year.

(9) The Commission is entitled to request that the pension fund prepares reports on the activity of the pension fund and pension schemes registered thereby for the carrying out of the supervisory functions and compilation of statistical data. The Commission shall issue the regulatory provisions on the procedures for the preparation and submission of such reports.

(10) The Commission has an obligation to conduct an inspection of the activity of the pension fund not less than once every six years. The Commission has the right to authorise a sworn auditor, a commercial company of sworn auditors, or another independent person competent in the relevant field for the carrying out of this task.

(11) The Commission has the right to request information on the conducted inspection of the annual statement from the sworn auditor or the commercial company of sworn auditors.

[*23 September 2021 /* *Amendment to Paragraphs one and nine regarding the replacement of the words “regulatory provisions” with the word “provisions” and amendment regarding the replacement of the word “Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023.* *See Paragraph 7 of Transitional Provisions*]

**Section 37. Insolvency of the Manager of Funds, the Custodian and the Employer**

(1) If the manager of funds or the custodian has been recognised as insolvent and liquidation is initiated, or the relevant licence has been cancelled for the manager of funds or the custodian, a new manager of funds or custodian shall be appointed by a decision of the board of the pension fund and the assets of the fund shall be transferred thereto.

(2) If an employer which is making contributions has been recognised as insolvent and liquidation is initiated, the pension scheme of employees and the relevant collective participation contract are terminated unless the new employer takes over all the rights and obligations of the previous employer. The pension scheme members may continue participation in the pension scheme with the intermediation of the new employer.

(3) If an employer which is making contributions has been recognised as insolvent and liquidation is initiated, the pension scheme member may request transfer of the accumulated funds to another pension scheme.

**Section 38. Reorganisation and Liquidation of the Pension Fund**

(1) Reorganisation and liquidation of the pension fund takes place in accordance with The Commercial Law in conformity with the additional provisions included in this Section.

(2) The pension fund may be reorganised or liquidated only with the permit of the Commission.

(3) In order to receive a permit for the reorganisation of pension funds, the pension funds involved in the reorganisation process (hereinafter – the pension funds to be reorganised) shall submit the following documents to the Commission:

1) an application for the reorganisation of the pension fund, indicating therein the type of reorganisation and the documents appended to the application;

2) the draft contract for the reorganisation;

3) an auditor’s report on the draft contract for the reorganisation;

4) the reorganisation prospectus (prospectuses).

(4) In addition to the information specified in laws and regulations, information on subsequent activity and procedures of pension schemes of the pension fund to be reorganised which ensure that lawful interests of the members of the relevant pension schemes and the beneficiaries of the supplementary pension will not be infringed by reorganisation shall be included in the draft contract for the reorganisation and the reorganisation prospectuses.

(5) If as a result of reorganisation of the pension fund new pension funds are created, the documents indicated in Section 8, Paragraph three of this Law shall be submitted to the Commission thereon.

(6) If the composition of stockholders or shareholders of the capital company changes as a result of reorganisation of the pension fund or in the newly established pension funds, the relevant pension funds shall submit the information and documents referred to in Section 8, Paragraph three, Clause 3 of this Law on the new stockholders or shareholders of the capital company.

(7) If as a result of reorganisation of the pension fund members of the council (if any has been established) or of the board of the pension fund, the person responsible for the risk management function, the person responsible for the internal audit function, or the person responsible for the actuary function are changed, the relevant pension fund shall submit the documents indicated in Section 20, Paragraph eight of this Law to the Commission.

(8) The meeting of stockholders or shareholders of the capital company may not take a decision on termination of liquidation of the pension fund until liabilities in relation to the pension scheme members and the beneficiaries of the supplementary pension have been fulfilled completely.

(9) In case of liquidation of the pension fund pension scheme members have the right to all the supplementary pension capital present in their individual accounts.

(10) The supplementary pension capital accumulated in the pension fund to be liquidated shall be transferred to another pension fund according to a decision of the Commission.

(11) The Commission shall examine an application for the reorganisation or liquidation of the pension fund and take a decision within a month after all the documents specified in this Law and prepared in accordance with the requirements of laws and regulations have been received.

**Section 39. Basic Principles of Prudential Supervision**

(1) The Commission shall supervise the conformity of activity of the pension fund with the requirements of this Law and the provision of information to the pension scheme members and the beneficiaries of the supplementary pension.

(2) The Commission shall ensure that the approach oriented towards future and based on evaluation of risks is at the basis of the supervision specified in Paragraph one of this Section.

(3) The Commission shall implement the supervision of pension funds in a timely manner and transparently, taking into account the requirements for the protection of restricted access information. Supervision shall be commensurate with the size, type, and complexity of the activity of the pension fund.

(4) The Commission has an obligation to ensure a professional approach and stability in the work of pension funds, and also the protection of the rights and lawful interests of the registered pension scheme members and the beneficiaries of the supplementary pension.

(5) The Commission shall, when carrying out the supervisory function specified in this Law, evaluate the potential impact of its activity on the stability of the financial system in the European Union, especially in emergency situations.

(6) Taking into account the nature of cross-border activity of pension funds in order to ensure a unified supervision practice in all Member States and a uniform and consistent application of the directly applicable legal acts of the European Union, the Commission has the right to determine other requirements governing the activity of pension funds in the fields which are arising from the decisions, guidelines, and recommendations taken by the European Insurance and Occupational Pensions Authority, the European Central Bank, or the European Banking Authority.

**Section 40. Rights and Obligations of the Commission**

(1) The Commission shall ensure that supervision of pension funds includes both external supervision and on-site inspections. The Commission has the right to conduct on-site inspections of activity of the pension fund and to request the information and documents on the activity thereof necessary for the carrying out of the supervisory functions. The pension fund has an obligation to provide to the Commission all the information requested and to present all the documents, and it may not refuse to do so under the pretext of a commercial secret.

(2) Upon substantial changes in the situation in the world financial markets, the Commission has the right to request that the pension fund evaluates, without delay, the conformity of its investment policy with changes in financial markets and submits a motivated decision of the board on the conformity of the current investment policy with such changes or the necessary amendments to the investment policy.

(3) The Commission shall review and evaluate the strategy, procedures, and measures of the pension fund implemented thereby in order to conform to the requirements laid down in this Law, other laws and regulations, directly applicable legal acts of the European Union, and decisions taken by the Commission. The abovementioned evaluation shall include the following elements:

1) the assessment of those qualitative requirements which apply to the management system;

2) the assessment of those risks which the pension fund is facing;

3) the ability of the pension fund to evaluate and manage the abovementioned risks.

(4) The Commission shall determine the amount and regularity of the evaluation referred to in Paragraph three of this Section depending on the size, type and complexity of activity of the pension fund.

(5) The Commission shall assess the evaluation prepared in accordance with Paragraph two of this Section, and also whether the strategy, procedures, and measures implemented by the pension fund ensure sufficient risk management and fulfilment of the liabilities against the pension scheme members and the beneficiaries of the supplementary pension and whether the liquidity of the pension fund and the amount of the own capital are sufficient for covering the risks inherent to its activity and possible risks.

(6) The Commission has the right to request that the pension fund eliminates the deficiencies detected thereby during the evaluation carried out for the supervision purpose referred to in Paragraph three of this Section.

(7) On the basis of the reports submitted, inspections, and audits carried out by a sworn auditor or a commercial company of sworn auditors the Commission shall assess the stability of the financial situation of the pension fund and, where necessary, provide instructions on improvement of the financial situation. The pension fund shall carry out these instructions within the time period stipulated by the Commission.

(8) The Commission has the right to take a decision to appoint an authorised person in the pension fund, fully or partially transferring the management of the pension fund thereto, if it is necessary for the protection of lawful interests of the pension scheme members and the beneficiaries of the supplementary pension.

(9) A representative of the Commission is entitled to inspect the activity and documents of the pension fund at the main office and branches thereof, and to participate without voting rights at the meetings of administrative bodies of the pension fund.

(10) The Commission has the right to initiate convening of the meetings of the board and council (if any has been established) of the pension fund or of the meeting of stockholders or shareholders of the capital company and to determine issues to be examined.

(11) The Commission has the right to request information from the pension fund and to determine its content, and also the procedures for the preparation and submission thereof in order to ensure exchange of information with the authorities and institutions referred to in Section 49, Paragraph three of this Law, taking into account the nature of the information requested.

[*23 September 2021 /* *Amendment regarding the replacement of the word “Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023.* *See Paragraph 7 of Transitional Provisions*]

**Section 41. Liability**

(1) The Commission may cancel the licence issued to the pension fund by a motivated decision if:

1) the pension fund has not commenced activity within 12 months from the day when the licence was issued;

2) the pension fund does not submit the plan for the improvement of the financial situation in the case and within the time period provided for in Section 25, Paragraphs seven and eight or Section 28, Paragraph eight of this Law;

3) the pension fund does not take measures provided for in the plan for the improvement of the financial situation;

4) the technical provisions have not been completely covered in conformity with the principles and provisions for investment of the pension scheme assets laid down in Section 26 of this Law;

5) the pension fund violates this Law, the Cabinet regulations issued in accordance therewith, and the regulatory provisions issued by the Commission or the requirements of other laws and regulations governing commercial activity, or does not conform to the conditions of the licence;

6) the pension fund refuses the licence;

7) the pension fund is not able to fulfil its liabilities in relation to the pension scheme members.

(2) The Commission shall cancel the licence issued to the pension fund if the activity of the pension fund has been terminated according to a court ruling.

(3) The Commission shall notify the pension fund in writing regarding the decision to cancel the licence of the pension fund or to suspend its activity within three working days after taking of the decision. The Commission shall provide the information on the cancellation of the licence of the pension fund or the suspension of its activity also to the European Insurance and Occupational Pensions Authority.

(4) Upon establishing the circumstances provided for in Paragraph one of this Section, the Commission has the right to impose sanctions on the pension fund – to issue a warning or to impose a fine of up to four hundred minimum monthly wages.

(41) Upon establishing the circumstances provided for in Paragraph one of this Section, the Commission has the right to impose an administrative measure on the pension fund – suspension of the operation of the licence.

(42) In addition to the sanction or administrative measure imposed in accordance with Paragraphs four and 4.1 of this Section, the Commission has the right to determine a time period for the elimination of the violations detected. If until expiry of such time period the pension fund has not eliminated the violations, the Commission shall impose a sanction on the pension fund – cancel the licence issued thereto. If the decision to suspend the operation of the licence of the pension fund has been taken, the Commission shall inform the European Insurance and Occupational Pensions Authority thereof.

(5) The time period for the suspension of the operation of the licence shall not exceed six months. The Commission shall indicate restrictions to be conformed to by the pension fund until expiry of the time period for suspending the operation of the licence. Within the meaning of this Section restrictions may be applicable to:

1) attraction of new members;

2) accepting of new contributions;

3) amending of and entering into contracts;

4) registration of new pension schemes;

5) investing of paid-in funds;

6) action involving the funds handed over for holding to the custodian.

(6) Appealing of an administrative act issued by the Commission on cancellation of the licence or suspension of the operation thereof shall not suspend the operation of such act.

(61) The Commission is entitled to impose the following sanctions on persons who perform the operation of a private pension fund without the licence:

1) issue a warning;

2) impose a fine of up to four hundred minimum monthly wages.

(7) Upon taking the decision to impose sanctions on persons who have violated the laws and regulations governing the financial and capital market and on the amount of the fine, the Commission shall take into account all the circumstances, including the circumstances provided for in the Law on the Financial and Capital Market Commission, and also the potential consequences of systematic committing of the violation, and evaluate the commensurability, efficiency, and dissuasive nature of the sanctions to be imposed.

(8) After the Commission has notified the person of the decision taken and it has entered into effect, it shall, without delay, publish on its website the information on the sanctions and administrative measures which have been imposed on the person for the violations of this Law and of the regulatory provisions of the Commission issued on the basis of this Law, identifying the person responsible for the violations and the type and nature of the violation committed thereby.

(9) If after a previous assessment the Commission establishes that disclosure of personal data of such person who has been imposed a sanction or administrative measure is not proportionate or that disclosure of such data may endanger the stability of the financial market or an on-going examination, it is entitled to carry out one of the following activities:

1) to suspend publishing of the information on sanctions or administrative measures imposed on the person until the time when the circumstances due to which the publishing was suspended cease to be exist;

2) to publish the information referred to in Paragraph eight of this Section, ensuring the protection of the identity of the person;

3) not to publish the information referred to in Paragraph eight of this Section if the activities specified in Clauses 1 and 2 of this Paragraph should be regarded as insufficient for the provision of the stability of the financial market.

[*23 September 2021 /* *Amendment to Paragraph one, Clause 5 and Paragraph eight regarding the replacement of the words “regulatory provisions” with the word “provisions”, amendment regarding the replacement of the word “Commission” with the words “Latvijas Banka”, amendment to Paragraph six, and the new wording of Paragraph seven shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023.* *See Paragraph 7 of Transitional Provisions*]

**Chapter VI**

**Cross-border Activities**

**Section 42. Opening of a Branch**

(1) If the pension fund wishes to open a branch in another Member State, it shall submit an application for the opening of a branch to the Commission. The following shall be indicated in the application:

1) the address of the branch (address to be used for sending and receipt of information);

2) the organisational structure of the branch;

3) information on the head of the branch in accordance with Section 8, Paragraph three, Clause 4 of this Law in order to ascertain the compliance of the person with the requirements of this Law;

4) the operational plan for the first three years.

(2) If the pension fund has submitted an application to the Commission in accordance with Paragraph one of this Section, the Commission shall, within three months from receipt of the abovementioned application, examine and forward it to the competent authorities of the concerned country, concurrently notifying the pension fund of forwarding of the information.

(3) The Commission may take a decision to refuse to open a branch in another Member State if it is of the opinion that:

1) the documents submitted by the pension fund contain false or incomplete information;

2) the organisational and managerial structure of the branch does not allow ensuring of its supervision;

3) the head of the branch does not comply with the requirements of this Law;

4) the plan for the improvement of the financial situation is implemented in the pension fund;

5) the violations detected by the Commission have not been eliminated within the time period stipulated thereby.

(4) The Commission shall send the decision to refuse to open a branch to the pension fund and shall indicate the justification for the refusal in the decision.

(5) The pension fund is entitled to open a branch in another Member State after it has received a notification of the Commission that information on the intent of the pension fund to open a branch has been sent to the competent authorities of the concerned country.

**Section 43. Accepting of Contributions for the Provision of the Supplementary Pension from the Employer of Another Member State**

(1) The pension fund shall notify the Commission in writing of each new intent of accepting contributions for the provision of the supplementary pension from an employer of another Member State.

(2) The pension fund shall include the following information in the notification:

1) the concerned country;

2) the firm name of the employer and the location of the board;

3) the characterisation of the pension scheme offered to the employer of the concerned country in which a short description of that referred to in Section 8, Paragraph three of this Law is provided together with a certified translation into the language of the concerned country or in the language on which the competent authority of the concerned country and the Commission have agreed.

(3) If the pension fund has submitted a notification to the Commission according to Paragraph two of this Section, the Commission shall, within three months after receipt of the abovementioned notification, examine and forward it to the competent authorities of the concerned country, concurrently notifying the pension fund of forwarding the information and informing the European Insurance and Occupational Pensions Authority of the Member State from which the pension scheme is planning to accept contributions for the provision of the supplementary pension.

(4) The Commission shall not forward the notification to the competent authorities of the concerned country if it, within three months after receipt of the notification referred to in Paragraph two of this Section, has taken a decision in which it establishes that:

1) the plan for the improvement of the financial situation is implemented in the pension fund;

2) the organisational structure of the pension fund does not allow the provision of supervision corresponding to the laws and regulations of the Republic of Latvia;

3) the pension fund has not eliminated the violations detected by the Commission within the time period stipulated thereby.

(5) If the Commission decides not to forward the notification submitted by the pension fund to the competent authorities of the concerned country, it shall send a relevant decision to the pension fund without delay, indicating the justification for refusal therein.

(6) The Commission shall, within six weeks after the competent authority of the concerned country has received the notification of the Commission, inform of the following conditions which the pension fund has an obligation to conform to upon performing activities in the concerned country:

1) of the rights of the pension scheme member arising from participation in the pension scheme on the basis of employment relationships;

2) of the amount of information to be provided to the pension scheme members or the beneficiaries of the supplementary pension.

(7) After receipt of the information referred to in Paragraph six of this Section the Commission shall, without delay, forward it to the pension fund.

(8) The pension fund has the right to commence to accept contributions for the provision of the supplementary pension from the employer of the concerned country after receipt of the information referred to in Paragraph six of this Section or after expiry of the time period referred to therein. The pension fund shall conform to the requirements of the concerned country arising from the information provided by its competent authority in accordance with Paragraph six of this Section.

(9) If information has been received from the competent authority of the concerned country on changes in conditions to which the pension fund has an obligation to conform, upon performing activities in the concerned country, the Commission shall send it to the pension fund without delay.

**Section 44. Acceptance of Contributions for the Provision of the Supplementary Pension from the Employer Registered in Latvia**

(1) If the pension fund of the Member State plans to accept contributions for the provision of the supplementary pension from an employer registered in Latvia, the Commission must receive a notification from the competent authority of the home country of the pension fund which has been prepared by the pension fund of the Member State and in which the information referred to in Section 43, Paragraph two of this Law has been included.

(2) Within six weeks after receipt of the notification the Commission shall compile the information referred to in Section 43, Paragraph six, Clauses 1 and 2 of this Law which the pension fund has an obligation to provide to the pension scheme member or the beneficiary of the supplementary pension upon accepting contributions for the provision of the supplementary pension from an employer registered in Latvia and shall send it to the competent authority of the home country of the pension fund.

(3) The pension fund of the Member State has the right to accept contributions for the provision of the supplementary pension from an employer registered in Latvia after receipt of the notification referred to in Section 43, Paragraph six of this Law or after expiry of the time period referred to therein. The pension fund of the Member State shall conform to the requirements arising from the information of the Commission provided in accordance with Paragraph two of this Section.

(4) If the laws and regulations which the pension fund of the Member State has an obligation to conform to, upon performing activities in Latvia, are amended, the Commission shall, without delay, inform the competent authority of the home country of the pension fund thereof.

**Section 45. Cross-border Transfer of the Pension Scheme of the Pension Fund or Part Thereof to the Pension Fund of Another Member State**

(1) The pension fund may transfer all or part of the liabilities, technical provisions, and other rights and obligations of the pension scheme in relation to the contributions of employers, and also relevant assets or an amount of monetary means equivalent thereto to a receiving pension fund, if the written permit to carry out transfer referred to in Section 46, Paragraph four of this Law has been received or if the information on the decision has not been received from the competent authority of the home country of the receiving pension fund upon termination of the time period referred to in Section 46, Paragraph four of this Law.

(2) The transfer referred to in Paragraph one of this Section may be performed if the following agrees to it:

1) more than a half of those pension scheme members of the relevant pension fund or beneficiaries of the supplementary pension to whom the transfer applies, or the majority of the relevant pension scheme committee (if any has been established). Before submitting the application referred to in Section 46, Paragraph one of this Law, the pension fund which performs the transfer shall inform the pension scheme members and the beneficiaries of the supplementary pension, and also the relevant pension scheme committee (if any has been established) of the provisions for the transfer of the pension scheme;

2) the employer to which the transfer applies.

(3) The Commission shall examine the application referred to in Section 46, Paragraph one of this Law which has been received from the competent authority of the home country of the receiving pension fund and provide a prior permit for the transfer or express objections against it to the competent authority of the home country of the receiving pension fund before it takes a decision in accordance with the procedures laid down in Section 46, Paragraph four of this Law.

(4) Upon receipt of the application referred to in Section 46, Paragraph one of this Law from the competent authority of the home country of the receiving pension fund, the Commission shall assess whether:

1) the long-term lawful interests of the members of the remaining part of the pension scheme and the beneficiaries of the supplementary pension are duly protected in case of partial transfer of the liabilities, technical provisions, and other rights and obligations of the pension scheme, and also corresponding assets or cash amount equivalent thereto;

2) the individual rights of the pension scheme members and the beneficiaries of the supplementary pension are at least the same after transfer;

3) the assets of the transferable pension scheme are sufficient and appropriate in order to cover transferable liabilities, technical provisions, and other rights and obligations in relation to the contributions of employers in accordance with the requirements laid down in the laws and regulations governing the operation of the transferring pension fund.

(5) The Commission shall, within 56 days after receipt of the application referred to in Section 46, Paragraph one of this Law, inform the competent authority of the home country of the receiving pension fund of the evaluation of the application referred to in Paragraph four of this Section.

(6) If cross-border activity is to be carried out as a result of the transfer, the Commission shall, after receipt of the decision of the competent authority of the home country of the receiving pension fund to perform the transfer referred to in Section 46, Paragraph four of this Law, compile and send the requirements in relation to the information which the receiving pension fund has an obligation to provide to the pension scheme members and the beneficiaries of the supplementary pension, upon carrying out cross-border activity, to the competent authority of the home country of the receiving pension fund within 28 days.

(7) The pension fund is prohibited from applying the costs related to the transfer to the remaining pension scheme members and beneficiaries of the supplementary pension to whom the transfer referred to in Paragraph one of this Section does not apply.

**Section 46. Transfer of the Pension Scheme of the Pension Fund of the Member State or a Part Thereof to a Pension Fund Licensed in Latvia**

(1) The pension fund which wishes to receive all the liabilities, technical provisions of the pension fund of the Member State or a part thereof and other rights and obligations in relation to contributions of the employer, and also corresponding assets or cash amount equivalent thereto shall submit an application to the Commission for the receipt of a permit.

(2) The receiving pension fund shall indicated the following in the application referred to in Paragraph one of this Section:

1) a written agreement which has been entered by and between the transferring pension fund and the receiving pension fund and in which the provisions of the transfer are provided for;

2) a description of the pension scheme;

3) a description of the transferable liabilities, technical provisions and other rights and obligations in relation to contributions of the employer, and also corresponding assets or cash amount equivalent thereto;

4) the firm name of the transferring pension fund and the receiving pension fund, the location of the board, and the country of registration;

5) the firm name of the employer and the location of the board;

6) a certification on prior consent in accordance with the procedures laid down in Section 45, Paragraph two of this Law;

7) the Member State the social and employment rights applying to pension funds and pension schemes of which are applicable to the relevant pension scheme.

(3) The Commission shall, after receipt of the application referred to in Paragraph two of this Section, without delay send it to the competent authority of the home country of the transferring pension fund for the provision of an assessment and concurrently inspect whether:

1) the receiving pension fund has provided all the information referred to in Paragraph two of this Section;

2) the administrative structure, financial situation, and management reputation, professional experience and qualification of the receiving pension fund conforms to the initiated transfer;

3) the lawful interests of the pension scheme members and the beneficiaries of the supplementary pension of the receiving pension fund and the transferred part of the pension scheme are duly protected during the transfer and afterwards;

4) the technical provisions of the receiving pension fund on the day of transfer are completely covered if the transfer causes cross-border activity;

5) the transferable assets are sufficient and appropriate in order to cover the transferable liabilities, technical provisions, and other rights and obligations in relation to contributions of the employer in accordance with the laws and regulations of the Republic of Latvia.

(4) On the basis of the assessment which the competent authority of the home country of the transferring pension fund has provided on the application referred to in Paragraph two of this Section, the Commission shall take a decision to permit or to refuse to perform the transfer and notify it to the receiving pension fund within three months after receipt of the application referred to in Paragraph one of this Section. If the transfer is not permitted, the Commission shall provide justification for the refusal within three months after receipt of the application referred to in Paragraph one of this Section. The decision of the Commission to refuse or its inactivity may be appealed to the court of the Republic of Latvia.

(5) The Commission shall, within two weeks after taking of the decision referred to in Paragraph four of this Section, inform the competent authority of the home country of the transferring pension fund thereof.

(6) If cross-border activity is to be carried out as a result of the transfer, the competent authority of the home country of the transferring pension fund shall, within a month, send information to the Commission which the pension fund has an obligation to provide to the pension scheme members and the beneficiaries of the supplementary pension, and also information on the rights of the pension scheme members which are arising from participation in the pension scheme on the basis of employment relationships, upon performing activities in the abovementioned country. The Commission shall notify the information to the receiving pension fund within a week after receipt thereof.

(7) The receiving pension fund is entitled to commence managing of a pension scheme if the decision referred to in Paragraph four of this Section to grant a permit or the information of the Commission on the decision has not been received within the time period referred to in Paragraph five of this Section.

(8) The receiving pension fund is prohibited to apply costs related to the transfer to those pension scheme members and beneficiaries of the supplementary pension who have been as such before the transfer referred to in Paragraph one of this Section.

(9) If the receiving pension fund performs cross-border activity, Section 43, Paragraph eight, Section 44, Paragraph four, Section 47, Paragraphs one, two, three, four, five, and six of this Law shall be applied.

**Section 47. Supervision of Cross-border Activity**

(1) The Commission has the right to conduct inspections in pension funds of another Member State which accept contributions for the provision of the supplementary pension from an employer registered in Latvia.

(2) The Commission shall supervise how the pension fund of another Member State which accepts contributions for the provision of the supplementary pension from an employer registered in Latvia conforms to the conditions in relation to the provision of information to pension scheme members.

(3) The Commission has the right to receive the information necessary for carrying out of supervision from pension funds and competent authorities of other Member States.

(4) Upon carrying out supervision, the Commission shall consult with the competent authority of the home country of the pension fund.

(5) If the Commission, upon carrying out supervision of such pension fund of another Member State which accepts contributions for the provision of the supplementary pension from an employer registered in Latvia, detects violations, it shall, without delay, inform the competent authority of the home country of the pension fund thereof.

(6) If the measures taken by the competent authority of the home country of the pension fund of the Member State have not been efficient or they have not been applied, the Commission, after informing the competent authority of the home country of the pension fund, is entitled to punish the pension fund of the Member State for violations, including, where necessary, to prohibit it to manage a pension scheme in Latvia, or to apply measures for the prevention of violations in the future.

(7) If the pension fund of the home country has handed funds over to a custodian registered in Latvia and the Commission has received a request from the competent authority of the home country on determination of restrictions for action involving funds of the pension fund of the home country handed over for holding to a custodian registered in Latvia, the Commission shall, without delay, inform the custodian of the specified restrictions and shall take the necessary measures in order to ensure execution of the request.

(8) If a pension fund registered in Latvia has handed the funds of a pension scheme over for holding to a custodian registered in the home country and the Commission has applied the restrictions specified in Section 41, Paragraph five of this Law to the pension fund, it shall, without delay, send a request to the competent authorities of the home country on ensuring of the specified restrictions.

**Section 48. Payments of the Pension Fund for the Financing of the Activity of the Commission**

(1) For the financing of the activity of the Commission the pension fund shall pay up to 0.4 per cent of the contributions made by pension scheme members and made in their favour (by making deductions) in a quarter in the licensed pension schemes of the pension fund and draw up a relevant report. Such deductions shall be included in expenditures of the pension scheme.

(2) The Commission shall determine the procedures for the calculation of the payments referred to in Paragraph one of this Section and for the submission of reports.

(3) The payments referred to in Paragraph one of this Section shall be made until the end of the month following the quarter.

(4) Late fee shall be calculated for late transfer of the payments referred to in Paragraph one of this Section or for transfer in incomplete amount, the amount of the late fee being 0.05 per cent from the unpaid amount for each day of delay.

(5) The payments referred to in this Section shall be transferred to the account of the Commission in the Bank of Latvia.

**Chapter VII**

**Restricted Access Information and Exchange Therewith**

**Section 49. Restricted Access Information**

(1) The information on a pension fund, pension schemes and the members thereof and the beneficiaries of the supplementary pension, the operation of a pension fund and a pension scheme and the transactions of the pension scheme members and of the beneficiaries of the supplementary pension which has not been previously published in accordance with the procedures laid down by law or the disclosure of which is not determined by other laws, or on disclosure of which a decision has not been taken by the Commission, the information received in accordance with the procedures laid down in this Section from the competent authorities and persons of the Member States and foreign countries, and also the information received from the institutional units established by the Member States and the information obtained during inspections for the needs of supervision of pension funds shall be considered restricted access information and shall be disclosed to the third parties only in the form of a report or a summary so that it would not be possible to identify any particular pension fund, pension scheme, pension scheme member, and beneficiary of the supplementary pension. Such information on a pension fund, pension schemes, the pension scheme members, and the beneficiaries of the supplementary pension, the operation of a pension fund and a pension scheme, the transactions of the pension scheme members and the beneficiaries of the supplementary pension shall have the status of restricted access information also if insolvency proceedings or liquidation have been initiated for the pension fund or the pension fund has been liquidated.

(2) The prohibition to disclose restricted access information shall not apply to the information:

1) which is related to court proceedings in a civil case if the insolvency proceedings of the pension fund have been declared or the liquidation thereof has been commenced and such information is not on the third parties which are involved in the activities for the improvement of the financial situation of the pension fund;

2) which the Commission has provided to the person directing the proceedings in a criminal case on the basis of the relevant request;

3) on a potential criminal offence detected by the Commission in the operation of the pension fund whereof it shall inform law enforcement institutions;

4) on persons who are responsible for uncovering the violations of laws and regulations and the investigation in the field of commercial activity if the following conditions are met:

a) the provision of information is necessary for uncovering and investigating the violations of the laws and regulations governing commercial activity;

b) a certification has been provided that the information will be available only to such persons who are involved in the execution of the task and that the requirements for the protection of equivalent information are binding on them;

c) if the Commission has obtained the necessary information from the supervisory authority of financial market participants of another country, it shall only be disclosed if a consent of the authority which provided the information has been received.

(3) The provisions of Paragraph one of this Section do not prohibit the Commission from exchanging restricted access information with the supervisory authorities of the financial market participants of another Member State and the European Central Bank, the European Banking Authority, the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority, and the European Systemic Risk Board, retaining the status of restricted access information for the information provided, and also from disclosing (publishing on its website) the results of stress tests carried out by the Commission.

(4) The Commission is entitled to use the information received in accordance with Paragraphs three, seven, eight, and nine of this Section only for the performance of its functions:

1) in order to verify the conformity with the laws and regulations governing the founding and operation of pension funds, and also the conformity of the technical reserves, insolvency, management organisation, internal control system, and the information provided to the pension scheme members and the beneficiaries of the supplementary pension with the requirements of laws and regulations;

2) in order to apply the administrative measures and sanctions specified in the law;

3) during court proceedings wherein the administrative acts issued by the Commission or its actual actions are being appealed.

(5) The Commission is entitled to request information from a pension fund on the basis of a request of the competent authority of pension funds of another Member State and a request of such competent authority of foreign pension funds with which an information exchange contract has been entered into. The competent authorities of pension funds of another country are entitled to disclose such information only with a written consent of the Commission and it shall be permitted to use such information only for the purpose for which it was requested.

(6) The Commission is entitled to enter into information exchange contracts with the competent authorities of foreign pension funds or the authorities of the relevant foreign country the functions of which are considered equivalent to the functions of the authorities referred to in Paragraphs seven and eight of this Section if the legal acts of such foreign country provide for the protection of restricted access information equivalent to this Section and the requirements which are in force in Latvia in the field of personal data protection have been conformed to. Such information shall only be used to supervise the financial market participants or to perform the functions specified in the law for the relevant authorities.

(7) The provisions of Paragraphs one and four of this Section do not prohibit the Commission to exchange restricted access information with the following, while retaining the status of restricted access information:

1) the competent authorities of pension funds of another Member State and the ministries of finance of such countries;

2) the authorities which are entrusted with the obligation to supervise the financial market or the financial market participants;

3) the authorities of the Member States, including the collegial authorities established by the Member States and the institutional units which have been entrusted with the obligation to maintain the stability of the financial system in Member States and which determine and implement the macro-supervision policy;

4) the authorities of the Member States which are responsible for the reorganisation of the financial market participants, including the collegial authorities and the institutional units, and also the State authorities the objective of which is to protect the stability of the financial system;

5) the competent authorities which are involved in insolvency, liquidation, and other similar procedures specified in legal acts of Member States of pension funds;

6) the persons who are responsible for the mandatory audits of financial statements of pension funds and pension schemes;

7) the authorities of a Member State which manage investment and deposit compensation schemes if such information is necessary for the performance of their functions;

8) the authorities or persons which or who are responsible for the detection and investigation of violations of the laws and regulations in the field of commercial activity;

9) the authorities which are responsible for the supervision of financial market participants in the field of the prevention of money laundering and terrorism and proliferation financing, and the authorities similar to the Financial Intelligence Service.

(8) The provisions of this Section do not prohibit the Commission from exchanging restricted access information with the central banks of the Member States and other authorities of the Member States which are responsible for monitoring the payment systems if the provision of such information is necessary for the performance of the functions specified for them in the Law, and also with the European Systemic Risk Board.

(9) The information which has been received by the Commission in accordance with Paragraphs three and six of this Section from a Member State or the supervisory authority of foreign financial market participants for the performance of the supervisory functions may be disclosed to the third parties which require such information for the performance of the functions specified for them in the law only upon a prior written consent of the supervisory authority of the relevant Member State or a foreign country and only for the purposes for which the relevant supervisory authority has agreed to disclose such information. The information which has been received by the supervisory authorities of financial market participants of the Member State or a foreign country in accordance with Paragraphs three and six of this Section from the Commission for the performance of the supervisory functions may be disclosed to the third parties which require such information for the performance of the functions specified in the law only upon a prior written consent of the Commission and only for the purposes for which the Commission has agreed to disclose such information.

(10) If an emergency situation, unfavourable events or state arise when unfavourable development is observed in financial markets which may significantly endanger adequate operation, liquidity, and integrity of the financial market and the stability of the financial system or its part in the European Union or any of the Member States, the Commission shall, without delay, provide information to the central banks of the Member States and to the European Systemic Risk Board upon a relevant request if such information is necessary for these authorities for the performance of the functions specified in the law (including for the implementation of the monetary policy and for ensuring liquidity related thereto, for the monitoring of payment, clearing and settlement systems and for ensuring the stability of the financial system).

(11) The provisions of this Section do not prohibit the Commission from providing restricted access information to the following international authorities in accordance with the procedures laid down in Paragraph thirteen of this Section:

1) the International Monetary Fund and the World Bank – for the performance of assessments intended for the programme for the evaluation of the financial sector;

2) the Bank for International Settlements – for the performance of quantitative impact studies;

3) the Financial Stability Board – for the performance of its functions.

(12) The Commission shall provide restricted access information to the authorities referred to in Paragraph eleven of this Section in conformity with the provisions laid down in Paragraph thirteen of this Section if a motivated request has been received and the following conditions are met:

1) the request is sufficiently justified, taking into account the particular tasks carried out by the requesting authority in accordance with the legal acts governing its operation;

2) the request is sufficiently accurate in relation to the content and amount of the requested information and the means for disclosure thereof;

3) a certification has been provided that the requested information is necessary for the performance of particular tasks of the requesting authority and that it does not exceed the scope of functions assigned to such authority in the laws and regulations governing its operation;

4) a certification has been provided that the information will be available only to such persons who are involved in the execution of the relevant task and that the requirements for the protection of information are binding on them.

(13) The authorities referred to in Paragraph eleven of this Section may become acquainted with restricted access information only in person in the premises of the Commission.

[*23 September 2021 /* *Amendment regarding the replacement of the word “Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023.* *See Paragraph 7 of Transitional Provisions*]

**Section 50. Use of Restricted Access Information**

[23 September 2021]

**Section 51. Exchange, Transfer, and Disclosure of Restricted Access Information**

[23 September 2021]

**Transitional Provisions**

1. The law On Private Pension Funds (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1997, No. 14; 1998, No. 2, 19; 1999, No. 13; 2000, No. 13; 2002, No. 22; 2004, No. 2, 9; 2005, No. 8, 24; 2008, No. 13, 23; 2009, No. 14; *Latvijas Vēstnesis*, 2012, No. 56; 2013, No. 142, 187; 2014, No. 119; 2015, No. 208; 2016, No. 31; 2017, No. 106; 2019, No. 132) is repealed.

2. The Cabinet shall, by 1 August 2020, issue the regulations referred to in Section 17, Paragraph six of this Law. Until the day of coming into force of the relevant Cabinet regulations, but not later than until 1 August 2020, Cabinet Regulation No. 47 of 21 January 2014, Regulations Regarding Special Professions in which Retirement Age of Employed Persons Indicated in the Pension Schemes of Private Pension Funds May be Less than 55 Years, shall be applied, insofar as it is not in contradiction with this Law.

3. The pension fund shall, within a month after coming into force of this Law, submit to the Commission the notification referred to in Section 8, Paragraph three, Clause 4 of this Law.

4. The pension fund shall, within a month after coming into force of this Law, carry out the first own risk assessment referred to in Section 30, Paragraph four of this Law.

5. The manager of funds shall submit the report referred to in Section 21, Paragraph fourteen of this Law to the pension fund starting from 2020.

6. The pension fund shall publish the report referred to in Section 29, Paragraph three of this Law on the implementation of the engagement policy and the information referred to in Paragraph eight starting from 2020.

7. Amendments to this Law regarding the replacement of the word “Commission” with the words “Latvijas Banka” throughout the Law, except for Transitional Provisions, the replacement of the words “regulatory provisions” with the word “provisions” in Paragraph fifteen of Section 22, Paragraphs one and nine of Section 36, Paragraph one, Clause 5 and Paragraph eight of Section 41, amendment regarding the new wording of Paragraph one, Clause 25 Section 1, amendments to Paragraph three of Section 14, Paragraph three of Section 15, Paragraphs three and eleven of Section 20, and Paragraph six of Section 41, amendments regarding the new wording of Paragraph seven of Section 41 and Section 48 shall come into force concurrently with the Law on Latvijas Banka.

[*23 September 2021 /* *The abovementioned amendments shall be included in the wording of the Law as of 1 January 2023.*]

8. The regulatory provisions of the Financial and Capital Market Commission issued on the basis of this Law until the day of coming into force of the Law on Latvijas Banka shall be applicable until the day when the relevant provisions of Latvijas Banka come into force, but not longer than until 31 December 2024.

[*23 September 2021*]

9. The Enterprise Register shall, not later than within five working days, publish a notification regarding the documents referred to in Section 36, Paragraph five of this Law which have been received until the day when amendments to Section 36, Paragraph six of this Law come into force in the official gazette *Latvijas Vēstnesis* that the relevant annual statements or consolidated annual statements, report of a sworn auditor, and copies of the documents appended thereto are available electronically in the Enterprise Register.

[*23 September 2021*]

**Informative Reference to European Union Directives**

This Law contains legal norms arising from:

1) Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community;

2) Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision;

3) Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010;

4) Directive 2013/14/EU of the European Parliament and of the Council of 21 May 2013 amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Funds Managers in respect of over-reliance on credit ratings;

5) Directive 2014/50/EU of the European Parliament and of the Council of 16 April 2014 on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights;

6) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU;

7) Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (recast);

8) Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement.

This Law has been adopted by the *Saeima* on 19 December 2019.

President E. Levits

Rīga, 30 December 2019