

NATIONAL BANK OF SERBIA
VOLUNTARY PENSION FUND SUPERVISION DEPARTMENT

PENSION FUNDS IN SERBIA:
**HOW TO ESTABLISH A VOLUNTARY
PENSION FUND MANAGEMENT
COMPANY**



**Belgrade,
July 2006**

I – INTRODUCTION

The establishing of VPF management companies is regulated by:

- **Law on Voluntary Pension Funds and Pension Schemes** («RS Official Gazette», no. 85/05)
- **Relevant secondary legislation** and
- **Law on Companies** («RS Official Gazette», no. 125/04).

Voluntary pension funds in the Republic of Serbia may be organized and managed only by management companies headquartered in the territory of the Republic of Serbia.

This activity may be carried out solely by management companies that have been granted an operating license and license to organize and manage a voluntary pension fund by the National Bank of Serbia.

II – LEGAL FORM

Management company is established exclusively as a **closed joint-stock company**.

A VPF management company may be founded by domestic and foreign legal entities. Legal entities and natural persons may be the shareholders of no more than one VPF management company. Domestic legal entities with majority state-owned, and/or socially-owned capital, save banks and insurance companies, cannot be the founders of a management company.

A closed joint-stock company is a company whose shares are issued only to its founders or to a limited number of other persons. The number of its shareholders cannot exceed 100. A closed joint-stock company cannot subscribe to shares in a public bidding or to offer its shares in any other public manner.

III – ACTIVITY

Management company can perform **solely** the activity of organizing and managing a voluntary pension fund. It can organize and manage several voluntary pension funds.

Within its activity, management company:

- concludes contracts of membership;
- maintains individual accounts of fund members;
- makes investment decisions;
- performs scheduled payments;
- performs administrative and marketing operations and activities and
- other operations in conformity with the law.

Management company invests voluntary pension fund assets with a view to increasing total return to the benefit of voluntary pension fund members, in line with the following principles:

- **principle of security of voluntary pension fund assets** – the structure of voluntary pension fund's portfolio contains securities issued by high credit rating holders;
- **principle of portfolio diversification** – the structure of voluntary pension fund's portfolio contains securities that differ in type and issuer, and in other elements;
- **principle of maintaining adequate liquidity** – the structure of voluntary pension fund's portfolio comprises securities that can be bought and sold quickly and successfully at a relatively uniform and stable price.

Voluntary pension fund assets have to be invested in accordance with the limitations on investment envisaged by the law and prospectus.

IV – BUSINESS NAME

Management company's business name **must** contain the words "voluntary pension fund management company".

V– LEVEL OF SHARE CAPITAL

The pecuniary part of the management company's share capital **at the time of founding** can be no less than EUR 1,000,000 in the dinar equivalent value, at the median rate of exchange of the National Bank of Serbia at the date of payment.

The pecuniary part of share capital is credited to a temporary account with the bank in its entirety prior to the entry of the management company in the registry of economic entities.

The pecuniary part of the management company's share capital cannot originate from loans or credits, nor can it be encumbered in any other way.

In its operations, the management company is required to ensure that the level of the company's share capital always be at the level equaling at least the dinar equivalent value of EUR 1,000,000.

VI – REGULATORY AND SUPERVISORY AUTHORITY

The National Bank of Serbia acts in the capacity of regulatory and supervisory authority in the area of performing the activity of voluntary pension fund management.

The National Bank of Serbia:

- Conducts off-site and on-site supervision and pronounces supervision measures;
- Issues secondary legislation for the implementation of the Law on Voluntary Pension Funds and Pension Schemes;
- Maintains a Register of Voluntary Pension Funds;
- Issues operating licenses and fund management licenses;
- Issues approval for the acquisition of management company's shares based on which a person directly or indirectly acquires a qualified stake in the management company's capital;
- Issues approval of selection of the proposed members of management and general manager of management company;
- Issues operating license in the event of merger by acquisition;
- Issues approval of voluntary pension fund prospectus;
- Issues approval of the publication of advertisement, and/or public invitation;
- Keeps records of intermediaries and natural persons holding a license for activities of spreading information on voluntary pension fund and regulates in closer detail the conditions for the issuance of such licenses;
- Performs other activities in conformity with the law.

VII– ISSUANCE OF LICENSE

- Application for license -

Person intending to establish a management company is required to submit to the National Bank of Serbia an application for the issuance of management company's operating license. At the same time application for the issuance of license to organize and manage voluntary pension fund is submitted.

Along with the **application for the issuance of operating license**, founders of the management company are required to submit:

- 1) memorandum of association;
- 2) evidence that the pecuniary part of the share capital has been credited to a temporary account with a bank, with representation on the origin of funds, pursuant to Article 7, paragraph 3 of the Law on Voluntary Pension Funds and Pension Schemes;
- 3) list of shareholders by surname, name and address, or business name and head office, with overall nominal amount of shares and percentage of the stake held in the share capital of the management company;
- 4) for shareholders – legal entities holding a qualified stake (persons holding either directly or indirectly shares, and/or other rights based on which they acquire more than 10% of stake in the capital or voting rights of the management company):
 - (1) decision on entry in the register, or certified translation of statement from the register of foreign legal entities and their owners, down to the level of natural persons, or market recognized legal entities,
 - (2) transcript of shareholders from the book of shares, or evidence from another adequate public register, if the shareholder is a joint-stock management company,
 - (3) financial statements, with certified auditor's report for the past three years,
 - (4) evidence of tax settlement issued by the competent administration authority, not older than six months;
- 5) for shareholders – natural persons holding a qualified stake (persons holding either directly or indirectly the shares, or other rights based on which they acquire more than 10% of stake in the capital or voting rights of the management company):
 - (1) evidence that in the past three years such person has not been a member of management, supervisory board or vested with special authorizations in a legal entity in respect of which liquidation or bankruptcy proceedings were instituted,

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(2) evidence that such person has not been unconditionally sentenced for criminal offences against economy, property, official duty and criminal offence of corruption,

(3) evidence of tax settlement issued by the competent tax authority, not older than six months,

6) management company's rules of operations,

7) business plan for the first three years,

8) list of proposed members of management, of the management company with such members' resumes, statements of acceptance of duties, and evidence of fulfillment of conditions referred to in Article 15 of the Law,

9) evidence of organizational and technical resources of the management company, with the list of persons to perform activities referred to in Article 8 of the Law.

Along with the **application for the issuance of fund management license**, founders of the management company are required to submit:

- 1) draft standardized contract of membership in the voluntary pension fund;
- 2) draft prospectus and abbreviated prospectus of the fund;
- 3) draft contract with the custody bank;
- 4) list of persons to perform portfolio manager activities of the fund being organized;
- 5) tariff code.

If the founders are foreign persons, documentation is submitted **in certified translation in the Serbian language**.

In addition to the above documentation, **evidence of payments** are to be submitted in line with the Decision on Uniform Fees Charged for Services Provided by the National Bank of Serbia ("RS Official Gazette", no. 91/2003, /correction 97/2003/, 133/2003, /correction 4/2004/, 58/2004, 75/2004, 99/2004, 106/2004, 136/2004, /correction 13/2005/, 24/2005, 51/2005, 83/2005, 108/2005 and **23/2006**).

- Additional Documentation -

Within 15 days following the receipt of the application for the issuance of operating license, the National Bank of Serbia may request **other evidence** of significance for the appraisal of solvency of the founder of the management company, and for the appraisal of viability of establishing such company, which the founders are required to deliver within fifteen days following the day of delivery of the communication.

The National Bank of Serbia cooperates with other state authorities and organizations, collects documents and other information of significance for rendering a decision on the application for the issuance of an operating license.

- Issuance of License -

The National Bank of Serbia issues an operating license when it has ascertained the validity of the application and when it estimates that:

- the **origin of share capital is clear and indisputable**;
- based on obtained information, it can be concluded that the **founders** of the management company and all related parties have **good business reputation**, and that their financial position is such that it can be assumed that it will not have any adverse effect on the operations of the management company;
- the structure of related persons is such that it will not impede efficient supervision of operations;
- the proposed business name of the management company is not misleading for future members and other persons in legal transactions.

The National Bank of Serbia issues the fund management license when it has ascertained the validity of the application and when, taking into account the proposed objectives, size and other important fund characteristics, it estimates that:

- the level of the management company's share capital ensures sustainable fund management;
- the **portfolio managers** that will manage the fund **hold a license** issued in conformity with the law governing the market of securities;
- **fund members' interests** will be **safeguarded** in an adequate manner.

The National Bank will issue the decision on issuing the operating license and decision on issuing the fund management license **at the same time, within 45 days following the receipt of the application**, or from the day of subsequently received documentation.

A fund management license cannot be issued unless the application for the issuance of a management company operating license has been resolved in a positive manner.

If it intends to organize another voluntary pension fund, the management company has to submit only the application for the issuance of a fund management license.

If the National Bank of Serbia denies the application for the issuance of an operating license, it has to render a decision in which it must specify the reasons for denying the application.

- Entry into the Registry of Economic Entities -

Management company is required to **submit a registration application** in line with the law governing the registration of economic entities **no later than 30 days** following the receipt of decision on the issuance of operating license, decision on the issuance of fund management license and approval of a selection of proposed members of management.

Management company is required to submit to the National Bank of Serbia a **statement from the Registry** confirming its entry **within 7 days** following the receipt of decision on the entry into the Registry of Economic Entities.

Management company **cannot perform the activity** of organizing and managing a voluntary pension fund prior to the entry of such activity in the **Registry of Economic Entities**.

- Issuance of Approval of Selection of Members of Management -

When rendering a decision on the issuance of operating license, the National Bank of Serbia is also deciding on the issuance of approval of selection of proposed members of management and general manager of the management company.

The National Bank of Serbia renders a decision on the issuance of approval of selection of members of management and general management of the management company when:

- it has ascertained that all legal conditions have been met;
- it estimates that the proposed members of management and general manager have **business reputation** which supports the conclusion that they will efficiently perform their activities in the management company;
- it has ascertained that their **financial position** is such that it can be assumed that it will not have any adverse effect on the management company's operations;

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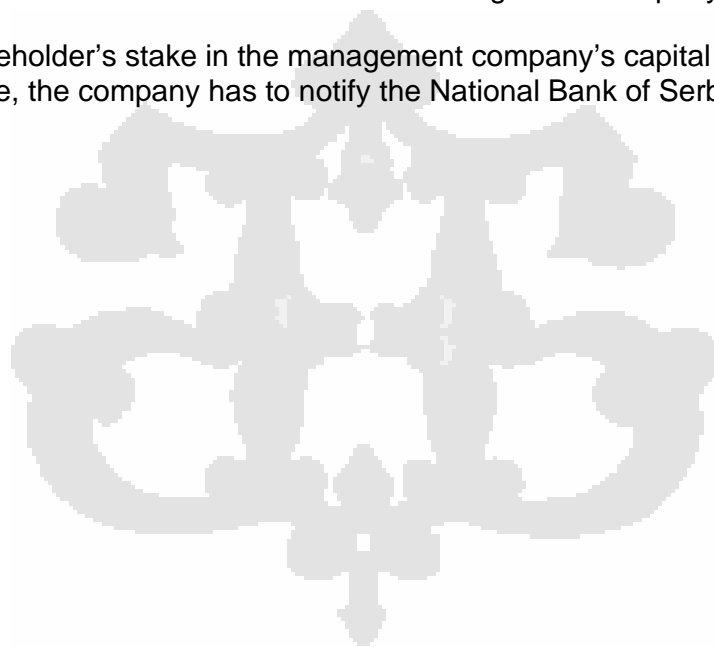
- it estimates that their selection would ensure adequate protection of voluntary pension fund members' interests.

When deciding on the issuing of approval of selection, the National Bank of Serbia may, if necessary, request that the proposed members of management, or general manager, personally attend an interview.

VIII-ACQUISITION OF QUALIFIED STAKE

The approval of the National Bank of Serbia is required for any acquisition of management company's shares whereby a person directly or indirectly acquires a qualified stake – **more than 10% stake** in the management company's capital.

When the shareholder's stake in the management company's capital declines by ten percent or more, the company has to notify the National Bank of Serbia thereof.



For further information: National Bank of Serbia website www.nbs.yu or e-mail: pfs@nbs.yu.