

Pursuant to Article 15, paragraph 1 of the Law on the National Bank of Serbia (RS Official Gazette, Nos 72/2003, 55/2004 and 44/2010) and based on Article 54, paragraph 3 and Article 55, paragraph 5, in relation to Article 53 of the Law on Voluntary Pension Funds and Pension Plans (RS Official Gazette, No 85/2005), the National Bank of Serbia's Executive Board has adopted

DECISION
IMPLEMENTATING THE PROVISIONS OF THE LAW ON VOLUNTARY
PENSION FUNDS AND PENSION PLANS IN RELATION TO WINDING-UP
OF A VOLUNTARY PENSION FUND MANAGEMENT COMPANY

1. This Decision sets forth more detailed terms, conditions and the manner in which the National Bank of Serbia (NBS) implements provisions of the Law on Voluntary Pension Funds and Pension Plans (hereinafter: Law) relating to winding-up of a voluntary pension fund management company (hereinafter: company) in cases when the company's competent authority takes a decision on winding up the company. It also sets forth the conditions for selecting the most favourable company bid and the procedure for dissolution of a voluntary pension fund (hereinafter: fund).

2. The company whose competent body took the decision on winding-up shall deliver that decision to the NBS the following day and shall inform thereof the custody bank with which it has a contract on the supply of services.

Along with the decision from paragraph 1 hereof, the company referred to in that paragraph shall submit evidence of sufficient assets to meet its liabilities to all creditors, as well as other evidence to allow assessment that the winding-up of the company will not be detrimental to fund members.

3. If after the receipt of the decision and evidence from Section 2 hereof the NBS assesses that the winding-up of the company referred to in that Section will not be detrimental to fund members, it shall inform the custody bank that it may perform activities relating to fund management. If it assesses that the winding-up will be detrimental to fund members, the NBS shall take measures against that company as stipulated by law.

After receiving the notification from paragraph 1 hereof, until the selection of a new company, the custody bank shall charge fund members fees equal to those charged until the adoption of the resolution referred to in that paragraph and shall distribute payments to individual accounts and make account transfers and payouts in line with regulations.

The company from Section 2 hereof shall provide access to documentation on the fund to the custody bank or the company taking over management of that fund or acquiring the fund.

4. Following receipt of the decision from Section 2, paragraph 1 hereof, the NBS shall invite other companies to tender for the management or acquisition of the fund of the company from that Section within 15 days of the invitation.

5. The company tendering with the NBS for management or acquisition of the fund of the company from Section 2 hereof, shall also deliver:

- 1) its letter of intent describing the activities relating to the fund it will manage or acquire;
- 2) its operation plan containing the plan of the fund's operation;
- 3) business name of the custody bank with which it will conclude a contract on the supply of custody services for the fund it will manage;
- 4) a list of persons who will perform portfolio management activities for the fund it will manage;
- 5) investment policy to be implemented by the fund it will manage;
- 6) fees to be charged to members of the fund it will manage, specifying the period over which fees will not be raised;
- 7) other documentation regulating relations between the company and members of the fund it will manage.

The NBS may request from the tendering company referred to in paragraph 1 hereof to also deliver other documentation relevant for decision making on the bid.

6. The NBS shall select the most favourable bid from Section 5 hereof based on:

- the operation strategy, i.e. objectives and guidelines of the company and its founders, their profit, financial and operational stability, tendencies in their operations and financial position, and access to additional capital;
- business reputation of the company and its founders, track record of their overall operation and fund management track record, the company's capacity to manage risk, its personnel, organisational and technical capacity, and whether their operation will exert a long-term positive impact on fund operation, and other data;
- a proposal of fees to be charged by the company;

- financial returns from managing other funds relative to the risk assumed and other business results;
- duration of company's operation;
- whether statutory supervision measures were taken against the tendering company, the number of irregularities established in its operation and their interrelatedness, duration, frequency and gravity, and the readiness of its managers to eliminate such irregularities;
- consequences that the fund management or acquisition may cause in the market;
- whether the fund management or acquisition of the fund will ensure adequate protection of its members' interests.

7. Based on documentation from Section 5 and criteria from Section 6 hereof, the NBS shall pass a resolution on selection of the most favourable bid – within 30 days of the expiry of the deadline from Section 4 hereof and shall inform thereof all tendering companies.

8. Following adoption of the resolution from Section 7 hereof, the NBS shall pass the resolution on a granting a license for fund management or acquisition to the company whose bid was selected as the most favourable, and the resolution on revoking the operating license to the company from Section 2 hereof.

On the day of adopting the resolution on granting a license for fund management or acquisition to the company whose bid was selected as the most favourable, the right to fund management of the company from Section 2 hereof shall be transferred to the new company that becomes a contracting party in agreements on fund membership or the pension plan that the company manages, whereby the company takes over all rights and obligations arising from these agreements.

9. The company that was granted a license for fund management or acquisition shall within eight days of receipt of the resolution on that license, notify all fund members of their right to transfer their accounts to a fund managed by another company, if they wish to do so, within 60 days of receipt of the notification. The transfer costs shall be borne by the company acquiring the fund.

Along with the notification from paragraph 1 hereof, the company shall deliver the agreement on fund membership or pension plan to all fund members and pension plan organisers.

10. Following adoption of the resolution on granting a license for fund acquisition, the company acquiring the fund shall immediately and not later

than three days of receiving the resolution, notify the NBS of the date of fund acquisition. Not more than 15 days may elapse between the notification and fund acquisition dates.

The NBS's Decision on the Manner and Conditions of Acquisition of Voluntary Pension Funds shall apply to the acquisition of funds from this Decision.

11. If no company answers the public invitation to tender from Section 4 hereof, the NBS shall authorise the custody bank to convert fund assets to cash and transfer the accounts of fund members to other funds, whereof it shall at the same time inform members of the fund of the company from Section 2 hereof.

The NBS shall publish the notification from paragraph 1 hereof in at least one daily paper distributed in the whole of the Republic of Serbia.

12. Within six months of receipt of the authorisation from Section 11, paragraph 1 hereof, the custody bank shall convert fund assets to cash in the best interest of fund members.

The custody bank shall submit to the NBS a monthly report on conversion of assets to cash and transfer of fund accounts.

The custody bank shall have access to documentation of the fund being dissolved within the timeframe from paragraph 1 hereof.

13. Fund members shall select another fund and inform the custody bank of their choice within 30 days of the notification from Section 11, paragraph 1 hereof.

Accounts of fund members who fail to inform the custody bank of their choice within the timeframe from paragraph 1 hereof shall be transferred by the custody bank to the existing funds, proportionately to their market share, measured by net assets of these funds and taking account of the members' age, the amount of accumulated funds and payment dynamics.

Custody bank costs arising from the conversion of assets to cash and transfer of fund members' accounts shall be borne by the company from Section 2 hereof. If this is not possible, costs shall be covered from fund assets – in the amount previously approved by the NBS.

14. The provisions of this Decision relating to the selection of the most favourable bid and the process of fund dissolution shall apply accordingly to other cases when a company ceases to manage a fund.

15. This Decision shall enter into force on the day of its publication in the RS Official Gazette.

NBS Executive Board No 6
14 October 2010
Belgrade

Chairman of
the NBS Executive Board
G o v e r n o r
National Bank of Serbia

Dr Dejan Šoškić