as of 28 August 1997

LAW ON ORGANISATION AND OPERATION OF PENSION FUNDS[1)] [I)]

CHAPTER 1
Common provisions

Article 1. This Act defines the terms of creation and functioning of pension funds, hereinafter called "funds".

Article 2.
1. The fund shall be an incorporated entity.
2. The business of the fund covers the accumulation and investing of money with the purpose of financing [pension] benefits to fund members upon their reaching the pensionable age.

Article 3.
1. The pension society created pursuant to the provisions of this Act, hereinafter called "society", shall be the agency of the fund.
2. The society shall create the fund and, as the agency of the fund, it shall manage the fund and represent it before third persons.
3. The society shall represent the fund in such a manner as set in the fund's Articles of Association.

Article 4.
The seat of the society shall be the seat of the fund.

Article 5.
The fund members shall not be liable for the fund's commitments.

Article 6.
1.[2)] The member contributions paid into the fund, the rights acquired by using or in the relation to the contributions, and benefits deriving from the said rights shall be the fund assets.
2. The fund's net asset value shall be established by deducting the fund's liabilities from the value of the fund assets.

Article 7.
This Act shall be without prejudice to those other laws which provide for the payment of pecuniary benefits in connection with the reaching of the pensionable age.

Article 8.
Throughout this Act the following words shall have the following meaning:
1)[3)] affiliate -- shall mean the controlling company, a subsidiary, or an associate of a given entity in the meaning given to these terms in Accounting Practices Act of 24 September 1994 (Journal

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[I)] Footnote no.1 added to the title of this act by Art. 29 of the Act on changing and deleting some Acts as a result of Polish Accession to the European Union of 20 April 2004 (Journal of laws No. 96, item 959), which came into force on 01.05.2004.
[1)] The Act hetero shall implement the European Community Directive no. 2003/41/EC of 3 June 2003 activities of institutions for occupational retirement provision (OJ EC L 235 of 23.09.2003)
The data concerning the announcement of the legal acts of the European Union, referred to herein – as of the day of Poland's Accession to the European Union – refer to the announcement of these Act in Official Journal of the European Union – special edition.
[2)] In the wording set forth in Art. 1 item 1 of the Act of 27 August 2003 on the modification of the Act on the organisation and functioning of pension funds and some other Acts (Journal of Laws No. 170, item 1651), which ceme into force on 15.12.2003.
[3)] In the wording set forth in Art. 1 item 2 letter a of the Act referred to in footnote 2.

of Laws of 2002, No 76, item 694 as amended[4]) and a subsidiary of the said entity's controlling company,
1a)[5] controlling company – shall mean a controlling company in the meaning given to this term by the provisions of the Accounting Practices.
2)[6] fund member -- shall mean that individual who has become a member of the fund in compliance with the provisions of this Act,
3)[7] credit transfer -- shall mean the transfer of money held in a member's account from one fund to another, or the transfer of the same from one to another account maintained with the same fund, regardless of the state of the account,
4) pension insurance company -- shall mean that joint-stock company which carries on, on terms laid down in separate provisions, a business of insurers consisting in the offering and paying to the members of open funds, upon their reaching the pensionable age, of for-life pension benefits financed with money accumulated by the said funds,
5) open fund --shall mean that pension fund which has been created and is managed by a general society,
6) employee fund -- shall mean that employee pension fund which has been established and is managed by an employee society,
7) society -- shall mean that joint-stock company which is the agency of a fund,
8) general society -- shall mean that general pension society which is the agency of an open fund,
9) employee society -- shall mean that employee pension society which is the agency of an employee fund.

CHAPTER 2
Pension funds

Article 9.
1. The fund shall be created as an open fund or an employee fund.
2. The fund shall be created by none other than the society.

Article 10.
1. The name of an open fund shall include the designation "open pension fund" and the name of an employee fund shall include the designation "employee pension fund".
2. No fund other than one created pursuant to this Act shall incorporate the designation "pension fund" in its name or use the same for purposes of describing or advertising its business.

Article 11.
The life of the fund shall be indefinite.

Article 12.
The following shall be required for the creation of the fund:
1) that the society grant the fund's Articles of Association,
2) that the society and the depositary enter into a contract for the custody of the fund assets,
3) that the society obtain a permit to create the fund,
4) that the fund be entered in the register of funds.

Article 13.
1. The fund's Articles of Association shall be adopted by the General Meeting of the society.
2. The Articles of Association of the fund shall state:
1) the name of the fund,
2) the trade name, seat and address of the society,

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[4]) Modifications to the unified text of the Act have been published in the Journal of Laws of 2003 no. 60, item 535, No. 124 item 1152, No. 139 item 1324 and No. 229, item 2276, and of 2004 No. 96 item 959.
[5]) Added by Art. 1 item 2 letter b of the Act referred to in footnote 2.
[6]) In the wording set forth in Art. 1 item 2 letter c of the Act referred to in footnote 2.
[7]) As modified by Art. 1 item 2 letter d of the Act referred to in footnote 2.

3)[8] the society's initial capital, its shareholders, and the numbers of shares held by individual shareholders,
4) the manner of representation of the fund by the society,
5) the trade name (name), seat and address of the depositary,
6)[9] the types, maximum amount, manner of and procedure for calculating and covering the costs incurred by a fund, with the exception of the cost as presented in Art. 136a, including costs as referred to in Art. 182a;
6a)[10] the amount of the fee referred to in Art. 134, clause 1;
7) that manner in which the fund shall announce changes in its Articles of Association,
8) other particulars provided in this Act.
3. In addition to the particulars referred to in clause 2 the Articles of Association of the open fund shall determine:
1) that national daily paper in which the fund shall publish its announcements,
2) time limits for the publishing of the fund's offering circular.
4. In addition to the particulars referred to in clause 2 the Articles of Association of the employee fund shall determine:
1) the time limits and the form and procedure for the disbursement of money accumulated in the members' accounts,
2) the fund's investment rules and standards, including a notification as to whether the fund proposes to manage its assets itself or to entrust the management of the same to a third party.
5. The Chairman of the Council of Ministers may by Ordinance identify other particulars to be stated in the Articles of Association of the fund where interests of the fund members require inclusion of the same.

Article 14.
When applying for the permit to create the fund, the society shall append the following documents to the application:
1) the fund's Articles of Association,
2) the contract with the depositary,
3)[11] a current copy of the entry in the register of entrepreneurs,
4) the personal data of those employees of the society, or of those the society proposes to employ, who influence [or will influence] importantly the management of the fund's finance,
5) a specification of those persons to whom the depositary has assigned the discharge of the duties set forth in the contract,
6) a synopsis of the professional qualifications and backgrounds of the persons referred to in item 4 and item 5, naming those with the investment advisor status,

Article 15.
1.[12] The Insurance and Pension Funds Supervisory Commission, hereinafter called "Supervision Office", shall issue a permit to create the fund within 3 months of that day on which the application has been filed. The issue of a permit is tantamount to the funds' Articles of Association acceptance.
2. The Supervision Office[13] shall refuse the permit where:
1) the application and the documents appended thereto fail to satisfy the requirements set forth in this Act,
2) the fund's Articles of Association fails to duly protect the fund members' interests,

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[8] In the wording set forth in Art. 1 item 3 letter a of the Act referred to in footnote 2.
[9] In the wording set forth in Art. 1 item 3 letter a of the Act referred to in footnote 2; came into force on 01.04.2004.
[10] Added by Art. 170, item 1 letter b of the the Social Insurance Institution Pensions and Annuities Act of 17 December 1998 (Journal of Laws no. 162 item 1118), which came into force on 01.01.1999; In the wording set forth in Art. 1 item 3 letter b of the Act referred to in footnote 2; came into force on 01.04.2004.
[11] In the wording set forth in Art. 1 item 4 of the Act referred to in footnote 2
[12] In the wording set forth in Art. 50 item 1 of 1 March 2002 on the changes in the organisation and functioning of central government administration organs and affiliated entities and on the change of some Acts (Journal of Laws no. 25 item 253), which came into force on 01.04.2002.
[13] As modified by Art. 50 item 15 of the Act referred to in footnote 12.

3) the persons referred to in Article 14 item 4 and item 5 do not warrant proper discharge of their duties.

Article 16.
1. Upon obtaining the permit to create the fund the society shall forthwith file with the registration court an application requesting that the fund be entered in the register of funds.
2. The following shall be appended to the application:
1) the permit to create the fund,
2) the fund's Articles of Association,
3)[14] the Articles of Association of the founder society, with a current copy of the entry in the register of entrepreneurs pertaining to the society enclosed,
4) a list of the members of the society's Management Board.
3. The registration court shall take cognizance of the application within 14 days of that date on which the application has been filed.
4. Failing the satisfaction of the requirements laid down in this Act the registration court shall refuse to enter the fund in the register of funds.
5. Upon being entered in the register of funds the fund shall promptly deliver to the Supervision Office[13] a duplicate of the register entry pertaining to the fund.

Article 17.
The entry in the register of funds shall cover:
1) the name of the fund,
2)[15] the trade name, seat and address of the society, the manner of representing the fund, and the number under which the society has been entered in the register of entrepreneurs and the designation of the court keeping the register,
3) the given names and surnames of the members of the society's Management Board and of the society's procurators, where established,
4) the trade name (name), seat and address of the depositary.

Article 18.
The permit to create the fund shall expire in the event that the society fails to file the application for entering the fund in the register of funds within 2 months of the date of the permit was delivered.

Article 19.
1. Prior to that day on which the fund is entered in the register of funds the society shall make all legal transactions conducive to the creation of the fund in its own name and for its own account.
2. Upon being entered in the register of funds the fund shall assume those rights and obligations of the society which arise from the contract with the depositary referred to in Article 14 item 2.

Article 20.
1. The fund shall be incorporated as of being entered in the register of funds.
2. As of the entry of the fund in the register of funds the society shall become the agency of the fund.

Article 21.
1. The register of funds shall be kept by the Voivodship Court[16] in Warsaw, hereinafter called "registration court".
2. The register of funds shall be public and accessible to third persons.
3. The Minister of Justice shall by Order prescribe the manner of keeping the register of funds and the detailed procedure for the processing of matters concerned with applications for entry in the register of funds.

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[14] In the wording set forth in Art. 1 item 4 of the Act referred to in footnote 2.
[15] In the wording set forth in Art. 1 item 6 of the Act referred to in footnote 2.
[16] Currently: District court, pursuant to Art. 4 of the Act of 18 December 1998 on changing the Act on the Public Courts System (Journal of Laws No. 160 item 1064), which came into force on 01.01.1999.

Article 22.
1.[17] Any modification to the Articles of Association of the fund shall require a permit of the Supervision Office. The application for the permit shall be appended with a resolution adopted by the General Meeting on the modification of the Articles of Association and, in case of employee fund, with a resolution of the Supervisory Board.
2. The Supervision Office shall refuse the permit where a modification is unlawful or against the fund members' interests.
3. Any decision on modifying the Articles of Association of the open fund shall be taken by the general society by the instrument of a resolution adopted by the General Meeting.
4. Any decision on modifying the Articles of Association of the employee fund shall be taken by the employee society by the instrument of a resolution adopted by the Supervisory Board. The decision of the Supervisory Board shall be subject to endorsement by the General Meeting.

Article 23.
1.[18] The open fund shall announce each modification to its Articles of Association in that national daily paper which is the designated medium of the fund's announcements, not later than within 2 months of the date of the delivery of the permit for the modification of the Articles of Association to the open fund.
2. The modification to the Articles of Association shall take effect on the date indicated in the announcement of modification but no earlier than 5 months of that day on which the announcement is given.
3. The Supervision Office[13] may allow the 5-month period referred to in clause 2 to be shortened where [bringing forward the effective date of the modification] is not against the fund members' interests or where it is essential to the fund members' interests.
4.[19] The fund shall notify the Supervision Office of the announcement given and the date thereof, appending the uniform text of the Articles of Association, and it shall file with the registration court a motion requesting that the modification to the Articles of Association be entered in the register. Appended to the motion shall be: the Supervision Office's permit for the modification to the Articles of Association; the resolution on the modification to the Articles of Association and the uniform text [of the Articles of Association]; and the notification of the announcement given and date thereof.
4a.[20] Should the open fund fail to announce the modifications to the Articles of Association in accordance to clause 1, the Supervision Office shall deem the permit for the modification of the Articles of Association expired.
5. The registration court shall make in the register an entry recording the modification to the Articles of Association and the date on which the modification takes effect. Article 16 clause 3 shall apply respectively.

Article 24.
1. Any modification to the Articles of Association of the employee fund shall be notified in writing to the shareholders of the employee society and it shall take effect on the date indicated in the announcement but no earlier than one month of that day on which the notice [of modification] has been served upon the last shareholder.
2. Where a modification to the Articles of Association gives rise to such financial repercussions as affect the members of the employee fund, whether by adding to the fund's financial encumbrances or by introducing less advantageous terms of disposal by the members of money accumulated in their accounts, such modification shall take effect on the terms laid down in the 22 August 1997 Employee Pension Plans Act (Journal of Laws of 2001, No. 60 item 623 and of 2002 No. 25 item 253 and No. 141 item 1178)[21]
3. Article 23 clauses 3-5 shall apply respectively provided that that General Meeting resolution whereby the resolution on the modification of the Articles of Association is approved shall be

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[17] In the wording set forth in Art. 1 item 7 of the Act referred to in footnote 2.
[18] In the wording set forth in Art. 1 item 8 letter a of the Act referred to in footnote 2.
[19] In the wording set forth in Art. 1 item 8 letter b of the Act referred to in footnote 2.
[20] Added by Art. 1 item 8 letter c of the Act referred to in footnote 2.
[21] Rescinded by Art. 61 of the Act of 20 April 2004 on Employee Pension Programmes (Journal of Laws No. 116 item 1207).

additionally appended to the motion for entering in the register the modification to the Articles of Association.

Article 25.
1.[22] Where any of the particulars referred to in Article 17 clause 3 should change the fund shall forthwith file a motion requesting that the updated particulars be entered in the register of funds, with a current copy of the register of entrepreneurs entry pertaining to the society appended.
2.[23] Those changes which have arisen in connection with the takeover of the management of the fund by another society shall not be entered in the register otherwise than on submission of a permit of the Supervision Office authorising the takeover of the management of the fund.
3. Clause 2 shall apply respectively to a merger of two or more societies.

Article 26.
1. The funds' accounting practices and time limits for the preparation, audit, and submission for publication of the fund's financial statements shall be governed by the Accounting Practices Act.
2. The society shall approve the fund's annual report by a resolution adopted by the General Meeting.
3.[24] The employee society may, in part on in whole, commission to other subjects authorized the provisions of separate laws, to manage the account books of the employee fund.

CHAPTER 3
Pension societies

Article 27.
1. The society shall operate in no other form than that of a joint-stock company.
2. The society shall operate as a general society or an employee society.

Article 28.
1. The trade name of a general society shall include the designation "general pension society" and that of an employee society shall include the designation "employee pension society".
2. No society other than that created pursuant to this Act shall use the designations referred to in clause 1.

Article 29.
1. The society shall have no other scope of activities than that of creating and managing funds and representing the funds before third persons. No operator other than the society shall carry on the aforesaid business.
2. Subject to Article 229 the society shall create and manage no more than one fund, save where the society should become the manager of two or more funds through taking over the management of another fund, or through a merger of two or more societies.
3. The general society shall manage the fund for a fee.
4. The employee society shall be a non-profit organisation. The shareholders of the employee society shall not be entitled to any share of the annual profit.
5.[25] The assets of the open fund shall be managed by at least one investment adviser, employed by the general society solely for that purpose.

Article 30.
1.[26] The society shall not raise its initial capital by public subscription.

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[22] As modified by Art. 1 item 9 letter a of the Act referred to in footnote 2.
[23] In the wording set forth in Art. 1 item 9 letter b of the Act referred to in footnote 2.
[24] Added by Art. 54 item 1 of the Act of 20 April 2004 on Employee Pension Programmes (Journal of Laws No. 116 item 1207), which came into force on 01.06.2004.
[25] Added by Art. 1 item 10 of the Act referred to in footnote 2; came into force on 01.04.2004.
[26] In the wording set forth in Art. 1 item 11 of the Act referred to in footnote 2.

2. The society shall issue no shares other than registered shares which shall not be convertible into bearer shares.
3. The society shall not issue preferred shares.
4. The Articles of Association of the society shall accord equal treatment to all shareholders. In particular the Articles of Association shall not vest additional rights in certain shareholders or limit the rights of certain shareholders, nor shall it impose additional duties on selected shareholders.
5. Clause 3 and clause 4 shall not apply to a shareholder being a trade union, an organisation of employers, [or] a business chamber or an occupational community's self-regulating organisation operating pursuant to this Act.

Article 31. [27)]
The general society shall have a share capital of no less than a zloty equivalent of EUR 4,000,000[28)] converted at the National Bank of Poland's average published exchange rate prevailing on the date of execution of the society's Articles of Association.

Article 31. [29)]
The general society shall have a share capital of no less than a zloty equivalent of EUR 5,000,000 converted at the National Bank of Poland's average published exchange rate prevailing on the date of execution of the society's Articles of Association.

Article 32. [30)]
1. The initial capital of the society shall not be contributed otherwise than in money.
2. The initial capital of the general society shall be paid up in whole prior to the registration of the society.
3. The initial capital of the general society shall not derive from a loan or credit, nor shall it be encumbered in any way.

Article 33. [31)]
1. The general society shall at all times maintain its own capital at or above a level of one-half of the minimum initial capital referred to in Article 31.
2. Should the own capital decline below the level as specified in clause 1, the general society shall forthwith notify the Supervision Office to that effect.
3. The Supervision Office shall summon the general society to increase the own capital to the requisite level, appointing an appropriate time period of no less than 3 months and no more than 12 months.
4. Should the society fail to increase the own capital to the level as specified in item 1 above within the time period as specified in item 3 above, this shall constitute a basis for the revocation by the Supervision Office of the permit to create the society.

Article 34.
[deleted][32)]

Article 35.
1. The employee society may be created by [any of] the following founders: a natural person, a corporation, an unincorporated entity, resident or having its seat in the territory of the Republic of Poland.
2. [deleted][33)]

[27)] It shall be in force in this wording until the modification specified in footnote 29 comes into force.
[28)] Pursuant to Art. 30 of the Foreign Currency Act of 18 December 1998 (Journal of Laws No. 160 item 1063), which came into force on 01.01.1999.
[29)] In the wording set forth in Art. 1 item 12 of the Act referred to in footnote 2; it shall come into force on 01.01.2005.
[30)] In the wording set forth in Art. 1 item 13 of the Act referred to in footnote 2.
[31)] In the wording set forth in Art. 1 item 14 of the Act referred to in footnote 2.
[32)] In the wording set forth in Art. 1 item 15 of the Act referred to in footnote 2.
[33)] In the wording set forth in Art. 1 item 16 of the Act referred to in footnote 2.

Article 36.
Throughout this Act any reference to the founders of a society shall be understood to include the shareholders of that society.

Article 37.
1. One entity shall be a shareholder of no more than one general society.
2. Affiliates shall be shareholders of no other but the same general society.
3. Where two or more entities being shareholders of different general societies have merged, or where [two or more] entities being shareholders of different general societies have become affiliates, the Supervision Office[13)] may agree to waive the limitation under clause 1 or clause 2 for up to 6 months with the object of allowing the operator evolved through the merger or, as the case may be, the entities which have become affiliates, to adjust their business to the requirements of this Act.

Article 38.
1. Any purchase or acquisition by other means of shares of the society shall require a permit of the Supervision Office, subject to clause 4. Any legal transaction executed in violation of the aforesaid reservation shall be invalid.
2.[34)] The application for the permit shall be filed, through the intermediary of the society, by the party proposing to purchase or otherwise acquire the shares. The application should have the following appended:
1) should the applicant intending purchase or acquisition of the shares be an existing shareholder of the society:
a) a written declaration confirming, that the financial means to cover the initial capital do not derive from a loan or credit, nor are they encumbered in any way,
b) documentation presenting the financial condition of the applicant in the 5 years prior to the day of filing the application, including a document confirming that the applicant is not in arrears of taxes, nor is it in arrears of contributions collected by the Social Insurance Institution;
2) should the applicant intending purchase or acquisition of the shares not be an existing shareholder of the society:
a) a written declaration confirming, that the financial means to cover the initial capital do not derive from a loan or credit, nor are they encumbered in any way,
b) documentation confirming the legal status of the applicant, as well as documentation confirming its organization,
c) a written declaration of the applicant concerning the capital relations with the society's shareholders,
d) documentation presenting the financial condition of the applicant in the 5 years prior to the day of submitting the application, including a document confirming that the applicant is not in arrears of taxes, nor is in arrears of contributions collected by the Social Insurance Institution.
2a.[35)] In case of an applicant intending to acquire the shares, the application specified in item 2 above should be appended with a confirmation of payment of financial means covering the initial capital.
3. The Supervision Office shall permit the purchase or acquisition by other means of the shares where the applicant satisfies the requirements laid down in this Act with regard to the founders of the society.
4.[36)] If a subscriber is an existing shareholder, he shall advise the Supervision Office of having subscribed shares within 14 days of their subscription. However, the subscription of shares which results in exceeding 20%, 25%, 33%, 50%, 66%, 75% or 80% respectively of voting rights at the General Meeting shall require a permit from the Supervision Office.
5. Clauses 1-4 shall apply respectively to the acquisition of rights in shares of the society.

[34)] In the wording set forth in Art. 1 item 17 letter a of the Act referred to in footnote 2.
[35)] Added by Art. 1 item 17 letter bof the Act referred to in footnote 2.
[36)] In the wording set forth by Art. 170, item 3 of the Social Insurance Institution Pensions and Annuities Act of 17 December 1998 (Journal of Laws no. 162 item 1118), which came into force on 01.01.1999;

Article 38a. [37)]
1. A shareholder of an general society is obliged to inform the general society of any controlling company of the shareholder immediately. Forthwith, having obtained the information from the shareholder of the general society, the general society is to notify the Supervision Office of each controlling company of the shareholder of this general society.
2. The Supervision Office may summon the general society to file, in a given time, not shorter that 30 days, the following documents:
1) documentation confirming the legal status of the controlling company, as well as documentation confirming its organization,
2) documentation presenting the financial condition of the controlling company in the 5 years prior to the day of submitting the application, including a document confirming that the applicant is not in arrears of taxes, nor is it in arrears of contributions collected by the Social Insurance Institution.
3. Should the controlling company not warrant the running of the society's affairs in a manner ensuring due protection to interests of the fund members, or should the documentation presenting the financial condition of the controlling company in the previous 5 years show that the company is in arrears of taxes or of contributions collected by the Social Insurance Institution, the Supervision Office, taking an administrative decision, may present conditions for the adaptation to the appropriate state of affairs. The Supervision Office shall suspend the voting rights of the shareholder at the General Meeting of the general society until the adaptation to the appropriate state of affairs is deemed fulfilled.
4. Should, as a result of the suspension of the voting rights of the shareholder, as referred to in clause 3, all shareholders of the general society be devoid of the voting rights at the General Meeting of the society longer than for 3 months, the Supervision Office may then revoke the permit to create the society.

Article 39.
1. The following are the governing bodies of the society:
1) the Management Board,
2) the Supervisory Board,
3) the General Meeting.
1a.[38)] The Management Board may not consist of less than three people.
2. The society may appoint the Audit Commission. Article 43, Article 44, Article 59 clause 1, Article 148 item 3, Article 150 item 1b), Article 158 clause 1 item 5a), Article 204 clause 1 item 2, and Articles 206 and 209 to the extent concerning the Supervisory Board shall apply to the Audit Commission.

Article 40.
1. Save as otherwise provided in the Articles of Association, the members of the Management Board of the general society shall be appointed and recalled by the General Meeting.
2. The members of the Management Board of the employee society shall be appointed and recalled by the Supervisory Board.
3. The members of the first Management Board of the employee society shall be appointed by the founders for a one-year term.

Article 41.
1. Eligible to sit on the Management Board of the society shall be those who satisfy the following requirements:
1) are possessed in full of the legal capacity,
2) have not been sentenced under a valid court verdict for an offence against property, [or] against the credibility of documents, [or] against trade, [or] against the money turnover or the securities trade, [or] against the Treasury, [or] for the offence referred to in Chapter 22,
3) have higher education,
4) have a record of employment of 7 years or more,

[37)] In the wording set forth in Art. 1 item 18 of the Act referred to in footnote 2.
[38)] Added by Art. 1 item 19 of the Act referred to in footnote 2.

5)[39] warrant the proper discharge of their duties as Management Board members.
1a.[40] No less than two Management Board members, including the President of the Management Board shall have mastery over the Polish language. Should a Management Board member be a citizen of a foreign country, the mastery of the Polish language should be confirmed by a confirmed by a state-body examination in Polish language for foreigners, who apply for official certification of its knowledge, referred to in the Act on Polish Language of 7 October 1999 (Official Journal No. 90, item 999, of 2000 No. 29, item 358 and of 2002, No. 144 item 1204[41]).
2.[42] No less than one-third Management Board members shall have higher education in Law or in Economics, or be enlisted in the Investment Adviser list, as set forth by the relevant provisions on public trade with stocks and securities.
3. No less than two-thirds Management Board members shall satisfy the requirement laid down in clause 1 item 4.
4. [deleted][43]
5.[44] Where the specifications laid down in clause 1a, 2 or clause 3 are not satisfied due to removal from office of a Management Board member or revocation of the permit, as set forth win Art. 59 clause 3 and clause 4, the society shall within 6 months adjust its business to the requirements laid down in this Act.

Article 41a. [45]

1. The members of the Management Board of a general society are obliged to make a declaration on their financial standing. The financial standing declaration refers to the individual property and property under conjugal community. The declaration should contain the following information:
1) financial resources, realty, membership in civil associations, trading private companies, stocks and shares in trading companies, as well as information concerning individual commercial activity and functions in trading companies,
2) income obtained by employment or other means of gainful activity or employment, naming the amounts gained from each of them,
3) movables, unit value of which exceeds the equivalent in zloty of the amount of EUR 3,000,
4) financial liabilities, value of which exceeds the equivalent in zloty of the amount of EUR 3,000, including loans and credits, as well as the conditions thereof.
2. The financial standing declaration shall be submitted to the Supervision Office in two copies before coming into office as Management Board member, and subsequently, not later than on 31 May, presenting the state of finances for 31 December of the previous year, a copy of the Personal Income Tax declaration (PIT) shall be annually submitted thereto.
3. One copy of the financial standing declaration shall be submitted by the Supervision Office to the tax office competent for the place of residence of the Management Board member.
4. The analyses of the data from the financial standing declaration shall be conducted by the Supervision Office and competent Tax Offices. The entity conducting the analysis of the data contained in the financial standing declaration is authorised to compare the analysed declaration with the previously submitted declarations and with the copy of the Personal Income Tax declaration (PIT) appended. The results of the analyses shall be submitted by the Tax Offices to the Supervision Office immediately.
5. The information contained in the financial standing declaration constitute professional secret, unless the person submitting the declaration has given a written consent for the disclosure thereof. Declaration shall be archived for the period of 6 years.
6. Should the Management Board member fail to submit the financial standing declaration in due time, the Supervision Office may impose a fine on him in the amount up to 10,000 zl.
7. The Minister competent for the matters of financial institutions shall by Order prepare a form of a financial standing declaration, taking into consideration all the information specified in clause 1 above.

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[39] As modified by Art. 1 item 20 letter a of the Act referred to in footnote 2.
[40] Added by Art. 1 item 20 letter b of the Act referred to in footnote 2.
[41] Modifications to the Act have been published in the Journal of laws of 2000 No. 29 item 358, of 2002 No. 144 item 1204, of 2003 No. 73 item 661 and of 2004 No. 92 item 878.
[42] In the wording set forth in Art. 1 item 20 letter c of the Act referred to in footnote 2.
[43] By Art. 1 item 20 letter d of the Act referred to in footnote 2.
[44] In the wording set forth in Art. 1 item 20 letter e of the Act referred to in footnote 2.
[45] Added by Art. 1 item 21 of the Act referred to in footnote 2.

Article 42.
1. Ineligible to be a member of the Management Board of a general society shall be those sitting on a governing body or a supervisory body[46)] of:
1) a shareholder of the society,
2) another general society,
3) a depositary having the custody of an open fund's or an investment fund's assets,
4) a National Investment Fund or a firm managing the assets of a National Investment Fund,
4a)[47)] a social insurance institution,
4b)[47)] a bank,
5) an investment funds society or a shareholder of an investment funds society,
6) a firm pursuing the business of brokers as defined in the public trading in securities provisions, or any other business of public trading in securities,
7) an affiliate of any of the entities referred to in items 1-6.
2. The disqualification under clause 1 shall apply equally to those whose relation with the entities referred to in clause 1 arises from a contract of employment, a job contract, or a legal relationship of a similar nature.

Article 43.
The members of the first Supervisory Board of the society shall be appointed for a 2-year term.

Article 44. 1. Eligible to sit on the Supervisory Board of the society shall be those who satisfy the requirements laid down in Article 41 clause 1 item 1 and item 2 and warrant the correct discharge of their duties as Supervisory Board members.
2. No less than one-half members of the Supervisory Board of the society shall have higher education in Law or in Economics, provided that with respect to the employee society the aforesaid requirement shall be understood to apply to no less than one-half of those members of the Supervisory Board who are appointed otherwise than pursuant to Article 45 clause 1.
3.[48)] No less than one-half members of the Supervisory Board of the general society shall be appointed from among those who are neither shareholders of the society, entities related thereto, sit on a governing or supervisory body of a shareholder of the society, sit on a governing or supervisory body of entities related to the shareholder of the society, nor those who are employed or commissioned tasks or subject to any other legal relationship of a similar nature with the shareholder or related entity.
4.[48)] Clauses 2 and 3 shall be applied subject, as appropriate, to clause 5 of Article 41**.**

Article 45.
No less than one-half seats on the Supervisory Board of the employee society shall be filled by persons elected by those members of the employee fund to whose accounts contributions have been paid within the 12 months immediately preceding the election day.
2. The Articles of Association of the employee society shall determine a number of seats on the society's Supervisory Board to be filled by persons elected by the members of the employee fund; a procedure for the election of the said persons shall be determined in the rules adopted by the Supervisory Board.
3. The rules referred to in clause 2 shall establish in particular whether the election is directly by the [fund] members or by their chosen representatives and it shall lay down the terms of recalling the elected Supervisory Board members before the end of the Supervisory Board's term. The rules shall not make the validity of the election contingent upon a certain turnout.
4. Where the rules provide for the election by representatives of the membership, they shall likewise determine the procedure for the choosing and recalling of the representatives and the representatives' term of office.
5. The first election of the Supervisory Board members elected by the employee fund members shall be held no later than 3 months of that date on which the fund has received the first

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[46)] As modified by Art. 50 item 2 of the Act referred to in footnote 12.
[47)] Added by Art. 1 item 22 of the Act referred to in footnote 2; came into force on 01.04.2004.
[48)] In the wording set forth in Art. 1 item 23 of the Act referred to in footnote 2.

contribution. Prior to the said election the Supervisory Board shall sit in such number, which shall be no less than 5 members, as the founders of the employee society have appointed.
6. The failure to fill the Supervisory Board seats assigned to members elected by the employee fund members within the time period referred to in clause 5 shall not prevent the Supervisory Board from adopting important resolutions.
7. Where the mandate of a Supervisory Board member elected by the employee fund membership has expired before the end of the Supervisory Board's term, the Supervisory Board shall forthwith call a by-election.

Article 46. [49)]
Article 385 paragraphs 3,5 and 6 of the Commercial Companies Code shall apply solely to those members of the Supervisory Board of the society who are elected otherwise than pursuant to Article 45 clause 1.

Article 47.[50)]
An individual who is a member of the management or supervision bodies or is employed or commissioned tasks or subject to any other legal relationship of a similar nature with the entities referred to in Art. 42, clause 1, items 1-7, shall not be an employee of a universal society who can decide on the manner of investing the assets of an open fund.

Article 47a.[51)]
The provisions of Article 41a shall apply respectively to those employees of general societies, who are specified in Art. 47.

Article 48.
1. The society shall be liable to the fund members for any loss suffered through non-performance or negligent performance by the society of its duties as the fund manager and representative, save where a non-performance or negligent performance of the said duties should be due to circumstances for which the society is not responsible and which it has been incapable of preventing by the exercise of utmost care.
2. The fund shall not be liable for losses incurred through non-performance or negligent performance of the duties referred to in clause 1.
3. Where the general society's liability for a loss is excluded as stated in clause 1, the loss shall be covered from the Guarantee Fund's resources, save where the loss should occur solely through the injured party's fault. Article 180 shall apply respectively.
4. Clause 3 shall apply equally where a general society should be proclaimed bankrupt [and] that loss for which the society is liable should be incapable of being made good from the society's bankrupt estate. The making good of a loss from the bankrupt estate shall be subject to the seniority of claims established in Article 177 clause 2.
5. Where the society has delegated the discharge of certain duties to a third person, this shall not limit the liability of the society.

Article 48a.[52)]
Where the fund or the society has delegated the discharge of certain duties to a third person, this shall not exclude the liabilities of the society specified in Art. 62, 197, 198 and 204.

Article 49.
1. The following persons shall be bound to protect professional secrets concerning the business of the fund:
1) the members of the society's statutory governing bodies,
2) the employees of the society,

[49)] In the wording set forth in Art. 1 item 24 of the Act referred to in footnote 2.
[50)] In the wording set forth in Art. 170 item 4 of the Act referred to in footnote 36.
[51)] Added by Art. 1 item 25 of the Act referred to in footnote 2.
[52)] Added by Art. 4 item 1 of the Act of 23 december 1999 on the modification to the Social Insurance System Act and some other Acts (Journal of Laws No. 110 item 1256), which came into force on 30.12.1999.

3) those whose relation with the society or the fund arises from an agency contract or another legal relationship of a similar nature,
4) the employees of those entities which are linked with the society or with the fund by the relationship referred to in item 3.
2. For purposes of clause 1 the professional secret shall mean that information concerning the fund's investments, [or] the register of the fund members, [or] fund members' testamentary dispositions, [or] the statements referred to in Article 83 the disclosure of which might jeopardise certain interests of the fund members or of investors in publicly traded securities.
3. Clause 3 shall not apply to the disclosure of a professional secret [in the following circumstances:] to the public prosecutor in connection with a suspected commission of an offence; or at the request of the public prosecutor, or the court, or another relevant agency of the state where the request is made in connection with ongoing proceedings concerning the business of the fund, the society, or the depositary, including at the request of the Supervision Office in connection with the exercise by the Supervision Office of the duty of overseeing of the funds' performances.

Article 50.
1. The society shall not:
1) purchase or otherwise acquire equity stakes, shares or other securities, units of investment funds or units issued by mutual investment institutions domiciled abroad, or be a partner in an unincorporated partnership,
2) [deleted][53)]
3) make loans, give guarantees, or stand surety, except for loans made from the employer-operated social benefits fund,
4) borrow, whether under loans, credits, or by making bond issues, in excess of 20 percent of the society's own funds cumulatively.
2. Clause 1 item 1 shall not apply to:
1) securities issued by the Treasury or the National Bank of Poland,
2)[54)] equity stakes in or shares of:
a) that company which keeps the register of members for a fund managed by the society,
b) those companies which carry on the business of clearing capital market transactions, [when the said equity stakes or shares are acquired] in such numbers which do not give rise to the relationship of a subsidiary and the controlling company as defined in the provisions on public trading in securities,
c) that company which carries on the business of acquisition, as defined in Art. 93 clause 1 item 4, on behalf of the fund managed by the society in question;
3) [deleted][55)]
4) securities issued pursuant to the cheque law.

Article 51.
1. The society shall safe-keep and store in the archives the documents and other vehicles of information of the fund managed.
2. Should the fund be liquidated in the manner described in Article 71 clause 1, the documents and other vehicles of information referred to in clause 1 shall be kept by the fund liquidator -- and where an employee fund should be liquidated the manner described in Article 75, the documents and other vehicles of information referred to in clause 1 shall be kept by the depositary. The obligation to safe-keep [the aforesaid materials] shall continue for 50 years of the completion of the liquidation of the fund.
3. Notwithstanding the obligations laid down in clause 1, the depositary shall safe-keep and store in the archives, for 50 years of the completion of the liquidation of the fund, all such documents and other vehicles of information as pertain to the discharge of the tasks of the depositary.
4.[56)] In the event of failure of liquidation of the depositary Article 476 paragraph 3 of the Commercial Companies Code shall apply to the custody of documents and other vehicles of

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[53)] By Art. 1 item 26 letter a of the Act referred to in footnote 2.
[54)] In the wording set forth in Art. 1 item 26 letter b first indent of the Act referred to in footnote 2.
[55)] By Art. 1 item 26 letter b second indent of the Act referred to in footnote 2.
[56)] In the wording set forth in Art. 1 item 27 of the Act referred to in footnote 2.

information pertaining to the management of the fund or to the performance of the tasks of the depositary. The court of competent jurisdiction shall advise the Supervision Office forthwith of the custodian appointed.

Article 52. [57)]
On matters not regulated in this Act the Commercial Companies Code shall apply to the society.

CHAPTER 4
Business of pension society, terms of commencement

Article 53.
The creation of the society shall require a permit of the Supervision Office[13)].

Article 54.
1. The permit shall be issued against an application filed by the society founders, with the following documents appended:
1) the Articles of Association of the society,
2) the founders' agreement on the forming of the society, their assent to the text of the Articles of Association, and their commitment to take up the [society's] shares,
3) the society's rules of organisation, describing in particular the manner of preventing and deterring the disclosure of that information the use of which might be detrimental to interests of the fund members or of investors in publicly traded securities,
4)[58)] a list of the founders, stating whether they are or are not affiliates and describing the nature of relationships existing among them, with documents representing the founders' legal status and origins of money brought into the society as the initial capital appended,
5) a specification of the members of the society's statutory governing bodies, exclusive of the persons referred to in Article 45, with the following documents appended: statements by each member, expressing his or her will to serve on the respective statutory body of the society and confirming that he or she satisfies all respective requirements laid down in this Act; the personal data of the members and a synopsis of their professional qualifications and backgrounds,
6) documents attesting that none of the members of the statutory governing bodies of the society has a criminal record, to the extent arising from Article 41 clause 1 item 2,
7)[59)] documents representing financial standing of each of the shareholders of the society in the 5 years immediately preceding the application filing date, including documents confirming that [none of the shareholders] is in arrears of taxes or of contributions collected by the Social Insurance Institution,
8) the society's organisational and financial plan covering a period of 3 years.
2. When filing the application for the permit to create the general society the founders may apply to the Supervision Office[13)] for a provisional permit to create an open fund, to which application the following shall be appended:
1) a draft of the Articles of Association of the fund,
2) a draft of the contract with the depositary,
3) the personal data of those the society proposes to employ, when established, in positions rendering them capable of influencing to a significant degree the management of the fund's finances,
4) a list of persons to be appointed by the depositary to discharge the duties set forth in the draft contract,
5) a synopsis of the professional qualifications and backgrounds of the persons referred to in item 3 and item 4, naming those having the status of investment advisors.

Article 55.
1. The Supervision Office[13)] shall issue a decision concerning the permit within 3 months of that day on which the application has been filed.

[57)] In the wording set forth in Art. 1 item 28 of the Act referred to in footnote 2.
[58)] In the wording set forth in Art. 1 item 29 letter a of the Act referred to in footnote 2.
[59)] As modified by Art. 1 item 29 letter b of the Act referred to in footnote 2.

2. The issuance of the permit shall be tantamount to approval by the Supervision Office[13)] of the Articles of Association of the society.

Article 56.
1. Where the founders have applied to the Supervision Office[13)], contemporaneously with filing the application for the permit to create the general society, for the provisional permit to create an open fund -- and in the absence of grounds for refusal of the [provisional] permit -- the Supervision Office shall issue the same together with the permit to create the general society.
2. The Supervision Office[13)] shall define in the provisional permit the validity of the provisional permit which shall be no shorter than 6 months.
3. Throughout the provisional permit validity period the Supervision Office[13)] shall not refuse a permit to create the open fund, save where the contents of the enclosures referred to in Article 14 should change relative to the contents of the enclosures referred to in Article 54 clause 1 item 1 and clause 2.
4. The [Supervision Office] may refuse to issue the provisional permit to create a fund for [any of] the reasons stated in Article 15 clause 2.

Article 57.
The Supervision Office[13)] shall refuse a permit to create the society where:
1) the application and the documents appended thereto should fail to satisfy the respective statutory requirements,
2) the Articles of Association of the society should contain provisions capable of putting at risk the security of the fund assets or otherwise prejudicial to interests of the fund members,
3) the society's 3-year organisational and financial plan as submitted by the founders should fail to sufficiently protect interests of the fund members,
4) founders of the society and members of the society's statutory governing bodies should fail to warrant the running of the society's affairs in a manner ensuring due protection to interests of the fund members,
5)[60)] the documents representing the society shareholders' financial standing in the recent 5 years should indicate that one or more shareholders are in arrears of taxes or of contributions collected by the Social Insurance Institution,,
6)[61)] the initial capital of the general society should derive from a loan or a credit or should be encumbered in any way.

Article 58. [62)]
1. Any modification to the society's or the depositary's Articles of Association, or to the contract with the depositary, shall require a permit of the Supervision Office. The motion for the modification of the society's Articles of Association shall be appended with a resolution of the General Meeting, and in case of the increase of the initial capital of the society – a receipt of payment of the increased initial capital. The motion for the permit for modification of the contract with the depositary shall be appended with the contract introducing modifications to the contract with the depositary.
2. The Supervision Office shall decline the permit if the modification to the society's or depositary's Articles of Association or to the contract with the depositary is conflicting with the law or with the interests of the fund members.
3. The permit for the modification to the society's Articles of Association constitutes the permit for the modification of the fund's Articles of Association as specified in Art. 13, clause 2, items 2 and 4. The permit for the modification to the contract with the depositary constitutes the permit for the modification of the fund's Articles of Association as specified in Art. 13, clause 3, item 5.
4. The modification to the list of persons, as specified in Art. 14, clause 5, requires the Supervision Office to be notified by the depositary. Within 14 days, the Supervision Office may decline the permit for the modification to the list for the reasons set forth in Art. 15, clause 2, item 3.

[60)] As modified by Art. 1 item 30 letter a of the Act referred to in footnote 2.
[61)] In the wording set forth in Art. 1 item 30 letter b of the Act referred to in footnote 2.
[62)] In the wording set forth in Art. 1 item 31 of the Act referred to in footnote 2.

5. Should the permit for the modification to the list not be declined within the period specified in clause 4 above, the modifications to the list are accepted.
6. Should the permit for the modification to the list not be declined, as set forth in clause 5 above, the depositary is forthwith to notify the fund of the modification of the list.

Article 59.
1. The appointment of the members of the society's Management Board and Supervisory Board shall require a permit of the Supervision Office[13)], save for the re-appointment of those who have served on the said bodies during the preceding term.
2. Clause 1 shall not apply to those members of the Supervisory Board of the employee society who are elected by the employee fund members.
3.[63)] The Supervision Office shall revoke the permit, specified in clause 1 above, to the persons who seized to fulfill the requirements set forth in:
1) Art. 41, clause 1, item 1 or 2 for the Management Board members of the society.
2. Art. 44, clause 1 for the Supervisory Board members of the society.
4.[63)] The Supervision Office shall also revoke the permit to the members of the Management Board of the general society, where it is found that they no warrant the proper discharge of the functions of the management Board members, or where they refuse to file the financial standing declaration, as specified in Art. 41a, or where, in spite of the written summon from the Supervision Office, they fail to file the financial standing declaration within 30 days of the date of receiving the summon.
5.[63)] The provisions of clauses 3 and 4 shall also apply to the management Board and Supervisory Board members in their first term in the office.

Article 60.
The society shall forthwith notify the Supervision Office[13)] of any change in the particulars stated in the enclosure, referred to in Article 54 clause 1 item 3, to the application for the permit to create the society.

CHAPTER 5
Takeover of management of pension fund, merger of pension funds, liquidation of pension fund

Article 61.
Where a society should be proclaimed bankrupt or where a liquidation proceeding should be opened with respect to it, the Supervision Office[13)] shall issue a decision on revocation of the permit to create the society.

Article 62. [64)]
1. The Supervision Office may issue the decision on revocation of the permit to create the society where it has established that the fund or society has blatantly or insistently violated the provisions of this Act, or the fund's or society's Articles of Association, or conducts its business in a manner blatantly violating the interests of the fund members.
2. Prior to revoking the permit the Supervision Office may notify the society of the established irregularities in the business activity of the fund or of the society, which have led to the decision to revoke the permit. The Supervision Office, upon notification shall appoint a deadline upon the society to put its or the fund's business in order. Should the irregularities be exceptionally drastic, the Supervision Office, regardless of the summon issued, may impose a fine of up to 500,000zl on the society.
3. The summon shall be issued in accordance with Art. 240b, clause 1 and 2 respectively.
4. Should the society or the fund fail to put its business in order within the given time, the Supervision Office may revoke the permit to create the society.

[63)] In the wording set forth in Art. 1 item 32 of the Act referred to in footnote 2.
[64)] In the wording set forth in Art. 1 item 33 of the Act referred to in footnote 2.

5. Should the Supervision Office decide not to direct the summon, specified in clause 2 above, the Supervision Office may administer upon the society a fine of up to 500,000 zloty in the event that the irregularities detected are exceptionally drastic.

Article 63.
The Supervision Office[13)] shall name in the decision on revocation of the permit that date on which the decision takes effect.

Article 64. [65)]
1. As of the effective date of the decision on revocation of the permit to create the society the fund shall be represented by the depositary. Throughout that period the fund shall not admit new members, or take part in the drawing conducted by the Social Insurance Institution. .
2. The depositary, upon the consent of the Supervision Office, may vest the management of the fund in an external entity authorised in the field specified in Art. 30, clause 2, item 4 of the Act on Public Trading in Securities of 21 August 1997 (Journal of Laws of 2002 No. 49, item 447, as amended[66)]), to the extent as it is compliant with the interest of the fund members.
3. The Supervision Office has to authorise the decision to vest the management of the fund's assets in an external entity. The Supervision Office shall issue a permit if this is compliant with the interests of the fund members and if the external entity warrants the proper management of the fund's assets. The external entity shall manage the fund's assets in compliance with the provisions of Art. 204, clause 1, items 2-9, Art. 204a, clauses 1 and 2, items 3-8 and Art. 204b.
4. The Supervision Office may revoke the permit specified in clause 3 above, if the external entity violates the legal provisions, interests of the fund members or if he entity had lost the warranty of proper management of the fund's assets.
5. Failing the take-over by another society, pursuant to Article 66 clause 3, of the management of the open fund within 3 months of the effective date of the decision on revocation of the permit, the management of the fund shall be assumed by a general society being the manager of that open fund which for the 36 months immediately preceding the one in which the decision on revocation of the permit has taken effect had the highest rate of return, as specified in Art. 172.
6. Should more than one open fund achieve the highest rate of return, the management of the fund shall be assumed by the society which manages this open fund among these open funds, of the lowest net value of its assets as at the end of the month immediately preceding the month in which the decision on revocation of the permit had been issued.
7. The general society referred to in clause 5 or 6 above may file a written letter of refusal to assume the management of the open fund within 7 days of the end of the 3 months period specified in clause 5 above.
8. The Supervision Office shall forthwith notify the general societies, which have achieved the rate of return for the preceding 36 months above the weighted mean of the rate of return, as specified in Art. 173, of filing the letter of refusal, specified in clause 7 above. Within the period of 7 days from the date of the delivery of the notification by the Supervision Office, the general society may file a written declaration of the intent to assume the management of the open fund to the Supervision Office. Should more than one society file such declaration, the management of the fund shall be assumed by the one general society, which manages the open fund of the higher rate of return. The provision of clause 6 shall be adopted respectively.
9. Should none of the general societies file the written declaration as specified in clause 8 above, the management of the open fund shall be assumed by the one general society whose net assets had the largest value at the end of the month immediately preceding the month in which the decision to revoke the permit to create the general society had come into force.
10. The assumption of the supervision shall take place pursuant to the conditions laid down by the decision of the Supervision Office.

[65)] In the wording set forth in Art. 1 item 34 of the Act referred to in footnote 2; came into force on 01.04.2004.
[66)] Modifications to the unified text of the Act have been published in: the Journal of Laws of 2002 No.240 item 2055; of 2003 No. 50 item 424, No. 84 item 774, No. 124 item 1151, No. 170 item 1651, and No. 223 item 2216 and of 2004 No. 64, item 594, No. 91 item 871, No. 96 item 959, No. 116 item 1205, No. 146 item 1546.

Article 65. [67]
Where the Supervision Office should issue a decision on revoking the permit on grounds other than those referred to in Article 61 and where the said decision should be appealed by complaint to the administrative court, the [court] shall take cognizance of the complaint within 2 months of the same being filed.

Article 66.
1. A general society proposing to discontinue its heretofore business may, under a contract entered into with another general society, assign to the other society the management of the open fund it has hitherto managed.
1a.[68] The contract specified in clause 1 above shall become effective upon coming into force of the modification of the Articles of Association of the open fund the management of which is being assumed, pursuant to Art. 13, clause 2, items 2-4.
1b.[68] Within the period of one month of the date of coming into force of the modification of the Articles of Association of the open fund, the management of which is being assumed, pursuant to Art. 13, clause 2, items 2-4, the liquidation proceedings of the general society intending to discontinue its heretofore business shall be opened.
2. That general society which takes over the management of the open fund shall assume the rights and obligations of the general society which has hitherto managed the open fund. Those provisions of the contract which exclude certain obligations shall be without effect on third persons.
3. Save as provided in clause 1, the society shall not take over the management of a fund otherwise than following revocation by the Supervision Office of the permit for the creation of the fund's hitherto manager society, subject to Article 67.
4. The management of the fund shall be taken over by no other society than one managing a fund of the same kind.
5.[69] Should the liquidation proceedings not be opened within the period specified in 1b above, the Supervision Office proclaims the expiration of the decision permitting to create the society.

Article 67.
1. One society may merge with another.
2. Article 66 clause 4 shall apply respectively.

Article 68.
1. The taking over of the management of a fund in the circumstances referred to in Article 66 and the merging of two or more societies shall be subject to a permit issued by the Supervision Office.
2.)[70] An application for the permit shall be filed by that society which assumes the function of the fund manager and, where the permit sought concerns a merger, it shall be filed separately by each of the societies involved in the merger, with the exception of clause 4.
3.[71] The applicant shall append the following documents to the application for the permit:
1) in case of the takeover of the management of the fund:
a) contract for the takeover of management,
b) resolutions of the relevant bodies of the society, being parties to the contract for the takeover of management, if such resolutions are required pursuant to the Articles of Association of these societies,
c) resolution on the modification of the Articles of Association of the fund the management of which is taken over
d) organisation and financial plan for the society taking over the management of the fund for the period of 3 years,

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[67] As modified by Art. 51 item 1 of the Act of 30 August 2002 – Provisions introducing the Act on the Administrative Courts System and the Act on proceedings before administrative courts (Journal of Laws No. 153 item 1271), which came into force on 01.01.2004.
[68] Added by Art. 1 item 35 letter a of the Act referred to in footnote 2
[69] Added by Art. 1 item 35 letter b of the Act referred to in footnote 2.
[70] As modified by Art. 1 item 36 letter a of the Act referred to in footnote 2.
[71] In the wording set forth in Art. 1 item 36 letter b of the Act referred to in footnote 2.

e) documents presenting the financial standing of the shareholders of the society taking over the management of the fund, for the period of 5 years immediately preceding the date of filing the application, including documents confirming that the shareholder is not in arrears of taxes and of contributions collected by the Social Insurance Institution,
f) declaration concerning the origin of the financial resources intended for the takeover of the management of the fund,
2) in case of the merger of societies:
a) resolutions of the General Meetings of the societies on the merger,
b) contract for the merger of the societies,
c) modified organisation and financial plan,
d) modified organisation regulations,
e) information on capital relations among shareholders,
f) a draft of the fund's Articles of Association valid after the merger,
g) documents presenting the financial standing of the shareholders of the society taking over the management of the fund, for the period of 5 years immediately preceding the date of filing the application, including documents confirming that the shareholder is not in arrears of taxes and of contributions collected by the Social Insurance Institution,
h) declaration concerning the origin of the financial resources intended for the supplementary payments for the shares of the society taking over the management, pursuant to the resolutions on the merger of societies,
4.[71)] Should the merger take place pursuant to Art. 492 clause 1, item 2 of the Commercial Companies Code, the application shall be filed by the shareholders of the merging societies. Provisions of Art. 54, clause 1 shall be applicable respectively. The permit to create the society shall be issued by the Supervision Office along with the permit for the merger of the societies.
5. [72)] The permit to take over the management of the fund or, as the case may be, to bring about the merger of societies shall be equivalent to a permit to modify the Articles of Association of the fund being taken over to the extent defined in Article 13 clause 2 items 2-4. The Supervision Office may on its own decide to shorten the time of the modification coming into force.
6.[72)] Should the merger of the societies be related to the fact that the society taking over needs to increase its initial capital as a result of the merger, along with the application for the permit to merge the societies, the society taking over shall file a motion to issue a permit for the modification of the Articles of Association of the society, as well as modification of the Articles of Association of the fund with regard to the increase in the initial capital. The permit for the modification of the Articles of Association of the society, the permit for the modification of the Articles of Association of the fund shall be issued by the Supervision Office together with the permit for the merger of the societies.
7.[72)] The Supervision Office shall define in the permit the detailed terms of the takeover of the management of the fund or, as the case may be, of the merger of societies and sets the date of the commencement and of the end of the fund liquidation proceedings.
8.[72)] The Supervision Office shall refuse the permit, where:
1) the application and the appended documents do not fulfil the requirements set forth in this Act,
2) documents appended to the application or other information indicate that the society taking over the management of the fund or any other of the merging societies within 5 years immediately preceding the date of filing the application is in arrears of taxes or in arrears of contributions collected by the Social Insurance Institution,
3) surcharges to the shares of the society taking over, as set forth in the resolutions on the merger of societies, originate from a loan, credit or are in any way encumbered,
4) financial resources intended for the takeover of the management of the fund originate from a loan, credit or are in any way encumbered,
5) business activity of the applicants hitherto does not warrant that the fund and the society shall be managed to the best interest of the fund members,
6) the permit violates the interests if the pension fund members or any other public interest.

Article 69.

[72)] Added by Art. 1 item 36 letter c of the Act referred to in footnote 2.

1.[73] The Supervision Office permit for the takeover of the management of the fund or for the merger of societies shall constitute the legal grounds for liquidating that fund the management of which has transferred to another society, or that one which has hitherto been managed by a society taken over under the merger, or -- where the merger of societies is pursuant to Article 492, clause 1, item 2 of the Commercial Companies Code -- of that one which is indicated in the application for the permit for the merger of societies pursuant to clause 5.
2. [deleted][74]
3. The Supervision Office shall forthwith notify the registration court that the permit has been issued, with a copy of the permit enclosed. The court shall ex officio record in the register of funds the liquidation commencement date and the identity of the liquidator.
4. That society which has taken over the management of the fund shall be the fund's liquidator.
5.[75] Where the merger of societies is pursuant to Article 492, clause 1, item 2 of the Commercial Companies Code, the application for the permit to bring about the merger shall indicate the fund to be liquidated.
6.[76] As of the date of the takeover on the management of the fund by other society, the fund under liquidation may not enter into contracts with new members or partake in the drawing conducted by the Social Insurance Institution.

Article 70.
1.[77] The open fund shall promptly announce -- in a nationwide daily journal designed for the publication of fund's announcements, as well as on the publicly available Internet website -- the substance of the Supervision Office permit for the takeover of the management of the fund or, as the case may be, the merger of general societies and of the rights attaching to the fund members in connection with the liquidation of the fund.
2.[77] On receipt of a member's notice which shall be given within 2 months of the date of the announcement referred to in clause 1, to the effect that the member has entered into a contract with another open fund, the open fund under liquidation as well as the open fund to which the assets of the liquidated fund are transferred shall by credit transfer remit the balance in the member's account to his or her account with the other fund. In the aforesaid circumstances the general society shall not administer the charge referred to in Article 119 clause 2.
3. The employee fund shall forthwith communicate the substance [of the Supervision Office permit] referred to in clause 1, in such manner as the fund's Articles of Association may prescribe, to the shareholders of the employee society being the manager of the fund.
4. The fund shall forthwith inform the Supervision Office of the contents of the announcement referred to in clause 1 or, as applicable, of the communication referred to in clause 3.
5. Failing the discharge by the open fund of the duty referred to in clause 1 the Supervision Office shall have the announcement published for cost to the liquidator.

Article 71. [78]
1. The liquidation of a fund shall consist in transferring its assets to a fund managed by that society which has taken over the management of the fund [under liquidation], or to a fund managed by that society which has taken over the fund's manager society as a result of the merger, and where the merger of societies is pursuant to Article 492 item 1, clause 2 of the Commercial Companies Code -- to that fund which is designated to survive the merger of societies, subject to clause 3.
2. The transfer of assets shall take effect on such date as may be appointed in the permit for the takeover of the management of the fund or for the merger of societies, the said date ensuing no later than 6 months of the day on which the Supervision Office has issued the permit. The day indicated in the permit shall be understood to be the fund liquidation completion date for purposes of Article 68 clause 7.

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[73] In the wording set forth in Art. 1 item 37 letter a of the Act referred to in footnote 2.
[74] By Art. 1 item 37 letter b of the Act referred to in footnote 2.
[75] In the wording set forth in Art. 1 item 37 letter c of the Act referred to in footnote 2.
[76] Added by Art. 1 item 37 letter d of the Act referred to in footnote 2.
[77] In the wording set forth in Art. 1 item 38 of the Act referred to in footnote 2.
[78] In the wording set forth in Art. 1 item 39 of the Act referred to in footnote 2.

3. Upon supplying the Supervision Office with the information referred to in Article 70 clause 4, the fund under liquidation shall forthwith terminate its contract with the depositary having the custody of its assets and the fund may give notices of termination of contracts or introduce modifications to the conditions of these contracts in a way warranting the compliance with the provisions of the Articles of Association of the fund taking over, effective as of the liquidation completion date, to all others acting on the fund's behalf. Any such provisions of those contracts as may limit or exclude the termination of contract in the above stated manner shall be deemed non-existent.
4. Within the period specified in clause 2 above, the liquidated fund and the receiving fund are obliged to undertake actions necessary to join the register of the liquidated fund members with the register of the receiving fund as of the day of the end of the liquidation proceedings.
5. As of the liquidation completion date:
1) the transfer of the liquidated fund's assets to another fund shall be deemed effected
2) the receiving fund shall convert the existing accounting units of the taken over fund into its own existing accounting units,
3) the members of the liquidated fund become the members of the receiving fund on the conditions as specified in the Articles of Association of the receiving fund
4) the receiving fund shall assume the entirety of rights and obligations of the liquidated fund.
6. As of the day of the end of the liquidation proceedings, the Social Insurance Institution shall introduce proper modifications into the Central Register of the Open Pension Fund Members pursuant to clause 5, item 3 above.
7. The assets of the taken over fund shall be turned over to the depositary having the custody of the receiving fund's assets subject to the terms and requirements set forth in Article 163.
8. If the register of the members of the liquidated fund had been under the custody of a third person, the transfer of the documentation and other information storage means concerning this register to the receiving fund or to the custodian of the register of its members shall proceed in the manner warranting the continuous performance of the duties regarding the custody of the register of the fund members, and in the time agreed upon by the parties and without unnecessary delay.

Article 72. [79)]
On completing the liquidation of the fund the liquidator shall forthwith file a detailed report to the Supervision Office on the execution of the transactions referred to in Article 71 clauses 3 and 4 and 5 item 2 and clauses 7 and 8 and the liquidator shall file with the registration court a motion requesting that the fund be struck off the register of funds.

Article 73.
The liquidation of that employee fund the management of which has not been transferred to another employee society shall be effected pursuant to Articles 74-78.

Article 74.
1. The liquidation of the employee fund shall be effected upon the decision of the Supervision Office[13)] on the liquidation of the employee fund.
2. The dates on which the liquidation of the fund shall commence and end shall be determined in the decision of the Supervision Office[13)].
3. Article 69 clause 3 and Article 70 clause 3 and clause 4 shall apply respectively.
4. The depositary shall be the liquidator of the employee fund unless another liquidator be appointed by the Supervision Office[13)].

Article 75.
The liquidation of the employee fund shall consist in disposing of its assets, repossessing the fund's receivables, satisfying claims of the fund's creditors, and dispensing the balances in the members' accounts in accordance with the members' instructions.

Article 76.

[79)] In the wording set forth in Art. 1 item 40 of the Act referred to in footnote 2.

1. Where an employee fund is liquidated, the balances in the members' accounts shall not be dispensed otherwise than by:
1) credit transfer to another employee fund, where the [account-owner] member satisfies that fund's membership criteria, or
2) transfer to a life assurance institution, on the terms set forth in the Employee Pension Plans Act, or
3) transfer to an open-end investment fund or a specialist open-end investment fund, on the terms set forth in the Employee Pension Plans Act, or
4) payment to the member in a one-time disbursement.
2. Where a member has not issued instructions as to the manner of dispensing his or her account balance, the dispensing shall be in the manner described in clause 1 item 4.
3. Those account balances which have not been dispensed pursuant to clause 1 shall be deposited with the court.

Article 77.
On completing transactions referred to in Article 75 the liquidator shall forthwith notify the Supervision Office[13)] to that effect and the liquidator shall at the same time file with the registration court a motion requesting that the liquidated fund be struck off the register of funds.

Article 78.
The Council of Ministers shall by Ordinance prescribe the detailed procedure for liquidating the employee fund in the circumstances referred to in Article 73, in particular the manner and time limits for the issuance by the fund members of instructions on the manner of dispensing the balances in their accounts.

CHAPTER 6
[deleted][80)]

CHAPTER 7
Membership in pension fund

Article 81. [81)]
1. Membership in the open fund, with the exception of clauses 5 and 6, shall be acquired on execution of an agreement with the fund, if:
1) on the day of entering into the first agreement with the open fund, the person joining the fund is, or has been in the 12 months immediately preceding the signing of the contract, subject to pension insurance as referred to in the provisions on the social insurance system,
2) the Social Insurance Institution makes or changes the entry in the Central Register of the Open Pension Fund Members, as referred to in the provisions on the social insurance system.
2. The open fund shall not refuse to enter into the agreement where the person applying for membership in the fund satisfies the requirements laid down in provisions on the social insurance system.
3. The agreement, where any of the conditions named in clause 1 above have not been fulfilled does not raise any legal consequences, with the exception of clause 4. Within 30 working days, the Social Insurance Institution shall be obliged to notify the open fund whether the person who has entered into an agreement with the fund, has fulfilled the conditions specified in clause 1.
4. If a person, who has entered into agreement with the fund and the agreement has been deemed void in spite of the existence of the factual and legal grounds to fulfill the requirements specified in clause 1 above on the day of entering into the agreement, subsequently becomes a member of the open fund, the Social Insurance Institution shall be obliged to transfer due contributions to the fund for the period when the person was entitled to pension insurance.

[80)] By Art. 1 item 41 of the Act referred to in footnote 2.
[81)] In the wording set forth in Art. 1 item 41 of the Act referred to in footnote 2; came into force on 01.04.2004.

5. One person shall be a member of no more than one open fund. Should the person change his or her fund membership, the person becomes a member of the new fund upon introduction of the proper change in the Central Register of the Open Pension Fund Members.
6. Membership in a given open fund can also be acquired:
1) through a lottery held by the Social Insurance Institution in accordance with the principles stipulated in the provisions governing the social insurance system, as of the date of introducing proper entry into the register as referred to in clause 1, item 2.
2) as a result of opening an account in an open fund, pursuant to Art. 128, clause 1.
7. The Social Insurance Institution shall be obliged to communicate the results of the lottery to the interested party and to the open fund, of which the party has become a member.
8. Together with the notification a member of the open fund shall receive the data on the open fund entered in the fund register, and the open fund shall receive the essential personal data of the member of the open fund, referred to in Art. 89, clause 2; the open fund may also receive the data in an electronic format.
9. Having received, pursuant to clause 8, the notification from the Social Insurance Institution and the member's essential personal data, the open fund shall confirm to the member the membership conditions in writing without delay, informing him or her at the same time of the rights vested in him pursuant to Art. 82, clause 1, as well as of the results of not exercising these rights, as specified in Art. 132, clause 1, and shall call upon the member to meet the requirements specified in Art. 83, clause 1; it shall also inform the member of the consequences of failing to meet those requirements or mal-performing them, in accordance with Art. 83, clauses 3 and 4.

Article 82.
1.[82)] While entering into the agreement with the open fund the applicant may name one or more natural persons to whom such proportion of the balance in his or her account as has not been otherwise dispensed pursuant to Article 131 shall be paid out on his or her death.
1a.[83)] The member of the open fund is vested with the right specified in clause 1 as well.
2. Where the member has named two or more persons entitled to receive upon his or her death the aforementioned residue of his or her account balance but has not specified their respective shares, these persons shall be deemed to benefit in equal proportions.
3.[84)] A member of an open fund may change his previous instructions at any time, nominating other natural persons entitled to receive funds after his death, other than or besides the individuals referred to in clause 1, as well as otherwise specify the share which the individuals nominated have in those funds, as well as revoke his previous instructions not nominating any persons at all.
4.[84)] The naming of a beneficiary shall be void where the beneficiary has predeceased the member. In such circumstances the deceased beneficiary's share shall pass in equal parts to the remaining persons named in the testamentary disposition, save where the member has otherwise disposed of it.
5. [85)] The fund shall be obliged to inform an individual joining the open fund of the consequences of failing to specify the instructions specified in clause 1.

Article 83.
1. While entering into the contract with the open fund the applicant shall furthermore submit a written statement explaining the property relationships existing between the applicant and his or her spouse -- and, in the absence of statutory community property, he or she shall document the [nature and legal basis of] the existing marital property arrangement. The aforesaid obligation shall attach equally to that member of the open fund who has contracted marriage subsequently to entering into the contract with the fund.

[82)] As modified by Art. 170 item 9 letter a of the Act referred to in footnote 36 and by Art. 1 item 43 letter a of the Act referred to in footnote 2.
[83)] Added by Art. 1 item 43 letter b of the Act referred to in footnote 2.
[84)] In the wording set forth in Art. 1 item 43 letter c of the Act referred to in footnote 2.
[85)] Added by Art. 170 item 9 letter d of the Act referred to in footnote 36; In the wording set forth in Art. 1 item 43 letter c of the Act referred to in footnote 2.

2. The member of the open fund shall notify the fund in writing of any such change [in his or her circumstances], relative to those named in the statement referred to in clause 1, which pertains to the balance in his or her account. A proof [of the changed circumstances] shall be appended to the notification.
3.[86)] In cases of failing to meet the requirement referred to in clause 1, sentence two, or in clause 2, it shall be assumed that there is statutory joint property of husband and wife between the spouses or that marital property relations are reflected in the agreement concluded with the open fund or the last notification sent by the open fund member in accordance with clause 2.
4.[86)] The open fund shall not be liable for any damage resulting from failure to meet or from mal-performing the requirement referred to in clause 1 or 2.

Article 84.[87)]
If a member of an open fund joins another open fund, he shall be obliged to notify (in writing) the open fund which he has been member of so far of having signed an agreement with the other fund. The agreement with the fund which he has been the member of shall be terminated as of the date of introducing the due change to the entry in the Central Register of the Open Pension Fund Members.

Article 84a.[88)]
1. Individuals born in 1949-1953, concluding an agreement with an open fund, shall be obliged to submit a declaration in writing, stating that they have read Arts. 24, 26, 46-50, 53, 183, 184, and 185 of the Act of 17 December 1998 on Retirement Pensions and Other Pensions paid out of the Social Insurance Fund (Journal of Laws of 2004 No. 39, item 353, as amended[89)]), which the individual concluding the agreement should confirm with his own signature.
2. An individual engaged in acquisition on behalf of an open fund in relation to the individual specified in clause 1 shall be obliged to inform that individual of the implications of the regulations referred to in clause 1, in particular of the fact that as a result of joining an open fund a retirement pension paid out of the Social Insurance Fund may be significantly lower or that one will not be eligible for a retirement pension before reaching the age specified in Art. 24 of the Act referred to in clause 1.

Article 85.
The Council of Ministers shall by Ordinance prescribe:
1) the manner and procedure for the execution of that contract which gives rise to membership in the open fund,
2) the manner of execution and time limits for the submission of: the statement concerning the open fund member's marital property relationships; and the notification, to be given to the open fund, of any change in the member's circumstances, relative to those named in the statement, pertaining to the balance in the member's account,
3) the manner in which the member notifies the open fund of having joined another open fund and the time limit for giving the said notification,
4)[90)] the procedures and deadlines to be observed by an open fund when notifying the Social Insurance Institution of having concluded an agreement with a fund member, and the scope of data that the notification should contain;
5)[91)] a form for the notification document specified in Art. 84.

[86)] Added by Art. 170 item 10 of the Act referred to in footnote 36.
[87)] In the wording set forth in Art. 1 item 44 of the Act referred to in footnote 2; came into force on 01.04.2004.
[88)] Added by Art. 170 item 12 of the Act referred to in footnote 36
[89)] Modifications to the unified text of the Act have been published in: the Journal of Laws of 2004 No. 64 item 593m No. 99 item 1001, No. 120 item 1252 and No. 121 item 1264.
[90)] Added by Art. 170 item 13 of the Act referred to in footnote 36
[91)] Added by Art. 170 item 13 of the Act referred to in footnote 36; in the wording set forth in Art. 1 item 45 of the Act referred to in footnote 2, which came into force on 01.04.2004.

6)[92] detailed rules for the revocation of the notification on entering into agreement with a member by the open fund and deletion of the entry in the Central Register of the Open Pension Fund Members by the Social Insurance Institution.
7)[92] detailed instructions regarding the manner of establishing and calculating the return of the undue received contribution, referred to in Art. 100a.

Article 86.
1. Eligible for membership in the employee fund shall be that natural person who satisfied the employee pension plan participation criteria laid down in the Employee Pension Plans Act.
2. That person who has ceased to satisfy the criteria referred to in clause 1 shall retain the status of an employee fund member.

Article 87.
Membership in the employee pension fund shall be received as of the execution of an employee pension contract, pursuant to the Employee Pension Plans Act.

Article 88.
A member may surrender membership in the employee fund, by terminating the employee pension contract, pursuant to the Employee Pension Plans Act.

Article 89.
1. The fund shall keep the register of fund members wherein the following shall be recorded: the members' principal personal data; contributions paid into the fund and credit transfers received and records of conversion of the contributions and credit transfers into accounting units; current balances in the accounts; and -- where the fund is an employee fund -- current [number and value] of shares in quantity accounts.
2.[93] Essential personal data of the members referred to in clause 1 shall contain:
1) first and last names,
2) date of birth,
3)[94] the PESEL ("Universal Electronic Population Records System") number, and if one does not have it or if there are doubts as to its correctness - the NIP Tax Identification Number, and the series and number of the member's identity card or passport,
4) residential address.
3. The keeping of the register of fund members may be delegated to a third person subject to Article 49.
4. The Council of Ministers shall by Ordinance prescribe the detailed standards and requirements on the keeping of the register of fund members, in particular the detailed specification of information to be recorded therein and the terms of making and safe-keeping back-up copies of the entries.

Article 90.
1. Cases concerning those claims which arise from legal relationships existing between the open fund members and the fund or its agency shall be examined and decided by the national insurance court of competent jurisdiction for the area of the fund member's residence.
2. The cases referred to in clause 1 shall be processed pursuant to the Code of Civil Proceedings' provisions on proceedings instituted on matters governed by the labour and national insurance law, excluding Article 460 paragraph 1, Article 461 paragraphs 1 and 2, Article 463 paragraphs 1^1 and 3, Article 467 paragraph 4, Article 476 paragraphs 1-2 and 4-5, Article 477^1 paragraphs 1^1-2, Article 477^2, Article 477^6, Articles 477^9-477^{14a}.

Article 91.
Cases concerning those claims which arise from legal relationships existing between the employee fund members and the fund or its agency shall be examined and decided by the common insurance court of competent jurisdiction for the area of the fund member's residence.

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[92] Added by Art. 4 item 2 of the Act referred to in footnote 52
[93] In the wording set forth in Art. 170 item 14 of the Act referred to in footnote 36.
[94] In the wording set forth in Art. 4 item 3 of the Act referred to in footnote 52.

CHAPTER 8
Open pension fund: acquisition activities

Article 92.
1. The open fund shall not conduct acquisition activity by offering additional pecuniary benefits to be gained for reasons of membership in the open fund -- where the said offer is made with the object of inducing a person to obtain or retain membership in the fund.
2. Clause 1 shall apply respectively to practices other than that referred to therein -- where the said practices include promising additional pecuniary benefits in return for the accession to or retaining membership in a certain open fund.
3. For purposes of clause 1 acquisition activity shall mean any gainful occupation pursued with the object of inducing a person to obtain or retain membership in the fund. Acquisition activity shall include executing on behalf of the open fund of contracts giving rise to membership in the fund, and rendering services of intermediary in connection with the execution of the said contracts.

Article 93.
1.[95] Acquisition activities on behalf of an open fund, in the scope specified in Art. 92, clause 3, may only be conducted by an open fund or, at the request of that fund, by the following entities:
1) domestic banks as defined in the Banking Law of 29 August 1997 (Journal of Laws of 2002, No.72, item 665, as amended[96]),
2) insurance companies,
3) brokerage houses as defined in the regulations governing public trading in securities,
4) insurance agents,
5) entities involved in brokerage activities as defined in the regulations governing insurance activities,
6) "Poczta Polska", a State-owned public utility enterprise,
7) [deleted][97]

2.[98] Activities linked with the preparation and publication of advertisements, as part of its business activities, commissioned by the entities referred to in clause 1, shall not be treated as acquisition activities as defined in Art. 92, clause 3
3. Acquisition activity transactions shall be executed solely by natural persons entered in the register of persons licensed to provide acquisition services to open funds. The register shall be kept by the Supervision Office.
4.[99] Where the open fund promotes its product and services without intermediary of those referred to in clause 1, no entity other than natural persons whose relation with the general society being the agency of the arises form a contract of employment, agency contract, a job contract or any other legal relationship of similar nature fund shall execute acquisition activity transactions on behalf of the fund.
5. [deleted][100]
6.[101] An individual entered in the register referred to in clause 3 may conduct acquisition activities on behalf of only one open pension fund. Should the contract for the conduct of

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[95] In the wording set forth in Art. 170 item 15 letter a of the Act referred to in footnote 36.
[96] Modifications to the unified text of the Act have been published in: the Journal of Laws of 2002 No. 126 item 1070, No. 141 item 1178, No. 144 item 1208, No. 153 item 1271, No. 169 items 1385 and 1387, and No. 241 item 2074; of 2003 No. 50 item 424, No. 60 item 535, No. 65 item 594, No. 228 item 2260, No. 229 item 2276; and of 2004 No. 64 item 594, No. 68 item 623, No. 91 item 870, No. 96 item 959, No. 121 item 1264, and No. 146 No. 1546.
[97] By Art. 1 item 46 letter a of the Act referred to in footnote 2; came into force on 01.01.2004.
[98] In the wording set forth in Art. 170 item 15 letter b of the Act referred to in footnote 36.
[99] In the wording set forth in Art. 1 item 46 letter b of the Act referred to in footnote 2; came into force on 01.01.2004.
[100] By Art. 1 item 46 letter c of the Act referred to in footnote 2; came into force on 01.01.2004.
[101] In the wording set forth in Art. 1 item 46 letter d of the Act referred to in footnote 2; came into force on 01.01.2004.

acquisition activities on behalf of an open fund expire or be terminated, the individual may enter into the contract for the conduct of acquisiton activities on behalf of another open fund not earlier than after 6 months of the expiration or termination of the contract with the first fund.
6a.[102)] Restrictions specified in clause 6 shall not be applicable where the contract for the conduct of acquisition activities on behalf of an open fund expired or had been terminated at the motion of the open fund or entities specified in clause 1.
7.[103)] The general society, as the agency of an open fund, shall be liable pursuant to Art. 62 and Art. 204 for the irregularities in the acquisition activity, regardless of the fact whether the said acquisition activity had been conducted by the fund itself, or by entities specified in clause 1, items 1-6.

Article 93a. [104)]
Acquisition services on behalf of an open fund shall not be conducted in a manner where the relation of superiority in employment or in any other legal relation underlying professional relation, or any relation of similar nature is being taken advantage of.

Article 94.[105)]
1. Eligible for being entered in the register referred to in Article 93 clause 3 shall be those natural persons who:
1) have not been sentenced under a valid court verdict for a willful offence against property, [or] against the credibility of documents, [or] against life and health, [or] against administration of justice, [or] against the information protection, [or] against trade, [or] against the money turnover or the securities trade, [or] against the Treasury, or for the offences referred to in Chapter 22,
2) are possessed in full of the legal capacity,
3) warrants to conduct acquisition activities properly,
4) have at least high-school education.
2. The Supervision Office shall enter a person in the register on the basis of a motion filed by that entity which conducts acquisition activity on behalf of the open fund or, where the open fund does not use services of an intermediary, by the fund. Refusal to make the entry shall be given by the instrument of administrative decision. The entry shall be made or refused within 1 month of the date of filing the application.
3. The register of persons authorised to conduct acquisition activity on behalf of open funds shall contain the following particulars:
1) the entry number,
2) principal personal data of [each] registered persons, covering:
a) the given names and surname,
b) the date and place of birth,
c) the parent's names,
d) the universal electronic census system number ("PESEL" number), or the passport number or other identification document in case of non-Polish citizens,
e) the registered address,
3) the name of the principal in whose name the registered person performs acquisition transactions,
4) the name of that open fund on behalf of which the registered person performs acquisition transactions.
4. The Supervision Office shall by the instrument of administrative decision strike a registered person off the register, whether on the motion of the fund on behalf of which said person conducts acquisition activities, or ex officio, where the said person:

[102)] Added by Art. 1 item 46 letter e of the Act referred to in footnote 2; came into force on 01.01.2004.
[103)] Added by Art. 4 item 4 of the Act referred to in footnote 52; as modified by Art. 1 item 46 letter f of the Act referred to in footnote 2, which came into force on 01.01.2004..
[104)] Added by Art. 170 item 16 of the Act referred to in footnote 36; in the wording set forth in Art. 1 item 47 of the Act referred to in footnote 2.
[105)] In the wording set forth in Art. 1 item 48 of the Act referred to in footnote 2.

1) no longer satisfies the registration criteria,
2) has performed acquisition transactions in an unlawful manner.
5. The person, who has been stricken off of the register pursuant to clause 4 item 2 above, may not be re-entered into the register for 24 months from the date of being stricken off the register.
6. The Supervision Office shall revoke, by administrative decision, a register entry if after making the entry it receives information indicating that on the day of making the register entry the conditions and necessary requirements to make the entry, as specified in clause 1, had not been met. Agreements and contracts for the membership in the open fund concluded by the person conducting the acquisition activities, whose entry in the register has been revoked by the Supervision Office, are legally binding.
7. The open fund, on behalf of which the person conducts acquisition activity violating legal provisions, shall notify the Supervision Office of the violation of the law by the person conducting acquisition activity immediately after receiving such information.
8. The open fund, on behalf of which a person conducts acquisition activity, shall report of the fact of termination of conducting acquisition services by this person within 14 days of expiration or termination of the agreement for acquisition services with the said person, or of the day of receiving information on expiration or termination of this agreement. Upon reporting of this fact, the open fund shall indicate the date of the expiration or termination of the said agreement for acquisition services and specifies whether the expiration or termination had taken place at the initiative of the open fund or entities specified in Art 93, clause 1. The open fund shall forthwith notify the person conducting acquisition services of the date and contents of the report of termination of conducting acquisition services by the said person. Basing on the report, the Supervision Office shall introduce respective modification to the register entry, as specified in Art. 93, clause 3.
9. Where a registered person has embarked upon acquisition transactions on behalf of another fund, the fund for which the person shall subsequently conduct acquisition activity shall forthwith notify the Supervision Office to that effect. The notification shall predate the commencement of acquisition transactions [conducted on behalf of the other]. The commencement of acquisition transactions may take place only after respective modification to the register entry is introduced.
10. Basing on the notification specified in clause 9 above, the Supervision Office shall introduce respective modification to the register entry and deletes the reference specified in clause 8 above, or declines such modification by administrative decision. Should the notification be non-compliant with the provisions of the Act hereto, in particular should the person fail to terminate the conduct of his acquisition activity on behalf of the heretofore open fund or former entity, this shall constitute the ground for the negative decision on introducing respective modification to the register entry.
11. Should the person entered into the register resume his acquisition activity on behalf and in the name of the heretofore open fund, the heretofore open fund shall forthwith introduce a motion to delete the remark on termination of acquisition activity, indicating the date of resuming the acquisition activity. The Supervision Office shall upon the motion delete the remark on termination of acquisition activity. The person entered into the register may commence the acquisition activity on behalf of the heretofore fund and in the name of the heretofore entity as of the date indicated in the motion.
12. The open fund, on behalf of which acquisition activity is undertaken is obliged to notify the Supervision Office of any changes in the data subject to register entry within 30 days of being notified, and in case of changes of the data specified in clause 3, item 3, immediately. Refusal to enter the change in the register shall be given by the instrument of administrative decision.

CHAPTER 9
Accounts and conversion of contributions

Article 95.)[106]

[106)] **As modified by Art. 170 item 18 of the Act referred to in footnote 36.**

Contributions shall be paid into accounts operated by the open funds, in amounts and on terms set forth in separate provisions, or into accounts operated by employee funds, in amounts and at intervals defined on the basis of the principles referred to in the Employee Pension Plans Act.

Article 96.
1. The employee fund contributions shall be paid in in the names of the employees being members of that fund.
2. The contributions referred to in clause 1 shall be paid in, in the names of the employees, by their employer being a shareholder of the employee society.
3. An employee fund contribution may likewise be made by means of the credit transfer referred to in the Employee Pension Plans Act.

Article 97.
1. Payments into the open funds and the employee funds may be made in securities, pursuant to separate regulations.
2. Payments into the employee funds may be made is the shares referred to in Article 101, pursuant to Chapter 10.

Article 98.
Upon a member's accession to the fund the fund shall open for the member an account into which contributions shall be paid in and credit transfers made.

Article 99.
1. The contributions paid into the fund and the credit transfers received shall be converted into accounting units.
2. [deleted][107)]
3. The total value of the accounting units shall be at all times equal to the total value of the fund's net assets converted into the said units.
4. The contributions and credit transfers received may likewise be converted into fractions of one accounting unit and the balance in the member's account may be given in the said fractions of an accounting unit.
5. The fund's net asset value and the value of one accounting unit shall be established according to the terms and standards governing the valuation of the funds' assets and liabilities.
6. The Council of Ministers shall by Ordinance prescribe detailed terms and standards on the valuation of the funds' assets and liabilities.

Article 100.
1.[108)] The contributions and credit transfers received shall be converted into accounting units on the date determined in accordance with clause 2, hereinafter called "conversion day", at that day's accounting unit value.
1a.[109)] The value of the accounting unit on the conversion day shall be determined by dividing the fund’s net assets on the conversion date by the number of accounting units entered on that date into the accounts kept by the fund.
2.[110)] With regard to the employee fund the conversion day shall be the last working day of [each] month, unless other conversion days be additionally appointed in the fund's Articles of Association. As regards open funds, each working day shall constitute a conversion date.
3. On the first conversion day, which shall be understood to follow the payment into the fund of the first contribution, the value of one accounting unit shall be 10 zloty.
4. Prior to conversion, the contributions and credit transfers shall be kept in a separate money account of the fund. Interest accruing on money deposited in the said account shall be a revenue of the fund.
5. The securities referred to in Article 97 clause 1 shall be converted into accounting units pursuant to separate provisions.

[107)] By Art. 170 item 19 of the Act referred to in footnote 36.
[108)] As modified by Art. 170 item 20 letter a of the Act referred to in footnote 36.
[109)] Added by Art. 170 item 20 letter b of the Act referred to in footnote 36.
[110)] As modified by Art. 170 item 20 letter c of the Act referred to in footnote 36.

6. [deleted][111)]

Article 100a. [112)]

1. The open fund is obliged to return any unduly received contributions to the Social Insurance Institution.

1a.[113)] The amount of the contribution referred to in clause 1 above shall be established at the level of the value at par of the contribution transferred by the Social Insurance Institution together with the value at par of the delay interest, subject to clauses 1b-10 below.

1b.[113)] The open fund shall remit accounting unit in the amount specified in clause 1a above, decreased by the equivalent of the charges collected by the Society managing the fund.

2.[114)] Should the return of unduly received contributions take place as a result of nullification of the agreement with an open fund or as a result of a change of incorrect entry in the Central Register of Open Pension Funs Members done by the Social Insurance Institution within the scope of its competences, then in order to establish the amount of the contribution, as specified in clause 1, the open fund shall nullify the accounting units obtained from the unduly received contributions, subject to clauses 3-10.

3. The open fund shall return the amount specified in clause 2, increased by the value at par of the charges collected by the society managing the fund, subject to clause 4.

4.[115)] Should the unduly received contribution be obtained by the open fund due to the actions on the part of the society managing the fund, the amount specified in clause 3 above must not be lower than the value at par of the unduly received contribution, increased by the interest as set forth by the provisions on Social Insurance System.

5.[115)] The amount constituting an equivalent of the charges referred to in clause 3 above, as well as the difference between the unduly received contribution, increased by the interest as set forth in the provisions on Social Insurance System, and the amount specified in clause 3, shall be financed by the society managing the open fund, subject to clauses 6 and 7 below.

6.Should the unduly received contribution be obtained by the open fund due to the actions of the Social Insurance Institution, and the fund has performed credit transfer pursuant to Art. 119, 126 or 131, the society managing the said fund and the society managing the fund where the contribution had been sent shall finance the amount constituting an equivalent of the collected charges, as referred to in clause 3 above.

7.[116)] Should the return of the undult received contribution take place as a result of the agreement with the open fund not being valid, and the open fund had conducted credit transfer pursuant to Articles 119, 126 or 131, the society managing the fund shall finance the amount constituting the equivalent of the difference between the amount calculated pursuant to clause 4 above, to the date of the credit transfer, with the amount of the credit transfer.

7a.[117)] Should the return of the unduly received contribution take place in the situation specified in clause 2 above, the whole amount received as a result of credit transfer shall be considered one contribution.

8. Should the person, for whom the unduly received contribution had been transferred, be a member of another open fund, then the amount calculated compliant to clauses 3 and 4 above shall be transferred by the Social Insurance Institution to this fund, subject to clause 9 below.

9.[115)] The amount referred to in clause 8 above, may not be lower than the value at par of the due contribution increased by the interest as set forth in the provisions on Social Insurance System.

10. The interest, as referred to in clause 4 above, shall be calculated from the date of the encumbrance of the bank account of the Social Insurance Institution with the amount of the unduly received contribution, to the date of its return.

11.The return of the unduly received contributions shall be done by deduction from the contributions transferred by the Social Insurance Institution to the open fund.

[111)] By Art. 170 item 20 letter d of the Act referred to in footnote 36.
[112)] Added by Art. 4 item 5 of the Act referred to in footnote 52.
[113)] Added by Art. 7 item 1 of the Act of 18 December 2002 on the modification to the Social Insurance System Act and some other Acts (Journal of Laws No. 241 item 2074), which came into force on 01.01.2003.
[114)] In the wording set forth in Art. 7 item 2 of the Act referred to in footnote 113.
[115)] As modified by Art. 7 item 3 of the Act referred to in footnote 113.
[116)] In the wording set forth in Art. 7 item 4 of the Act referred to in footnote 113.
[117)] Added by Art. 7 item 5 of the Act referred to in footnote 113

12. Should the Social Insurance Institution transfer the contribution as referred to in clause 1 above, together with delay interests, clauses 1-11 shall apply.

CHAPTER 10
Quantity accounts

Article 101.
1. Those shares, be they free or discount shares, which employee fund members have received as a result of the privatisation of their employer shall be deposited in quantity accounts which shall be operated by the employee funds on the terms laid down in the Employee Pension Plans Act.
2. The employee fund may delegate the keeping of the quantity accounts to an operator authorised to keep securities accounts.
3. A single quantity account shall not be used as a deposit account for shares of more than one issuer.
4. Shares deposited in the quantity account shall be shown [on the fund's books] by quantity.
5. The employee fund members shall not have the disposal of the shares deposited in the accounts or of dividend on the said shares.
6. A member of the employee fund may dispose of his or her right to take up shares of a new issue subject to Article 105.

Article 102.
1. The employee fund shall wind up the members' quantity accounts and transfer the shares deposited therein to the fund's assets according to a quantity accounts winding-up agenda which the employee society shall adopt by a Supervisory Board resolution and notify to the Supervision Office no later than 3 months before that day on which the winding up of the accounts is scheduled to commence.
2. The agenda referred to in clause 1 shall determine:
1) dates by which to transfer certain shares to the fund's assets ,
2) the terms of establishing the number of those shares deposited in the accounts by individual members which are subject to transfer to the fund's assets, including shares deposited by those whose join the fund after the agenda has been released,
3) numbers of those shares deposited by individual members in the quantity accounts which are subject to transfer to the fund's assets by certain dates.
3. With regard to those who have joined the fund following the release of the agenda the dates by which to transfer [their] shares to the fund's assets shall be set on a case-by-case basis.
4. Shares shall not be transferred to the fund's assets otherwise that on a conversion day.
5. On the share transfer day such number of accounting units as corresponds, by value, to the value of the shares transferred from [each member's] quantity accounts reduced by tax due, shall be credited to each member's account. The shares shall be valued according to the fund assets valuation standards.
6. The winding up of a quantity account in which shares of a given issuer are deposited shall commence no later than 3 years of that day on which a share of that issuer's has been deposited for the first time in the account, and it shall be completed no later than 10 years of that day on which the first share transfer from the quantity account to the fund's assets has been made.
7. Where the Supervision Office should establish that the implementation of the agenda might proceed or has proceeded unlawfully or in a manner prejudicial to interests of employee fund members, the Supervision Office may suspend the implementation of the agenda and call upon the employee fund to remove the irregularities detected.
8. The transfer of public companies' shares deposited in quantity accounts to the employee fund's assets shall be effected out of the regulated market as defined in the Public Trading in Securities Act of 21 August 1997. Article 38 clause 3 and clause 4 of the Act on Commercialisation and

Privatisation of State Enterprises of 30 August 1996[118)] (Journal of Laws of 2002, no. 171, item 1397, as amended[119)]) shall not apply to the said share transfer.

Article 103.
1. Where a member has requested the payment, settlement by credit transfer, or refund of the balance in his or her employee fund account, that member's quantity account shall be promptly wound up and such shares as have not been transferred to the fund's assets shall be returned to him or her, subject to clause 2.
2. Where the employee fund has made by-instalment payments in settlement of the member's account balance, the member's quantity account shall be wound up on that day on which the last instalment is paid and the shares deposited in the [quantity] account shall be turned over to the member.
3. Upon the death of a member being the owner of a quantity account, or upon dissolution, whether by divorce or annulment, of such member's marriage, the shares deposited in the member's quantity account shall be turned over to an appointed beneficiary. Article 130 and Article 133 shall apply respectively.
4. Clause 3 shall apply respectively where marital community property should discontinue during the life of the employee fund member's marriage or where statutory martial community property should be excluded or limited under a contract between the member and his or her spouse.

Article 104.
Dividend on the shares deposited in the member's quantity account and that price for which the employee fund has sold for the member his or her new issue rights shall be paid into the member's accounting-units account.

Article 105.
The Council of Ministers shall by Ordinance prescribe the detailed requirements and standards on the execution and settlement of those transactions whereby the employee fund sells for the fund member new issue rights carried by the member's shares deposited in the quantity account, and detailed requirements and procedures for the exercise of the said rights by the fund members.

Article 106.
1. Where the number of a given issuer's shares deposited in the employee fund's all quantity accounts should exceed 1 percent of that issuer's [issued] shares, rights in the said shares other than property rights shall be exercised by a representative of those fund members who hold the shares in their quantity accounts, hereinafter called "representative".
2. The representative shall be elected for a 3-year term, by secret ballot, by those fund members who hold the said issuer's shares in their quantity accounts.
3. The procedure for the election of the representative shall be laid down in rules adopted by the Supervisory Board of the employee society. The rules shall establish in particular whether the members elect the representative directly or by their chosen representatives, and it shall lay down the terms of recalling the representative before the end of his or her term of office. The rules shall not make the validity of the election contingent upon a certain turnout.
4. Article 45 clause 4 shall apply respectively.

CHAPTER 11
Disbursement of account balance

Article 107.

[118)] The title changed pursuant to Art. 23 of the Act of 5 December 2002 on the modification of the Act on the rules and procedures of enjoying the rights by the Treasury, Act on Commercialization and Privatization of State Enterprises and some other Acts (Journal of Laws No. 240 item 2055).
[119)] Modifications to the unified text of the Act have been published in: Journal of Laws of 2002 No. 240 item 2055, of 2003 No. 60 item 535 and No. 90 item 844 and of 2004 No. 6 item 39, No. 116 item 1207 and No. 123 item 1291.

1. The fund member shall not dispose of the balance in his or her account.
2. Clause 1 shall not apply to the fund member's testamentary disposition.

Article 108.
The balance in the open fund member's account shall not be subject to execution.

Article 109.
The balance in the employee fund member's account shall be subject to execution on the terms laid down in the Employee Pension Plans Act.

Article 110.
The terms of acquisition by the open fund member of the right to withdraw the balance in his or her account and the terms of disbursement of the said balance shall be governed by separate provisions.

Article 111.
1. The disbursement of the balance in the open fund account shall be effected by the transfer of the said balance to that pension insurance company indicated by the [account owner] fund member from which the member has taken out pension annuity.
2. The Council of Ministers shall by Ordinance prescribe detailed requirements and procedures for the issuance by the open fund member of instructions concerning the removal of his or her account balance to a pension insurance company in connection with a purchase of the pension annuity, and for the removal of the balance to the pension insurance company.

Article 111a. [120)]
1. The resources aggregated at the open pension fund member's account shall be transferred, with the Social Insurance Institution as intermediary, to the income of the State budget, where the competent pension agency notifies the member of an open pension fund of the establishment of the right to pension calculated pursuant to Art. 15 or of the right to the increase of the pension pursuant to Art. 14:
1) of the Act on pension benefits for professional soldiers and their families of 10 December 1993 (Journal of Laws of 2002, No. 11, item 108 and No. 74, item 676, as of 2003, No. 56, item 498 and No. 166, item 1609), or
2) of the act on pension benefits for Police Officers, Internal Affairs Agency Officers, Intelligence Agency Officers, Border Police Officers, Government Protection Bureau, National Fire Department officers and Penitentiary Guard officers and their families, of 18 February 1994 (Journal of Laws No. 53, item 214, as amended).
2. In cases specified in clause 1 above, the open pension fund shall not impose any charges.
3. The Minister competent for the social protection shall specify by Ordinance, the date and course of the return in cases referred to in clause 1, taking the rules of cooperation between open pension funds, pension agencies and Social Insurance Institution into consideration by clearing the balances.

Article 112.
The manner of employing the balance in the open fund account of that member who has obtained a social security invalidity pension entitlement shall be governed by separate provisions.

Article 113.
The terms of acquisition by the employee fund member of the right to have the balance in his or her account paid out, removed by credit transfer, or refunded shall be as laid down in the Employee Pension Plans Act.

Article 114.

[120)] Added by Art. 9 of the Act of 23 July 2003 on the modification of the Social Insurance System Act and some other Acts (Journal of Laws, No. 166, item 1609), which came into force on 01.10.2003.

1. The employee fund shall offer to its members the option of having their account balances paid out as lump-sums.
2. The account balances may likewise be paid out in the form of programmed withdrawals, on such terms and according to such procedures as may be set in the [employee] fund's Articles of Association.
3. The account balance shall be paid out, whether in the both or in one of the aforesaid forms, at the member's written request.

Article 115.
The lump-sum disbursement shall be made no later than 3 months of that day on which the employee fund has received the member's payout notice.

Article 116.
Where the account balance is paid out in the form of programmed withdrawals, the first payment shall be due no later than 1 month of that day on which the employee fund has received the member's payout notice, save where the member has stipulated that the payment be made at some later date.

Article 117.
Where the payment of the account balance is made in the form of programmed withdrawals, the member may at any time demand that the amount outstanding be paid as a lump-sum. That lump-sum payment shall be made pursuant to Article 115.

Article 118.
Where the employee fund member has not given a payout notice to the fund before or on his or her seventieth birthday, the fund shall pay out the member's account balance as a lump-sum within 3 months of the member's seventieth birthday.

Article 119.[121)]
1. Where the open fund member has joined another open fund, the hitherto fund shall make credit transfer to that fund which the member has joined, on the basis of the member's notification that he or she has entered into contract with the other fund. The open fund to which the credit transfer has been made shall not refuse to receive the same.
2. The credit transfer shall be made under the condition that the open pension fund member carries the charges for the general society managing the open fund out of his own resources, although such payment may be done only when the period between the last day of the month when the fund membership had been obtained, pursuant to Art. 81, clause 1 or clause 6, and the day of the next credit transfer to another fund is not longer than 24 months.
3. The Council of Ministers shall determine by Ordinance, the manner in which the calculation, collection and volume of the charges referred to in clause 2 is conducted, considering the seniority of membership in an open fund, although the siad amount may not be bigger than 20% of the minimum wages, established in separate provisions.

Article 120.
The employee funds shall make credit transfers on the terms laid down in the Employee Pension Plans Act.

Article 121.
No credit transfer shall be made from an open fund account into an employee fund account or from an employee fund account into an open fund account.

Article 122.
1.[122)] Credit transfers between open funds shall be executed on the last working day of February, May, August, and November.

[121)] In the wording set forth in Art. 1 item 49 of the Act referred to in footnote 2; came into force on 01.04.2004.

2. An amount of the credit transfer shall be established on the fifth working day preceding the transfer.

Article 123.
1.[123] Credit transfers between open funds shall be settled by the National Securities Deposit Joint-Stock Company hereinafter called "National Deposit".
2.[124] A general society being the agency of an open fund to the credit transfer has been made shall refund the Social Insurance Institution the costs of the activities performed in connection with a member's transfer to another open fund; it shall also refund the National Depositary the costs of activities performed in connection with accounting for transfer payments.
2a.[125] The payment which the general society makes for the entities referred to in clause to, shall amount to:
1) for the Social Insurance Institution – 1% of the amount of minimal wages, specified by separate provisions, for each registered contract for membership of a person becoming a member of a new fund,
2) for the National Securities Deposit – 1% of the amount of minimal wages, specified by separate provisions, for each of the credit transfers cleared.
3. [deleted][126]

Article 123a. [127]
The Council of Ministers shall specify by Ordinance the deadline and procedure for making transfer payments in the circumstances referred to in Art. 70, clause 2, and Art. 119, and in the provisions of Chapters 12 and 13. In particular, the Ordinance should specify the principles for the co-operation of the National Depositary with the Social Insurance Institution and the co-operation of open pension funds with the Social Insurance Institution in accounting for transfer payments, and the manner of applying interest on funds kept in an account, transferred by open funds as part of accounting for that payment.

Article 124. [128]
The detailed procedures for the settlement of credit transfers between open funds shall be determined by the National Deposit in Rules which shall be approved by the Supervision Office[13]. The by-laws shall also specify the amount of fees payable to the National Depositary by open funds in connection with accounting for transfer payments

Article 125.
The execution of a credit transfer shall not exclude the liability of the society being the agency of the transferor fund to the former fund member or to that other person for credit to whom the transfer has been made.

CHAPTER 12
Distribution of account balance following divorce or annulment of marriage

Article 126.
Where the marriage of the open fund member has been dissolved by divorce or annulment [and where] a part of the member's account balance has been awarded to the member's former spouse under the community property settlement, the said part of the account balance shall be remitted by credit transfer to the former spouse's open fund account.

Article 127. [129]

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[122] As modified by Art. 170 item 22 of the Act referred to in footnote 36.
[123] The marking of clause 1 set by Art. 170 item 23 of the Act referred to in footnote 36.
[124] Added by Art. 170 item 23 of the Act referred to in footnote 36; in the wording set forth in Art. 1 item 50 letter a of the Act referred to in footnote 2.
[125] Added by Art. item 50 letter b of the Act referred to in footnote 2.
[126] Added by Art. 170 item 23 of the Act referred to in footnote 36; rescinded by Art. 1 item 50 letter c of the Act referred to in footnote 2.
[127] Added by Art. 170 item 24 of the Act referred to in footnote 36.
[128] Second sentence added by Art. 170 item 25 of the Act referred to in footnote 36.

The open fund shall make the credit transfer within the period of time referred to in Art. 122, after presenting the fund with evidence that the member's account balance has been awarded to the former spouse.

Article 128. [130]
1. Should the beneficiary former spouse not have an account in an open fund, and should he not indicate any account in any open fund within 2 months of the date of presenting the fund with evidence specified in Art. 127, the open fund of the other former spouse shall forthwith open an account for the name of the beneficiary former spouse and shall make a credit transfer of the due resources from the account of his former spouse. As of the opening of the account the beneficiary former spouse shall acquire membership in the fund. The fund shall immediately confirm in writing the membership conditions applicable to the eligible spouse
2. In the circumstances referred to in clause 1 the open fund shall call upon the beneficiary former spouse to discharge forthwith the duty referred to in Article 82 clause 1.

Article 129.
Articles 126-128 shall apply respectively where community property should cease during the life of the open fund member's marriage, or where statutory community property should be excluded or limited under a contract between the fund member and his or her spouse.

Article 129a.[131]
1. Persons, to whom, pursuant to Art. 128, the open fund had opened an account are entitled to one-time payment of all the resources accumulated at this account within 14 days of filing a motion when:
1) the motion has been filed together with the decision acknowledging the right to pension benefits, pension provisions, or farmer’s pension or retirement remuneration,
2) the person had not acquired the right to pension although the person is older than 60 years old in case of women and 65 years in case of men,
3)[132] a person born before 1 January 1969 had filed a motion, if the amount of the resources accumulated at their account on the day of filing the motion is not higher than:
a) the amount constituting 50% of average wages as set forth in Art. 20, clause 2 of the Social Insurance Institution Pensions and Annuities Act, if the account had been opened before 1 January 2002,
b) the amount constituting 150% of average wages as set forth in Art. 20, clause 2 of the Social Insurance Institution Pensions and Annuities Acy, if the account had been opened after 1 January 2002,
2. Persons who are entitled to earlier pension pursuant to separate provisions, and whom the open fund had opened an account pursuant to Art. 128, do not lose the right to earlier pension.
3. The insured persons, as referred to in Article 111, clauses 3 and 6 of the Social Insurance System Act of 13 October 1998 (Journal of Laws No. 137, item 887, as amended[133]), who had obtained the membership in an open fund pursuant to Art. 128, shall not become the part of the contribution specified in Article 22 clause 3 of the Social Insurance System Act transferred by the Social Insurance Institution.

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[129] As modified by Art. 170 item 26 of the Act referred to in footnote 36.
[130] As modified by Art. 170 item 27 of the Act referred to in footnote 36.
[131] Added by Art. 6 item 1 of the Act of 11 January 2001 on the modification of the Social Insurance System Act and some other Acts (Journal of Laws No. 8, item 64) which came into force on 17.02.2001.
[132] In the wording set forth in Art. 1 item 51 of the Act referred to in footnote 2.
[133] Modifications to the Act have been published in the Journal of Laws of 1998 No. 162 items 1118 and 1126; of 1999 No. 26 item 228, No. 60 item 636, No. 72 item 802, No. 78 item 875, No. 110 item 1256; of 2000 No. 9 item 118, No. 95 item 1041, No. 104 item 1104 and No. 119 item 1249; of 2001 No. 8 item 64, No. 27 item 298, No. 39 item 459, No. 72 item 748, No. 100 item 1080, No. 110 item 1189, No. 111, item 1194, No. 130 item 1452, No. 154 item 1792; of 2002 No.25 item 253, No. 41 item 365, No. 74 item676, No. 155 item1287, No. 169 item 1387, No. 199 item 1673, No. 200 item 1679 and No. 241 item 2074; of 2003 No. 56 item 498, No. 65 item 595, No. 135 item 1268, No. 149 item 1450, No. 166 item 1609, No. 170 item 1651, No 190 item 1864, No. 210 item 2037, No. 223 item 2217, No. 228 item 2255; and of 2004 No. 19 item 177, No. 64 item 593, No. 99 item 1001, No. 121 item 1264 and No. 146 item 1546.

4. If the insured persons referred to in clause 3 above had received the part of the contribution specified in Article 22 clause 3 of the Social Insurance System Act transferred by the Social Insurance Institution, the contribution shall be returned under the conditions specified for the unduly received contribution transferred to an open pension fund.
5. The provisions of clause 1 shall not apply to persons born after the day of 31 December 1968, who, after the date of opening the account pursuant to Art. 128, paid due social insurance contributions.

Article 130.
1. In the event of dissolution, whether by divorce or by annulment, of the marriage of the employee fund member, the member's account balance falling under community property shall be paid out directly to the member's former spouse within 3 months of that day on which evidence that the account balance has been awarded to the member's former spouse has been submitted to the fund.
2. Clause 1 shall apply respectively where community property should cease during the life of the employee fund member's marriage, or where statutory community property should be excluded or limited under a contract between the employee fund member and his or her spouse.

CHAPTER 13
Distribution of account balance on death of pension fund member

Article 131.
1.[134] Where the member of the open fund had at the time of his or her death a living spouse the fund shall by credit transfer remit one-half of the balance in the deceased's account to his or her spouse's account with an open fund, insofar as the said account balance was subject to community property.
2.[135] The credit transfer shall be effected within the period of time referred to in Art. 122, after the widowed spouse has presented to the fund: duplicates of the death certificate and the marriage certificate; and a written statement declaring whether or not circumstances in the decedent's life had changed, in comparison to those described in the statement referred to in Article 83 clause 1 or in the notification referred to in Article 83 clause 2, by the time of his or her death; and -- where the circumstances had changed -- a proof of the changes.
3. Where the decedent's spouse has no account with an open fund, Article 128 shall apply respectively.
4.[136] If the deceased failed to meet the requirement specified in Art. 83, clause 1, sentence two or in clause 2, his/her spouse should confirm in writing that the property relations between the spouses, determined in accordance with Art. 83, clause 3, did not change up to the death of the fund member; if those relations did change, the spouse in question should produce relevant evidence of those changes.
5.[136] The open fund shall not be liable for any of the consequences of failing to meet or mal-performing the requirement referred to in clause 2 or 3.

Article 132.
1.[137] That proportion of the balance in the deceased open fund member's account which has not been dispensed pursuant to Article 131 shall be remitted to those whom the decedent had named pursuant to Article 82 clause 1 or 1a, and if there are no such individuals, they are subject to be inherited according to general provisions of law.
2. [deleted][138]

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[134] As modified by Art. 170 item 28 letter a of the Act referred to in footnote 36.
[135] As modified by Art. 170 item 28 letter b of the Act referred to in footnote 36.
[136] Added by Art. 170 item 28 letter c of the Act referred to in footnote 36.
[137] In the wording set forth in Art. 6 item 2 letter a of the Act referred to in footnote 131; as modified by Art. 1 item 52 of the Act referred to in footnote 2.
[138] By Art. 6 item 2 letter b of the Act referred to in footnote 131.

3.[139] The open fund shall disburse that proportion of the account balance which descends to the beneficiary named by the decedent or to the decedent's nearest relative within 3 months of the date of service upon the fund of an official document wherein the beneficiary is identified, provided that the share due to the decedent's spouse may be remitted, at the spouse's request, to his or her open fund account -- in which case Article 128 shall apply respectively to the disbursement by credit transfer of the share descending to the deceased member's spouse.
4.[140] The disbursement made directly to a beneficiary named by the decedent shall be made either as a lump-sum or in the form of programmed withdrawals which shall be spread over no more than 2 years, according to the beneficiary's written instruction.
4a.[141] The provisions of clause 3 and 4 shall be applicable respectively to inheritors, who are additionally obliged to service upon the fund a legally binding confirmation of obtaining the inheritance.
5. The terms of by-installment disbursement shall be laid down in the open fund's Articles of Association.

Article 133.
1. In the event of the employee fund member's death the balance in the deceased member's account shall be paid out to that person whom the decedent named as the beneficiary after his or her death. Where the decedent made no testamentary disposition, the account balance shall be included in his or her estate.
2. The account balance referred to in clause 1 shall be paid out directly to the beneficiaries, within 1 month of that date on which the fund has been furnished with proof that the account balance descends to those beneficiaries.

CHAPTER 14
Pension fund: Financing of operations

Article 134.
1. The open fund shall not administer charges otherwise than:
1)[142] by deducting a certain amount, given in percent, from contributions paid in -- provided that the said deduction shall be made before the contributions have been converted into accounting units,
1)[143] by deducting a certain amount, given in percent, from contributions paid in, constituting no more than 3,5% -- provided that the said deduction shall be made before the contributions have been converted into accounting units,
2) [deleted].[144]
3) [deleted].[145]

2. The fund shall forthwith remit to the general society sums equivalent to the charges referred to in clause 1.

Article 135.[146]
The open fund shall apply the same method of assessing and administering the charges referred to in clause Article 134 clause 1 in respect of all members.

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[139] As modified by Art. 6 item 2 letter c of the Act referred to in footnote 131.
[140] As modified by Art. 6 item 2 letter d of the Act referred to in footnote 131.
[141] Added by Art. 6 item 2 letter e of the Act referred to in footnote 131
[142] It shall remain in force in this wording until the modification referred to in footnote 143 comes into force.
[143] In the wording set forth in Art. 1 item 53 letter a of the Act referred to in footnote 2; it shall come into force on 01.01.2014.
[144] By Art. 1 item 53 letter b of the Act referred to in footnote 2; came into force on 01.04.2004.
[145] Added by Art. 170 item 30 letter b of the Act referred to in footnote 36; rescinded by Art. 1 item 53 letter b of the Act referred to in footnote 2, which came into force on 01.01.2004.
[146] In the wording set forth in Art. 1 item 54 of the Act referred to in footnote 2; came into force on 01.04.2004.

Article 136.
1. Such costs arising from the execution of fund assets purchase or sale transactions as represent an equivalent of charges paid to those third persons whose services of intermediary the fund must use pursuant to separate provisions, and such costs involved in the custody of the said assets as represent the depositary's fee, shall be covered by the fund directly from the fund's assets.
2.[147] The employee fund may likewise cover directly from its assets costs of management of the fund by the employee society, in the amount not exceeding in a single month 0.05 percent of the volume of the net assets so managed. The said charge shall be established separately for each fund net asset valuation day and it shall be paid on the last working day of each month.
2a.[148] The open fund may likewise cover directly from its assets costs of management of the fund by the society, in such amount as may be set in the Articles of Association, yet not exceeding the amounts calculated basing on the following volumes:

The volume of net assets (in PLN millions)		Monthly charge for managing the open fund, calculated from the volume of net assets
over	up to	
	8.000	0.045% of the monthly volume of net assets
8.000	20.000	PLN 3,6 million + 0,04% of the surplus over PLN 8,000 milion of the monthly volume of net assets
20.000	35.000	PLN 8,4 million + 0,032% of the surplus over PLN 20.000 million of the monthly volume of net assets
35.000	65.000	PLN 13,2 million + 0,023% of the surplus over PLN 35.000 million of the monthly volume of net assets
65.000		PLN 20,1 million + 0,015% of the surplus over PLN 65.000 million of the monthly volume of net assets

The amount shall be established separately for each fund net asset valuation day and it shall be paid on the last working day of each month

2b.[148] The open fund may cover costs of opening a premium fund, as set forth in Art. 182a directly from its assets.
3.[149] The value of the investment instruments referred to in Article 141 clause 1 item 8 and of the units [and shares] of foreign-domiciled mutual investment institutions referred to in Article 143 clause 1 shall not be taken into account for purposes of assessing the value of the fund's managed net assets referred to in clause 2 and 2a.

Article 136a. [150]
1. The costs related to storing assets and realization and clearance of fund's assets' purchase or sale transactions, constituting the equivalent of the charges carried for clearance institutions, the intermediation of which the fund is obliged to employ pursuant to separate provisions, constituting a component of the Depositary's remuneration, shall be covered out of the fund's assets basing on the said institution's table of commissions and charges currently in force.
2. Costs specified in clause 1 constituting the equivalent of the charges carried for the foreign clearance institutions shall be covered form the fund's assets up to the level not exceeding the respective costs of national clearance institutions, specified in clause 1 above.

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[147] In the wording set forth in Art. 1 item 55 letter a of the Act referred to in footnote 2; came into force on 01.04.2004.
[148] Added by Art. 1 item 55 letter b of the Act referred to in footnote 2; came into force on 01.04.2004.
[149] As modified by Art. 1 item 55 letter c of the Act referred to in footnote 2; came into force on 01.04.2004.
[150] Added by Art. 1 item 56 of the Act referred to in footnote 2; came into force on 01.04.2004.

Article 137.
1. Those operating costs of the fund which are not covered directly from the fund assets shall be covered by the society.
2. The employers being shareholders of the employee society shall cover the society's operating costs on such terms as may be laid down in the society's Articles of Association.

Article 138.
[deleted][151]

CHAPTER 15
Pension fund: Investment

Article 139.
When investing its assets the fund shall proceed according to the provisions of this Act, seeking to maximise the security and rate of return.

Article 140.
The shares held on deposit in the quantity accounts and the balance in the separate money account referred to in Article 100 clause 4 shall not be taken into account for purposes of establishing those proportions of the employee fund assets which may be invested in certain categories of instrument.

Article 141.
Subject to Article 146, the fund assets shall not be invested in any category of instruments other than:
1) bonds, bills and other securities issued by the Treasury or the National Bank of Poland, likewise in loans and credits made to the aforesaid subjects,
2) those bonds and other debt instruments representing the issuer's pecuniary obligation which are guaranteed or backed by the Treasury or the National Bank of Poland, likewise in deposits, credits and loans guaranteed or backed by the aforesaid subjects,
3)[152] bank deposits and bank securities in Polish currency,
3a)[153] bank deposits and bank securities in the currency of the OECD member states and other countries, with whom Poland had concluded agreements on support and mutual investment protection, provided that the said currencies may be obtained solely for the purpose of the clearance of the fund's current obligations.
4)[154] shares of companies listed with a stock exchange, and quoted on regulated stock market stock rights share rights or debentures convertible for the shares of these companies,
5)[154] shares of companies quoted on a regulated over-the-counter market or of those companies which, while not listed with a stock exchange or quoted on a regulated over-the-counter market, have been admitted for public trading, and those quoted a regulated over-the-counter market or those companies, while not listed with a stock exchange, but allowed for the public trading stock rights, share rights or debentures convertible for the shares of these companies,
6) National Investment Fund shares,
7)[155] investment certificates of closed-end investment funds or professional closed-end investment funds or hybrid investment funds,

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[151] By Art. 1 item 57 of the Act referred to in footnote 2; came into force on 01.04.2004.
[152] In the wording set forth in Art. 1 item 58 letter a first indent of the Act referred to in footnote 2; came into force on 01.01.2004.
[153] Added by Art. 1 item 58 letter a second indent of the Act referred to in footnote 2; came into force on 01.01.2004.
[154] In the wording set forth in Art. 1 item 58 letter a third indent of the Act referred to in footnote 2; came into force on 01.01.2004.

8) units sold by open-end investment funds or specialist open-end investment funds,
9)[156] those bonds and other debt instruments issued by local government entities, their associations and the capital city of Warsaw admitted for public trading,
10)[156] those bonds and other debt instruments issued by local government entities, their associations and the capital city of Warsaw admitted for public trading,
10a)[157] revenue bonds, as specified in the Bonds Act of 29 June 1995 (Journal of Laws of 2001 No. 120, item, 1300, and of 2002, No. 216, item 1824),
11)[158] those fully secured bonds of issuers other than local government entities, their associations and the capital city of Warsaw admitted for public trading,
12)[159] those fully secured bonds and other debt securities of issuers other than local government entities, their associations and the capital city of Warsaw, which have been secured in the amount equivalent to the value at par, together with the possible interest and which have not been admitted for public trading,
13)[160] bonds and other debt securities issued by listed companies, other than the securities referred to in items 11 and 12,
13a)[161] bonds and other debt securities admitted for public trading, other than those specified in item 9 and item 11,
13b)[162] letters of charge,
13c)[162] deposit receipts, as specified in the Public Trading with Securities Law, admitted for public trading on regulated markets at the territory of the Republic of Poland.
14) [deleted].[163]
2. Subject to the limitations laid down in Article 142, the funds may invest their assets in units of open-end investment funds or specialist open-end funds providing that those investment funds' investment policies, conducted pursuant to their Articles of Association and published from time to time pursuant to separate provisions, admit investing in no other categories of instrument than those referred to in clause 1 and in Article 143.
3.[164] The Council of Ministers may specify, by Ordinance, other categories of instruments than the ones specified in clause 1, provided that investments in secondary rights be intended to limit the investment risks related to investing fund's assets, taking such types of risks, which should be limited, availability of instruments allowing for limiting the risk, possibility of the appraisal of these instruments and the effects of them being adopted into consideration.

Article 142.
1.[165] Investment in the categories of instrument referred to in Article 141 clause 1 items 1-11 and items 13a-13c, and clause 3 shall account cumulatively for no less than 90 percent of the pension fund's assets.
2. Investment in the categories of instrument referred to in Article 141 clause 1 items 2-13 shall be subject to the following limitations:
1) [deleted][166]

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[155] In the wording set forth in Art. 311 item 1 of the Act of 27 May 2004 on investment funds (Journal of Laws, No. 146, item 1546), which came into force on 01.07.2004.
[156] As modified by Art. 140 item 2 of the Act of 24 July 1998 on modification of some Acts defining competences of the public administration bodies – in relation to the State Organization Reform (Journal of Laws, No. 106, item 668), which came into force on 01.01.1999.
[157] Added by Art. 1 item 58 letter a fifth indent of the Act referred to in footnote 2, came into force on 01.01.2004.
[158] In the wording set forth in Art. 6 item 1 letter a of the Act of 29 June 2000 on the modification to the Securities Act and some other Acts (Journal of Laws, No. 60, item 702), which came into force on 27.08.2000.
[159] In the wording set forth in Art. 1 item 58 letter a sixth indent of the Act referred to in footnote 2; came into force on 01.01.2004.
[160] In the wording set forth in Art. 170 item 32 of the Act referred to in footnote 36.
[161] Added by Art. 6 item 1 letter b of the Act referred to in footnote 158; In the wording set forth in Art. 1 item 58 letter a seventh indent of the Act referred to in footnote 2, which came into force on 01.01.2004.
[162] Added by Art. 1 item 58 letter a eighth indent of the Act referred to in footnote 2; came into force on 01.01.2004.
[163] By Art. 1 item 58 letter a ninth indent of the Act referred to in footnote 2; came into force on 01.01.2004.
[164] In the wording set forth in Art. 1 item 58 letter b of the Act referred to in footnote 2; came into force on 01.01.2004.
[165] In the wording set forth in Art. 1 item 59 letter a of the Act referred to in footnote 2; came into force on 01.01.2004.

2) with regard to the instruments referred to in Article 141 clause 1 item 3, no more than 5 percent of the fund's assets shall be deposited with a single bank or with two or more affiliated banks, providing that with regard to a one chosen bank or a group of affiliate banks the above-stated limit may stand at 7.5 percent,
3)[167] with regard to the instruments referred to in Article 141 clause 1 item 7, no more than 2 percent of the fund's assets shall be invested in investment certificates of a single closed-end investment fund, in investment certificates of a single specialist closed-end investment fund or a single hybrid investment fund,
4) with regard to the instruments referred to in Article 141 clause 1 item 8, no more than 5 percent of the fund's assets shall be invested in units sold by a single open-end investment fund or a single specialist open-end investment fund provided that the fund's total investment in all open-end investment funds and specialist open-end investment funds managed by a single investment funds society shall not exceed 15 percent of the fund's assets,
5) the total value of the fund's investment in all securities of a single issuer or of two or more affiliated issuers shall not exceed 5 percent of the fund's assets,
6)[168] the total value of the fund's investment in the categories specified in Art. 141, clause 1, item 3a, shall not exceed 5 percent of the fund's assets.
2a.[169] The pension fund may invest in investment certificates or bonds of one security fund up to 5% of the value of the fund's assets.
3. The limitations under clause 2 item 4 shall not apply to the employee fund.
4.[170] The limitations under clause 2 item 5 shall not apply where the fund is bound to accept payments made in the form defined in Article 97 clause 1. Article 149 clause 2 and clause 3 shall apply respectively.
5. The Council of Ministers shall by Ordinance determine such maximum proportion of the open fund's assets as may be invested in each of the categories of instrument referred to in Article 141.
6. The Council of Ministers may by Ordinance determine such maximum proportion of the employee fund's assets as may be invested in each of the categories of instrument referred to in Article 141.

Article 143. [171]
1. The fund may, under a general permit issued by the Minister competent for Financial institutions' matters by Ordinance and on terms laid down therein, invest its assets outside the territory of the Republic of Poland in securities of companies listed with major stock exchanges of O.E.C.D. countries or of such non-O.E.C.D. countries as may be named in the permit, and in treasury bonds and bills issued by the governments or central banks of the said countries, and in units or shares of those mutual investment institutions domiciled in the said countries which offer their units or shares to the general public and redeem the same at the investor's request.
2. The total value of asset investments:
1) of an open fund in the category of investments specified in clause 1 shall not exceed 5 percent of the fund's assets,
2) of an employee fund in the category of investments specified in clause 1 shall not exceed 30 percent of the said assets
3. Article 142 shall apply respectively to the instruments referred to in clause 1.

Article 144.
The open fund shall not invest its assets in:
1) shares or other securities issued by that general society being its manager,

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[166] By Art. 1 item 59 letter b first indent of the Act referred to in footnote 2; came into force on 01.01.2004.
[167] In the wording set forth in Art. 311 item 2 letter a of the Act referred to in footnote 155.
[168] Added by Art. 1 item 59 letter b third indent of the Act referred to in footnote 2; came into force on 01.01.2004.
[169] Added by Art. 311 item 2 letter b of the Act referred to in footnote 155.
[170] As modified by Art. 170 item 33 of the Act referred to in footnote 36.
[171] In the wording set forth in Art. 1 item 60 of the Act referred to in footnote 2; came into force on 01.01.2004.

2) shares or other securities issued by a shareholder of the general society being its manager,
3) shares or other securities issued by an affiliate of the issuers referred to in clause 1 and clause 2.

Article 145.
The employee fund shall not invest its assets in securities issued by that employee society which is its manager.

Article 146. [172]
1. The employee fund shall invest no more than 5 percent of its assets, cumulatively, in [a portfolio of] shares or other securities of shareholders of the employee society being its manager.
2. The employee fund shall invest no more than 10 percent of its assets, in [a portfolio of] shares or other securities of the affiliates of shareholders referred to in clause 1.
3. Where the fund's Articles of Association so permit, the employee fund may invest its assets in securities of shareholders of the fund's manager employee society or in securities of affiliates of those shareholders.

Article 147.
The employee fund's Articles of Association shall determine whether or not the fund may invest its assets outside the territory of the Republic of Poland and it shall specify those securities, treasury papers, and units or shares of mutual investment institutions in which the fund may so invest.

Article 148.
Any and all investment by the employee fund in units of open-end investment funds or specialist open-end investment funds shall be subject to the following limitations:
1) an investment funds society being the manager of that open-end investment fund or specialist open-end investment fund in units of which the employee fund has invested shall hold no more than 5 percent shares of any of the shareholders of the employee fund's manager employee society and no more than 10 percent of the total number of [issued] shares of all the shareholders of the said employee society,
2) the open-end investment fund or specialist open-end investment fund shall have on its portfolio no more than 5 percent shares of any of the shareholders of the employee society,
3) no member of the employee society's Management Board or Supervisory Board shall sit in the Management Board or Supervisory Board of that investment funds society which is the manager of the open-end investment fund or specialist open-end investment fund.

Article 149.
1. Where the fund has unintentionally infringed any provision of this Chapter, whether as a result of changes in those market prices which constitute the basis for the valuation of the fund's assets and liabilities, or as a result of exchange rate changes, or changes in organisational or cross-ownership relationships of the issuers of financial instruments in which the fund has invested, or following other developments beyond the fund's direct control, the fund shall forthwith take appropriate steps towards adjusting its investment portfolio to the requirements of this Act.
2. The fund shall adjust its investment portfolio to the requirements of this Act within no more than 6 months of that day on which an unlawful situation has developed, or of that day on which a valuation of the fund's assets has revealed the fund's unlawful situation, whichever occurs later.
3. At the fund's request which shall be filed no later than 1 month of that day on which the unlawful situation has developed or has been revealed, pursuant to clause 2, the Supervision Office may grant an extension of the time limit referred to in clause 2 up to 12 months where such extension serves the purpose of protecting interests of the fund members.
4. Where as a result of the implementation of the agenda referred to in Article 102 the fund should contravene -- with the object of protecting the employee fund members' interests -- the provisions of Article 146, the fund shall adjust its portfolio to the requirements laid down in Article 146 no later than within 1 month of that day on which such unlawful situation has developed or

[172] **In the wording set forth in Art. 54 item 2 of the Act referred to in footnote 24.**

has been revealed, pursuant to clause 2, provided that the Supervision Office may at the fund's request grant an extension of the said time limit up to 6 months whereupon clause 3 shall apply respectively.

Article 150.
The fund shall not:
1) sell its assets to:
a) its manager society,
b) members of the [manager] society's Management Board or Supervisory Board,
c) employees of the [manager] society,
d) the spouses of the persons referred to in items b)-c) or those related with the said persons by consanguinity or affinity within the second degree,
e) shareholders of the [manager] society,
f) affiliates of the [manager] society,
g) affiliates of shareholders of the [manager] society,
h) [deleted][173]
2) divert its assets to purchasing from any of the entities referred to in item 1 any of their assets,
3) make loans and credits and stand surety, subject to Article 141 clause 1, Article 143 clause 1 and Article 151.

Article 151.
1. The fund may employ its assets by making money loans to the entities referred to in Article 141 clause 1 item 4 and item 5. The said loans shall be equal [in status] to investment in aforementioned borrower's shares.
2.[174] The fund may make loans of securities admitted for public trading in compliance with legal provisions regulating public trading in securities.
3.[175] The Council of Ministers may specify detailed rules on the course and conditions for lending securities, admitted for public trading, by the fund. The Ordinance shall determine in particular, different from the rules and regulations established by the provisions on public trading in securities, the course and conditions of concluding loan contracts, acceptable limit of the fund's engagement in loans of securities and the manner in which the lent securities shall be taken into consideration by application of limitations of fund's investment activity and by the establishment of the value of the fund's assets considering the safety of the fund's assets and protection of the best interest of the fund members.

Article 152.
1. The employee fund may delegate the management of the fund's assets, to the extent and on the terms laid down in the provisions on public trading in securities, to that entity which is authorised under the aforesaid provisions to render the services of portfolio manager and holds a permit to pursue the said business issued by the Securities and Exchange Commission.
2. The portfolio manager referred to in clause 1 shall be appointed by the employee fund under a resolution adopted by the Supervisory Board and it shall manage the entirety or a part of the employee fund's assets under an appropriate contract made with the fund and in accordance with the fund's investment standards laid down in the fund's Articles of Association.
3. In the circumstances referred to in clause 1 the employee fund's Articles of Association shall specify those terms on which the fund may delegate the management of the entirety or a part of its assets, or it shall vest in the employee society the authority to establish the said terms by the instrument of Supervisory Board resolution.

Article 153.
With regard to the fund's foreign investment activity, the fund may entrust the management of its assets, to the extent determined in Article 143, to those entities domiciled in the countries referred to in therein which under laws and regulations in effect in the said countries may legitimately render the services of portfolio manager.

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[173] By Art. 1 item 61 of the Act referred to in footnote 2.
[174] In the wording set forth in Art. 1 item 62 letter a of the Act referred to in footnote 2.
[175] Added by Art. 1 item 62 letter b of the Act referred to in footnote 2

Article 154.
1.[176] The loans and credits contracted by the fund shall not at any time exceed 1.5 percent, by value, of the fund's assets.

2. The employee fund shall not contract a loan or credit otherwise than on the authority of a decision issued by the employee society by the instrument of Supervisory Board resolution.

Article 154a.[177]
1. The society shall store the documents basing on which particular decisions on fund's investments are met for 3 years in such a way, as to allow for the identification who and when met the said decisions.
2. The society shall provide suitable documentation of the investment process in such a way, as to allow for the identification of who and when has met the decisions on the investment strategy and on the strategy of investing the fund's assets.

Article 155.
The Council of Ministers may by Ordinance impose additional constraints on investment by the funds, where [such additional constraints] are imposed with the object of protecting interests of the fund members.

Article 156.
Failing the compliance by the fund with the investment standards and requirements laid down in this Act, or the discharge by the fund of the obligations under Article 149 clause 1, clause 2, and clause 3, the Supervision Office may impose on the society a fine of up to 500,000 zloty.

CHAPTER 16
Depositary

Article 157.
The fund shall choose a depositary to have the custody of the fund's assets under a contract.

Article 158.
1. Eligible to be the depositary shall be that bank which:
1) is a domestic bank in the meaning given to that term in the Banking Law Act,
2) has own funds of no less than a zloty equivalent of EUR[28] 100,000,000 where the [contract is] for the custody of the open fund's assets, or of EUR[28] 30,000,000 where [the contract is] for the custody of the employee fund's assets,
3)[178] owns no shares of the manager society of that fund the assets of which it keeps, nor shares or stocks of an affiliate of the said society,
4)[178] is not a lender or creditor of that fund the assets of which it keeps, or of the fund's manager society -- save where the amount of a loan or credit [made to the fund or the fund's manager society] is no higher than 1 percent of the fund's assets on the day when the credit or loan is contracted, and
5) does not employ and does not have on any of its governing bodies persons who:
a) sit on the Management Board or Supervisory Board or are employees of the manager society of that fund the assets of which it keeps,
b) sit on the Management Board or Supervisory Board or are employees of an affiliate of the society referred to in item a).

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[176] As modified by Art. 1 item 63 of the Act referred to in footnote 2; came into force on 01.01.2004.
[177] Added by Art. 1 item 64 of the Act referred to in footnote 2; came into force on 01.01.2004.
[178] In the wording set forth in Art. 1 item 65 letter a of the Act referred to in footnote 2.

2. The Supervision Office may be the depositary inasmuch as it satisfies the requirements laid down in clause 1 items 3-5.
3.[179] Should the Depositary, while still under contract with the fund, cease to fulfill any of the conditions specified in clause 1, then he shall forthwith notify the Supervision office and the fund of that fact and is obliged to comply with the requirements referred to in this provision, not later than 3 months of the day when he ceased to fulfill the said requirements.

Article 159.
The duties of the depositary with regard to the custody of the fund's assets shall cover:
1) the keeping of a register of the fund's assets as entered in appropriate accounts and as kept by the depositary and by others authorised, whether under separate regulations or under contracts executed with the sanction of the depositary, to hold the same
2) ensuring that the fund's net asset value is established in a manner rendering the fund capable of discharging the duties referred to in Chapter 17,
3) ensuring that the contracts concerning the acquisition and disposal of fund assets are legitimate and according to the fund's Articles of Association,
4) carrying out instructions given by the fund, unless those be unlawful or contrary to the fund's Articles of Association, or unless, in the depositary's opinion, they put at risk the security of the fund assets,
5) ensuring that the fund's assets are invested lawfully and in accordance with the fund's Articles of Association,
6)[180] ensuring that contracts concerning the fund's are settled in a timely manner,
7) carrying out the liquidator's instructions pertaining to the liquidation of the fund,
8) discharging other duties provided in this Act.
2. The depositary may, at the fund's request, enter into the contracts referred to in clause 1 item 1 with banks or financial institutions domiciled outside the territory of the Republic of Poland, provided that those banks or financial institutions have own capitals of no less than EUR[28] 200,000,000.
3. The depositary shall, acting for the fund members, bring action against the society to seek redress for a loss suffered through non-performance or negligent performance by the society of its duties as the manager and representative of the fund.
4. The depositary shall ensure that the fund discharges the duties referred to in clause 1 items 2-3 and 5-6 lawfully and in accordance with the fund's Articles of Association and to this end the depositary shall, as a minimum, exercise day-to-day supervision of the fund's practical and legal transactions and shall cause these to be according to the law and the fund's Articles of Association.

Article 160.
1.[181] An agreement with a depositary relating to storage of a fund’s assets should specify the depositary and the fund’s duties, the manner of their performance, the depositary's remuneration, the manner of calculating costs and collecting fees payable by the fund, as well as specify the individuals appointed by the depositary directly responsible for the agreement to be carried out properly. The agreement may also specify the volume of depositary's remuneration for acting as the fund's representative and manager, in accordance with Art. 64, clause 1, or the employee fund's liquidator. The agreement must not limit the depositary's statutory responsibilities.
2. The depositary shall be liable for any and all losses due to non-performance or negligent performance of the statutory duties of the depositary.
3. The liability referred to in clause 2 shall not be excluded or limited either under the contract for the custody of the fund assets or on the grounds of delegation by the depositary of the custody of a part or the entirety of the fund assets to another.
4. The fund or the depositary may terminate the contract for the custody of the fund assets subject to a notice which shall be given at least 6 months in advance. The party giving the notice shall forthwith advise the Supervision Office to that effect.

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[179] Added by Art. 1 item 65 letter b of the Act referred to in footnote 2
[180] In the wording set forth in Art. 1 item 66 of the Act referred to in footnote 2.
[181] In the wording set forth in Art. 1 item 67 of the Act referred to in footnote 2.

Article 161.
1. Where the depositary should fail to discharge the duties set forth in the contract for the custody of the fund assets or perform the said duties negligently:
1) the fund shall give a notice of termination of the contract and advise the Supervision Office forthwith to that effect,
2) the Supervision Office may instruct the fund to replace the depositary with another.
2. The Supervision Office may likewise instruct the fund to replace the depositary with another where the depositary's financial standing has deteriorated such extent as may put at risk the security of the assets in the depositary's custody.
3. The National Bank of Poland shall forthwith advise the Supervision Office of any substantial downturn in the financial standing of any bank being the depositary referred to in clause 2.
4. The Securities and Exchange Commission shall forthwith advise the Supervision Office of any substantial downturn in the financial standing of the National Deposit in the circumstances referred to in clause 2.
5. In the circumstances referred to in clause 1 and clause 2 the contract may be terminated subject to a shorter notice period than that referred to in Article 160 clause 4.

Article 162.
1. Where the depositary should be proclaimed bankrupt, or where liquidation proceedings should be instituted in respect of the depositary, or where the Supervision Office should establish that the depositary is guilty of such breach of the contract as puts at risk the security of the fund's assets or interests of the fund members, the fund shall promptly replace the depositary with another. The first sentence of Article 160 clause 4 shall not apply.
2.[182] Clause 1 shall apply respectively where the depositary should not comply with the criteria under Article 158 clause 1, within the period specified in Art 158 clause 3.

Article 163.
1. Whenever the depositary is replaced with another, the replacement shall be effected in a manner ensuring uninterrupted discharge of the duties pertaining to the custody of the fund's assets.
2. On termination of the hitherto depositary's contract the hitherto depositary shall transfer the fund's assets held and all documents relating to the discharge of the duties referred to in clause 1 to that depositary with has succeeded it under a contract made with the fund. [The said transfer shall be made] within such time as the parties may agree upon, but without any unreasonable delay.

Article 164.
1. The depositary shall advise the Supervision Office forthwith of any such act or negligence by the fund which in the depositary's opinion contravenes the law or the fund's Articles of Association, or through which the fund members' interests are not duly taken care of.
2. On becoming satisfied that the fund has established its net asset value, accounting unit value, and rate of return figures as referred to in Article 166, 169 and 170 incorrectly or by irregular methods, the depositary shall forthwith advise the Supervision Office of the said errors and irregular practices.

Article 165.
Those assets of the fund which are deposited pursuant to this Chapter shall be exempt from execution against the depositary or against the entities referred to in Article 159 clause 1 item 1, nor shall they be included in the bankrupt estate of the depositary or of the abovestated entities, or involved in a proceeding instituted with a view to making an arrangement with creditors.

CHAPTER 17
Valuating pension funds' assets and rates of return

[182] **In the wording set forth in Art. 1 item 68 of the Act referred to in footnote 2.**

Article 166.
The fund shall establish its net asset value on each valuation day referred to in Article 168, at the said day's figures, and the fund shall advise [the net asset value figure so established] to the Supervision Office.

Article 167.
The valuation of the fund's net assets shall constitute the basis on which the value of the accounting unit shall be established pursuant to Chapter 9.

Article 168.
1. The open fund's valuation day shall be any working day other than a Saturday and the employee fund's valuation day shall be the last working day of each month.
2. The Articles of Association of the employee fund may additionally designate other valuation days.

Article 169.
The fund shall establish the value of its accounting unit on each valuation day, at that day's figures, and it shall notify [the value of the accounting unit so established] to the Supervision Office and, where the fund is the employee fund, to one of those news agencies which the Supervision Office has designated.

Article 170. [183]
That open fund which has taken in contributions for no less than 36 months shall at the end of March and September of each year establish its rate of return for the past 36 months. The rate of return shall be notified to the Supervision Office and announced at the publicly available Internet website.

Article 171.
The fund shall notify to the depositary the data referred to in Article 166, Article 169 and Article 170 promptly on establishing the said figures and ratios.

Article 172. [184]
1. The rate of return shall be understood as a quotient, given in percent, of the difference between the value of the accounting unit on the last working day of the clearance month and the value of the accounting unit as established on that last working day of the clearance month which precedes the period of 36 months, and the value of the accounting unit as established on that last working day of the clearance month which precedes the period of 36 months. March and September respectively shall be the clearance months.
2. The volume of the rates of return, calculated pursuant to clause 1, shall be publicly announced by the Supervision Office.

Article 173. [185]
1. The 36-month weighted average rate of return of all open funds shall be understood as the sum total of products established for each of the open funds referred to in Article 170 by multiplying the fund's rate of return by its average market share index. The average market share index of a given open fund shall be understood as an arithmetic average of that fund's market share index on that last working day of a month which immediately precedes a given 36-

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[183] In the wording set forth in Art. 1 item 69 of the Act referred to in footnote 2; came into force on 01.04.2004.
[184] In the wording set forth in Art. 1 item 70 of the Act referred to in footnote 2; came into force on 01.04.2004.
[185] In the wording set forth in Art. 1 item 71 of the Act referred to in footnote 2; came into force on 01.04.2004.

month period and its market share index on the last working day of that month which ends the said 36-month period. The open fund's market share index, as established for a given day, shall be understood as a quotient of the fund's net asset value and the net asset value of all the open funds referred to in Article 170, established at the index computation day figures.
2. If the average market share index of a given fund constitutes at least 15 percent, to establish the weighted average rate of return of all open funds:
1) the index at the level of 15 percent shall be adapted,
2) the average market share indexes of other funds, calculated pursuant to clause 1 above, shall be proportionally increased in such a way, that the sum total of indexes of these funds constituted the difference between the 100 percent value and the arithmetic product of the number of funds, for which the average market share index constitutes no less than 15 percent, and the value of the 15 percent.
3) should there be a need to adopt the average market share index at the level exceeding 15 percent for one of the funds – as a result of an increase in the average market share indexes for other funds – then the index at the level of 15 percent for the said fund shall be adapted, and the indexes for the other funds shall be increased again.
3. Should the number of the open funds, for which the rate of return is established pursuant to Article 172 above, be no more than 6, then the percentage market share index at the same level for each of he said funds shall be adopted.
4. The Supervision Office shall publish the weighted average rate of return of all the open funds.

Article 173a. [186]
The employee fund may in full or in part commission other entities with the duties specified in this chapter.

Article 174.
The Council of Ministers shall by Ordinance prescribe:
1) the detailed standards on establishing the rate of return and the weighted average rate of return of all the open funds, including the procedure for the rounding up of results
2)[187] the manner in which the open fund shall notify its rate of return figure to the Supervision Office and the time limit for giving the said notification, and the manner of and time limit for the release by the open fund of its rate of return figure at the publicly available Internet website,
3) the manner in which the Supervision Office[188] shall publish the weighted average rate of return figure of all the open funds, as referred to in Article 173 clause 1,
3) the manner in which the fund shall notify to the Supervision Office its net asset value and accounting unit value figures and the time limit for giving the said notification.

CHAPTER 18
Deficit

Article 175.
1.[189] The open fund shall be understood to be in deficit where its rate of return for the 36-month period referred to in Article 170 has fallen below a mandatory minimum rate of return.

2. The mandatory minimum rate of return shall be understood as a rate of return lower by 50 percent than the weighted average rate of all the open funds established for a given period, or a rate of return 4 percent points lower than the aforesaid average, whichever is lower.
3.[190] The deficit amount shall be established by multiplying the number of the open fund's accounting units existing on the last working day of the 36-month period by the difference

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[186] Added by Art. 54 item 3 of the Act referred to in footnote 24
[187] As modified by Art. 1 item 72 of the Act referred to in footnote 2.
[188] As modified by Art. 50 item 16 of the Act referred to in footnote 12.
[189] In the wording set forth in Art. 1 item 73 letter a of the Act referred to in footnote 2; came into force on 01.04.2004.

between such accounting unit value figure as would ensure the minimum rate of return and the real accounting unit value figure as established on the last working day of the 36-month period.

Article 176. [191]
1. The open fund being in deficit shall, within 3 days of that day on which the Supervision Office has published the weighted average rate of return for all the open funds, remit the accounting units cumulated at the reserve account referred to in Article 181 clause 1 in the amount allowing for offsetting the deficit. The resources obtained as a result of remittance shall increase the value of a clearance unit of the fund.
2. The deficit, which has not been offset by the resources cumulated at the reserve account, shall be offset form the resources obtained from the remittance of the accounting units at the account of the additional part of the Guarantee Fund in this open fund, within 3 days of the day on which the Supervision Office has published the weighted average rate of return for all the open funds.
3. Should the resources of the additional part of the Guarantee Fund in this open fund be insufficient, the general society shall cover it out of its own resources within 14 days of the day on which the Supervision Office has published the weighted average rate of return for all the open funds.
4. The deficit not covered by the general society's own resources, pursuant to clause 3 above, shall be covered out of the remaining resources of the Guarantee Fund within 21 days of the day on which the Supervision Office has published the weighted average rate of return for all the open funds, provided that it shall be covered from the resources of the base part of the Guarantee Fund first.

Article. 177.[192]
1. [deleted][193]
2. As a result of covering the deficit, the Guarantee Fund shall be entitled to a refund - from the universal society or its estate in bankruptcy - of the Guarantee Fund resources which were used to cover the deficit.
3.[194] The resources obtained by the Guarantee Fund pursuant to clause 2 above, shall be divided between the base and additional parts of the Guarantee Fund in the same relation as the proportion of the amounts used to cover the deficit.

Article 178.[195]
1.[196] If a universal society is not able to cover the deficit in the manner specified in Art. 176 clause 3, its Board of Directors shall be obliged to notify the Supervision Office immediately, which shall file a bill in bankruptcy in respect of that society to the relevant court.
2.[197] If the bankruptcy of the society is declared, its estate in bankruptcy may only be used to satisfy the claims of the Guarantee Fund, referred to in Art. 177, clause 2, after the society's liabilities to other creditors, as set forth in Art. 342, clause 1, item 1 of the Bankruptcy and Reorganisation Law (Journal of Laws No. 60, item 535, as amended[198]) have been settled.

Article 179.

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[190] In the wording set forth in Art. 1 item 73 letter b of the Act referred to in footnote 2; came into force on 01.04.2004.
[191] In the wording set forth in Art. 1 item 74 of the Act referred to in footnote 2; came into force on 07.04.2004.
[192] In the wording set forth in Art. 170 item 36 of the Act referred to in footnote 36.
[193] By Art. 1 item 75 letter a of the Act referred to in footnote 2; came into force on 07.04.2004.
[194] Added by Art. 1 item 75 letter b of the Act referred to in footnote 2; came into force on 07.04.2004.
[195] In the wording set forth in Art. 170 item 37 of the Act referred to in footnote 36.
[196] As modified by Art. 1 item 76 letter a of the Act referred to in footnote 2; came into force on 07.04.2004.
[197] In the wording set forth in Art. 1 item 76 letter b of the Act referred to in footnote 2; came into force on 01.10.2003.
[198] Modifications to the Act have been published in: Journal of laws of 2003 No. 217 item 2125 and of 2004 No. 91 items 870 and 871, no. 96 item 959, No. 121 item 1264 and No. 146 item 1546.

1. Where the deficit has occurred due to the depositary having lost tangible assets of the fund, the depositary shall make good the deficit before the reserve account balance, or the general society's own resources, or the Guarantee Fund's resources have been employed to that end.
2. The depositary shall make good the deficit within 14 days of that date on which the deficit has been detected, whether the loss of the fund's assets has occurred through the depositary's fault or otherwise.
3. Where the Guarantee Fund has covered the deficit, this shall give rise to the Guarantee Fund's claim against the depositary or the depositary's bankrupt estate for the refund of the Guarantee Fund's money thus expended.

Article 180.
The Treasury shall cover, as a guarantor, that deficit which is incapable of being covered from the Guarantee Fund's resources, on terms and according to procedures laid down in separate provisions.

Article 181. [199]
1. The open fund shall set up a reserve account.
2. The balance in the reserve account referred to in clause 1 shall be part of the fund's assets and shall be converted into accounting units.
3. The Supervision Office may impose a fine of up to 500,000 zloty on that society which fails to transfer resources to the reserve account pursuant to clause Art. 182a, clause 5.

Article 181a. [200]
1. The general society may withdraw the resources cumulated at the reserve account on the last working day of April or on the last working day of October, provided that the rate of return of the fund managed by the said society for the period of the preceding 72 months, ending on the last day of the preceding month, calculated pursuant to Article 172, has not been lower than the consumer price index total for the preceding 72 months, in March compared with March 6 years earlier, and respectively in September with September of 6 years earlier.
2. The index, referred to in clause 1 above, shall be published by the President of the Main Statistical Office in the form of an announcement in the Official Journal of the Republic of Poland "Monitor Polski" before 20 April and before 20 October respectively.

Article 182.
The balance in the reserve account shall be exempt from execution against the general society.

Article 182a. [201]
1. The open fund, out of its own assets, shall transfer to the general society resources in the amount not exceeding 0.005 percent monthly of the net value of the fund's managed assets. The amount shall be calculated for each day where the net value of the fund's assets is established and payable on the last working day of each month. The general societies, not later than on the first working day of the following month, shall transfer the said amount to the premium account.
2. The open fund shall open a premium account, where the resources referred to in clause 1 are stored. These resources shall constitute a part of the fund's assets and shall be converted into accounting units.
3. On the first working day of the date when the Supervision office publishes the weighted average rate of return of all funds:
1) the society managing the fund, which has achieved the highest rate of return shall obtain the right to withdraw all resources accumulated at the premium account, pursuant to Article 181a,
2) the society managing the fund, which has achieved the lowest rate of return shall forthwith transfer all resources accumulated at the premium account to the open fund,

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[199] In the wording set forth in Art. 1 item 77 of the Act referred to in footnote 2; came into force on 07.04.2004.
[200] Added by Art. 1 item 78 of the Act referred to in footnote 2; it shall come into force on 01.11.2005.
[201] Added by Art. 1 item 79 of the Act referred to in footnote 2; came into force on 01.04.2004.

3) the societies managing all other funds shall obtain the right to withdraw, pursuant to Article 181a a part of the resources accumulated at the premium account, constituting a product of the sum total of the resources accumulated at the premium account multiplied by the percentage index specified in clause 4 below, and the rest of the resources shall be transferred to the open fund immediately.
4. The percentage premium index shall be calculated as the quotient of the difference between the rates of return by the said fund and the fund specified in clause 3, item 1, as well as the between the rates of return achieved by the fund, as specified in clause 3, item 2.
5. The resources accumulated at a premium account, to which the open fund received the right to withdraw pursuant to Art. 181a, in compliance with clause 3 items 1 and 3 above, shall be forthwith transferred to the reserve account, as specified in Art. 181, clause 1.

Article 183. [202]
The Council of Ministers shall by Ordinance prescribe the detailed standards governing the offsetting of deficit in the circumstances referred to in Articles 176-179, and the course and rules for the division of resources referred to in Art. 177, clause 3, taking the need to protect the best interest of the fund members into consideration.

CHAPTER 19
Guarantee Fund

Article 184. [203]
1. The Guarantee Fund, consisting of the base part and of the additional part shall be created.
2. The National Securities Deposit shall be the administrator of the base part of the Guarantee Fund.
3. The open fund shall open an account, constituting the additional part of the Guarantee Fund, where the payments form the general society are transferred. The volume of the resources kept on the account of the additional part of the Guarantee Fund shall constitute no less than 0.3 percent and no more than 0.4 percent of the net value of the fund's assets, subject to Art. 187, clause 3.
4. The resources at the account of the additional part of the Guarantee Fund shall constitute a part of the fund's assets and shall be converted into accounting units.

Article 185.
1. The Guarantee Fund shall have the following revenues: contributions made by the general societies from their own resources; and such incomes as the Guarantee Fund may earn by investing its resources. The Guarantee Fund resources shall be exempt from execution from the property of the general society.
2.[204] A general society's contributions to the base part of the Guarantee Fund shall represent a certain proportion, given as a percentage share which shall be identical for all open funds, of the net asset value of the fund managed by that society.
3.[204] The Council of Ministers shall by Ordinance determine:
1) the contribution rate and terms of making contributions to the Guarantee Fund, providing that the total value of the Guarantee Fund's resources shall be no higher than 0.1 percent of the cumulative net asset value of all the open funds unless the Guarantee Fund's liabilities to open pension funds exceed that amount,
2) the manner in which the general society shall establish the volume of the resources to be transferred to the additional part of the Guarantee Fund,

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[202] In the wording set forth in Art. 1 item 80 of the Act referred to in footnote 2; came into force on 07.04.2004.
[203] In the wording set forth in Art. 1 item 81 of the Act referred to in footnote 2; came into force on 07.04.2004.
[204] In the wording set forth in Art. 1 item 82 of the Act referred to in footnote 2; came into force on 07.04.2004..

3) the manner in which the general society shall withdraw the resources from the account of the additional part of the Guarantee Fund,
4) the manner and course of transferring the resources to the base part of the Guarantee Fund, as well as the manner and course of action of the base part of the Guarantee Fund, including the investment of its resources,
5) the manner in which the resources of the base part of the Guarantee Fund shall be administered, the amounts of the charges paid to the National Securities Deposit for the management the base part of the Fund, and the manner in which these amounts are to be transferred and detailed conditions of the credit transfers from these resources and their return to the general societies, as well as the manner in which the clearance of balances shall be done with the general societies, which had ceased to transfer payments as a result of terminating its activity, as set forth in this Act,
6) the manner, course and dates of the general society sending information on the additional part of the Guarantee Fund, required to prepare a financial report on the Guarantee Fund to the National Securities Deposit.

Article 186.
[deleted][205]

Article 187. [206]
1. The resources of the base part of the Guarantee Fund shall be used for making a disbursement to the open fund in deficit -- insofar as the balance in the [fund's] base part of the Guarantee Fund account is insufficient for offsetting the deficit; and for covering the losses referred to in Article 48 clause 1 -- insofar as the general society is not liable for the losses, or the losses are incapable of being made good from the [general society's] bankrupt estate.
2. Should the balances collected at the base part of the Guarantee Fund account be insufficient, the National Security Deposit shall determine by indicating a percentage index same for all open funds, the volume of the payments to be covered from the additional part of the Guarantee Fund, managed by the National Security Deposit.
3. In cases specified in clause 2 above, general societies shall transfer resources necessary to supplement the additional part of the open fund's Guarantee Fund not later than one day before the date of the Supervision Office publishing the information on the average weighted rate of return of all open funds for the following 36 months.

Article 188.
For purposes of the corporate tax provisions, such money as the general society receives in refund of Guarantee Fund contributions shall be a revenue of the general society.

Article 188a. [207]
1. The National Security Deposit shall prepare an annual report on the Guarantee Fund.
2. The report on the Guarantee Fund shall be approved by the Supervision Office.

CHAPTER 20.
Reporting duties of pension funds

Article 189.
1.[208] The open fund shall at least once a year publish the information on its activities in the national daily paper designated for the fund's announcements.

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[205] By Art. 1 item 83 of the Act referred to in footnote 2; came into force on 07.04.2004.
[206] In the wording set forth in Art. 1 item 84 of the Act referred to in footnote 2; came into force on 07.04.2004.
[207] Added by Art. 1 item 85 of the Act referred to in footnote 2; came into force on 07.04.2004.

2. The above-mentioned information shall contain: the fund's Articles of Association, information on the fund's investment performance, and the fund's approved annual report.

Article 190.
1. The open fund shall make its offering circular available to any person who has applied for membership in the fund. The offering circular shall be made available [to the applicant] before the applicant and the fund have entered into a contract.
2. The open fund shall likewise make available its offering circular, together with the latest semi-annual financial statements, whenever a fund member should so stipulate.
3. The offering circular, the semi-annual financial statements and the annual report shall be submitted to the Supervision Office immediately after being prepared and the annual report shall be additionally so submitted upon being approved by the general society under a General Meeting resolution.

Article 191. [209]
1. The fund shall serve upon each member, at regular intervals of no more than 12 months, a written report on: the balance in the member's account; dates of receipt, within the reporting period, of member contributions and credit transfers; conversion of the said contributions and credit transfers into accounting units; and the fund's investment performance figures. The information shall be served upon the members as an ordinary postal letter.
2. In the case of a dispute, the burden of sending the information specified in clause 1 above in a written form to the last known address of the member is on the fund’s side.

Article 192.
The fund shall, when so instructed by a member, supply the member with a written report on the value of the balance in the member's account.

Article 193.
1. The fund shall make available information concerning the structure of the fund's assets, subject to clauses 2-4.
2. The open fund shall at monthly intervals make available information on the respective percentage shares of separate categories of instrument referred to in Chapter 15 in the fund's assets, at a given month's last valuation day figures.
3. The open fund shall at 6-month intervals make available a report on the respective values of separate instruments on the fund's portfolio and on those instruments' respective percentage shares in the fund's assets, with the issuer of each instrument named. The above 6-month data shall be at the figures established on the last valuation day in the month ending a given 6-month period, provided that the 6-month data shall be prepared only for those instruments which account for 1 percent or more, by value, of the fund's assets.
4. The open fund and the employee fund shall make available a comprehensive review of the structure of the its assets, inclusive of instruments accounting for less than 1 percent, by value, of the fund's assets, at the end of each year.

Article 194.
1.[210] The open fund shall forthwith deliver the information referred to in Article 193 clauses 2-4 to the Supervision Office and publish it at the publicly available Internet website.
2. The employee fund shall forthwith deliver the information referred to in Article 193 clause 4 to the Supervision Office and to the shareholders of its manager employee society.

Article 194a. [211]
1. An employee fund shall prepare a declaration of the rules for the fund’s investment policy.
2. The declaration shall contain at least a presentation of the implemented methods of risk evaluation and procedures of risk management as well as allocation of resources to securities.

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[208] As modified by Art. 1 item 86 of the Act referred to in footnote 2.
[209] In the wording set forth in Art. 1 item 87 of the Act referred to in footnote 2.
[210] In the wording set forth in Art. 1 item 88 of the Act referred to in footnote 2.
[211] Added by Art. 54 item 4 of the Act referred to in footnote 24.

3. The employee fund shall send the declaration to the Supervision Office every three years, or immediately after introducing substantial modifications to the investment policy of the fund.
4. The employee fund is obliged to send its first declaration to the Supervision Office not later than 6 months after the first contribution is transferred to the fund.
5. The employee fund shall also send the declaration to a member, upon his written request.

Article 195.
The society and the fund shall furnish the Supervision Office with periodical reports and day-to-day information on their performances and financial standing.

Article 196.
The Council of Ministers shall by Ordinance prescribe:
1)[212]the detailed requirements and standards on the information on fund's activities and forms of the information referred to in Article 191 and Article 192,
2) the manner in which the fund shall make available the offering circular and the information referred to in Articles 191-193, and time limits for making the said materials available,
3) the scope of the [periodical] and day-to-day reporting by the society and the fund to the Supervision Office and time limits for the delivery of the said reports.

Article 197. [213]
1. Such information concerning the open fund or society, including advertising material, as the general society may publish or at the request of the universal society, as well as on behalf of the universal society or an open fund, and such information concerning the employee fund as the employee society may make available shall reliably present the fund's or society's financial standing and the risks involved in membership in the fund.
2. Where the Supervision Office should establish that the published or made publicly available materials or information referred to in clause 1 are misleading or open to misconstruction, the Supervision Office may, by administrative decision, forbid the same to be published or made available.
3. The administrative decision specified in clause 2 above, shall order the society to publish or to make suitable corrections of the content and in the form, as well as at the date set forth by the Supervision Office publicly available.
4. Failing the compliance with the ban or order [referred to in clause 2] the Supervision Office shall impose upon the society a fine of up to 500,000 zloty and the Supervision Office shall have suitable corrections, referred to in clause 3, published or made available at the society's expense.

Article 198.
Failing the discharge by the society or the depositary of their reporting duties, as laid down in this Act, towards the Supervision Office or the fund members, the Supervision Office may impose [on the society or the depositary] a fine of up to 500,000 zloty.

CHAPTER 21
Supervision of pension funds

Article 199.
[deleted][214]

Article 200.
1. [deleted].[215]

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[212] As modified by Art. 1 item 89 of the Act referred to in footnote 2; it shall come into force on 01.04.2005.
[213] In the wording set forth in Art. 1 item 90 of the Act referred to in footnote 2.
[214] By Art. 50 item 5 of the Act referred to in footnote 12.
[215] By Art. 31 item 1 letter a of the Act of 22 May 2003 on the Insurance and Pension Supervision and Insured Persons Ombudsman (Journal of Laws No. 124 item 1153 and No. 170 item 1651), which came into force on 01.01.2004.

2. In discharge of the responsibility referred to in clause 1 the Supervision Office shall:[216]
1) oversee the funds' performances,
2) [deleted][217]
3) oversee the functioning of employee pension plans,
4) increase public knowledge on the funds' objectives and terms of operation, in particular of the rights appertaining to the fund members,
5) further public awareness of the objectives and terms of operation of the employee pension plans, in particular of the rights appertaining to the pension plan members,
6) working with administrative agencies of the government, the National Bank of Poland, the Social Security Institute, societies, agents of the funds, unions of employers, trade unions and other civic organisations towards the shaping of such policy of the state as will ensure secure development of the pension funds and employee pension plans,
7) supply the National Bank of Poland with information, to such extent as may be required for the exercise of supervision of depository banks and banks being shareholders of societies,
8) furnish the Securities and Exchange Commission with information, to such extent as may be required for the exercise of supervision of the performance of the National Deposit,
9) take other actions as provided in this Act.

Article 200a.
[deleted][218]
Article 201.
[deleted][219]

Article 202.
1. Save as otherwise directed in this Act, proceedings before the Supervision Office shall be governed by the Code of Administrative Proceedings.
2.[220] Provisions of Article 127 § 3 of the Code of Administrative Proceedings shall be applicable to the decision of the Supervision Office**.**
3. Where a motion stipulating that the Supervision Office consider the case on review is filed, this shall not stay the execution of the Supervision Office's decision revoking the permit to create the society for reasons other than those referred to in Article 61.
3a.[221] The Supervision Office may impose the immediate execution of the administrative decision also in cases when it is required by the best interest of the pension funds' members or participants of Employee Pension Programmes.
4.[222] When determining the fine imposed in accordance with the provisions of the Act, the Supervision Office shall be obliged to take into account the type and relative importance of the irregularities revealed.

Article 203.
[deleted][223]

Article 204. [224]
1. In exercise of supervision of the funds' performances the Supervision Office may in particular:

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[216] Introductory statement in the wording set forth in Art. 31 item 1 letter b of the Act referred to in footnote 216.
[217] By Art. 50 item 6 of the Act referred to in footnote 12.
[218] Added by Art. 69 of the Act of 6 July 2001 on collecting, processing and transferring criminal information (Journal of Laws No. 110 item 1189 and of 2002 No. 81 item 731), which came into force on 01.01.2003; rescinded by Art. 31 item 2 of the Act referred to in footnote 216.
[219] By Art. 50 item 8 of the Act referred to in footnote 12.
[220] In the wording set forth in Art. 31 item 3 letter a of the Act referred to in footnote 216.
[221] Added by Art. 31 item 3 letter b of the Act referred to in footnote 216.
[222] Added by Art. 170 item 42 of the Act referred to in footnote 36.
[223] By Art. 31 item 4 of the Act referred to in footnote 216.
[224] In the wording set forth in Art. 1 item 91 of the Act referred to in footnote 2.

1) instruct the society to make available copies of documents relating to the business of the fund r the society, and study the said documents,
2) call on members of the society's Management Board and Supervisory Board and on employees of the society and other persons under employment contract, commission contract, job contract or any other legal relation of that nature with the fund or society, to supply such information or explanations as the Supervision Office has at its discretion demanded,
3) call on the Depositary or third person, who had been employed by the fund or society to provide particular services, to supply all information, documents and explanations in connection with the services provided to the fund or society.
2. The Supervision Office, calling to supply required information and documents or explanations, as specified in clause 1, shall determine the date of the reply.
3. Should, basing on the information, explanations and documents received – referred to in clause 1, the Supervision Office establish the violation of law or members' interests, it shall notify the society, Depositary or third person, whom the society or fund employed to perform certain services and activities, of the irregularities found, and specifies the period within which these irregularities shall be improved.
4. The society, the Depositary or the third person, whom the society or fund employed to perform certain services and activities may, within 7 days of receiving the notification, lodge reservations to the contents of the notification in a written form, with explanation.
5. The Supervision Office, having considered the reservations, shall notify the society, the Depositary or the third person whom the society or fund employed to perform certain services and activities on the decisions reached. In the notification of the reached decision, the Supervision Office may:
1) accept the reservations in full or in part and introduce respective modifications to the contents of the notification,
2) not accept the reservations, should they turn out unfounded.
6. Should reservations be lodged, pursuant to clause 4 above, the period specified in clause 3 above shall be counted from the day of the delivery of the notification on the decisions reached.
7. Within 3 days of the end of the period given to improve the irregularities, the society, Depositary or third person, to whom the notification had been sent, shall notify the Supervision Office of the improvements made, in writing.
8. Should the irregularities not be improved within the given period, the Supervision Office may impose on the society, on the Depositary or on the third person whom the society or fund employed to perform certain services and activities a fine of up to 500,000 zloty.
9. Should the Supervision Office establish on the basis of the received documents, information and explanations specified in clause 1 above, that the law or the interests of the fund members had been explicitly violated, the Supervision Office may impose on the society, on the Depositary or on the third person whom the society or fund employed to perform certain services and activities a fine of up to 500,000 zloty immediately after establishing these irregularities.

Article 204a. [225]
1. The Supervision Office may at any time control the activity of the fund, society, Depositary or third person, whom the society or fund employed to perform certain services and activities.
2. Those duly authorised by the Supervision Office shall have the right to enter the premises:
1) of the society -- with a view to ascertaining that the society conducts its business lawfully and in accordance with its Articles of Association, and in the best interest of the fund members,
2) of the depositary -- with a view to ascertaining that such business as the depositary transacts in connection with the custody of the fund's assets is lawful and in accordance with the contract for the custody of the fund's assets, of best interest of the fund members
3) third person, whom the society or fund employed to perform certain services and activities -- with a view to ascertaining that such business as the said entity transacts in connection with the certain services and activities vested is lawful or in the best interest of the fund members.
3. The inspectors [referred to in clause 2] shall have the right:
1) to inspect books, documents and other vehicles of information,

[225] **Added by Art. 1 item 92 of the Act referred to in footnote 2.**

2) to order duplicates of the said documents and vehicles of information to be prepared and turned over to the inspector,
3) to demand information from members of the inspected party's governing bodies and the inspected party's employees or other persons related to the inspected party by commission contract, job contract or any other legal relation of similar nature,
4) to demand the documents and other evidence to be secured.
4. The Supervision Office in the authorisation to conduct the inspection appoints an employee of the Supervision Office authorised to conduct the inspection and defines the object and scope of the inspection.
5. The inspector is obliged to prepare and sign the inspection protocol. The protocol shall also be signed by the person representing the inspected entity.
6. Having signed the inspection protocol, the Supervision Office shall notify the inspected entity of the irregularities found and establishes the period within which the irregularities are to be improved in writing. The provisions of Art. 204 clauses 4-8 shall apply respectively.
7. Should excessive irregularities be established during the inspection, the Supervision Office may impose upon the inspected entity a fine in the amount up to 500,000 zloty immediately after the irregularities are established.
8. The Minister competent in the area of social protection shall determine by Ordinance, the manner and procedure for the inspection and for proper documentation of its proceedings, taking the objectives of the inspection referred to in clause 2 above into consideration and ensuring it to be quick and effective.

Article 204b. [226]
1. The notification, specified in Art. 204 clause 3 and Art. 204 clause 6 shall include:
1) the mark of the Supervision Office
2) issue date
3) the name of the entity being the recipient of the notification,
4) list of the irregularities established and the period within which they are to be improved,
5) legal and factual substantiation,
6) instruction on the right to reservations
7) instruction on the provisions of Art. 204 clause 8
8) signature with full name and professional position of the person authorised to issue the post-control notification.
2. Notification referred to in clause 1, and the notification on the decisions reached, referred to in Art. 204 clause 5, shall be considered supervision activity, which does not decide on the substance of any cause and dose not refer to any rights and duties set forth by the law.
3. Should a complaint on the administrative decision referred to in Art. 204 clause 8 be filed to an administrative court, the administrative court may suspend its execution also in the situation where the suing party proves probable that the evaluation of the society's, Depositary's activity, or activity of a third person, whom the society or fund employed to perform certain services and activities, included in the notification referred toi in Art. 204 clause 3 or Art. 204a clause 6, explicitly violates the law.

Article 204c. [226]
Should the society or fund conduct its business activity under the violation of law, Articles of Association or best interest of the fund members, the Supervision Office may impose a fine on the member of the Management Board of the pension society, responsible for these irregularities, in the amount equivalent to three monthly remunerations gross of the Management Board member, calculated basing on his remunerations from three months preceding fine, regardless of any other supervision means provided for by the law.

Article 205.
1. A fund member may lodge with the Supervision Office a complaint against the fund where in the member's opinion the fund conducts its business unlawfully or in contravention of the fund's Articles of Association.
2. A complaint against the fund may likewise be lodged by one who was a member of the fund at any time within a period of 6 month immediately preceding the lodging of the complaint.

3. A complaint against the fund may likewise be lodged on behalf of two or more fund members by that public-interest organisation the statutory objects of which do not include the pursuit of a business.

Article 206. [226]
1. The Supervision Office may demand that the society call a meeting of its Management Board or Supervisory Board, or a General Meeting of its shareholders, and put certain matters on the agenda of the body thus convened -- where in the opinion of the Supervision Office this should be essential to correct supervision of the fund's or society's business.
2. In the circumstances referred to in clause 1 the Supervision Office shall delegate its representative to attend the meeting of the Management Board or Supervisory Board, or the General Meeting of shareholders. The said representative shall be authorised to speak on the matters on the agenda.
3.The Supervision Office, in a written motion, shall make a demand, as set forth in clause 1 above, prescribing a date and time before which the Meeting of the Management Board or Supervisory Board, or the General Meeting of shareholders should take place. This date shall not be sooner than 30 days after the date of the motion being delivered.
4. The society is obliged to forthwith notify the Supervision Office of the date and time of the meeting.
5. Should, within the period of 14 days of the date of the motion being delivered, the date and time of the Meeting of the Management Board or Supervisory Board, or the General Meeting of shareholders not be set, of should it be set under the violation of the given period set in the motion, the Supervision Office may summon the Meeting of the Management Board or Supervisory Board, or the General Meeting of shareholders at the society's cost.

Article 207. [227]
On civil matters concerned with the forming and performance of the fund the Chairman of the Insurance and Pension Funds Supervisory Commission shall have those powers which under the Code of Civil Proceedings are vested in the public prosecutor.

Article 207a. [228]
The Supervision Office may be the participant in the register proceedings concerning a pension society or a pension fund.

Article 208.
[deleted][229]

Article 209.
[deleted][230]

Article 210. [231]
Article 49 shall apply respectively to the Chairman of the Insurance and Pension Funds Supervisory Commission, Vice-chairmen, employees, and those whose legal relationship with the Supervision Office is that of agents or of a similar nature.

Articles 211 – 214 [deleted] [232]

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[226] In the wording set forth in Art. 1 item 93 of the Act referred to in footnote 2.
[227] As modified by Art. 50 item 10 of the Act referred to in footnote 12.
[228] Added by Art. 31 item 5 of the Act referred to in footnote 216, which came into force on 15.10.2003..
[229] By Art. 31 item 6 of the Act referred to in footnote 216.
[230] By Art. 50 item 12 of the Act referred to in footnote 12.
[231] In the wording set forth in Art. 50 item 13 of the Act referred to in footnote 12.
[232] By Art. 50 item 14 of the Act referred to in footnote 12.

CHAPTER 22
Penal provisions

Article 215.
Whoever unlawfully incorporates the words referred to in Article 10 clause 2 or in Article 28 clause 1 in the name (trade name) of his or her business or uses the said words to describe or advertise his or her business, shall be liable to a of fine up to 1,000,000 or to imprisonment of up to 2 years.

Article 216.
Whoever carries on, without a required permit, the business referred to in Article 2 clause 2 or Article 29 clause 1 shall be liable to a of fine up to 5,000,000 or to imprisonment of up to 5 years.

Article 217.
Whoever, when taking investment decisions on behalf of the fund, infringes the investment standards laid down in this Act thereby putting at risk interests of a fund member, shall be liable to a of fine up to 1,000,000.

Article 218.
1. Whoever, while being responsible for the correctness of data included in the information on funds' activities, supplies such false data or conceals such true data as are capable of reflecting importantly on the substance of the resulting disclosure shall be liable to a fine of up to 5,000,000 zloty or to imprisonment of up to 3 years.
2. Whoever, while being responsible for such other information as is supplied pursuant to this Act to the fund members or to the Supervision Office, commits the act referred to in clause 1, shall be liable to a fine of up to 1,000,000 zloty.

Article 219.
1. Whoever, while promoting [the open fund's product], violates the ban under Article 92 clause 1 by offering the additional pecuniary benefits referred to therein with the object of inducing another to join the open fund or remain with the open fund shall be liable to a fine of up to 1,000,000 zloty.
2.[233] Likewise liable shall be whoever, while not duly registered as an agent authorised to conduct acquisition activity for the open funds, engages in acquisition transactions for an open fund, or whoever conducts acquisition activity otherwise than in compliance with the register entry.
2a.[234] Whoever, engaging in acquisition transactions for an open fund, does not operate through the intermediary of one registered as an agent authorised to perform acquisition transactions for the open funds or operates through the intermediary performing these transactions otherwise than in compliance with the register entry, shall be liable to a fine of up to 1,000,000 zloty.
3. Likewise liable shall be whoever, when conducting the business referred to in Article 92 clause 2, offers additional pecuniary benefits in return for the accession to a certain open fund or for remaining with that fund.
4.[235] Any individual who, in defiance of the prohibition specified in Art. 230a, enters into agreements or accepts statements which put him under an obligation to join a given open fund or make use of the services of a given entity when joining an open fund shall be liable to the same penalty.

Article 219a. [236]
Any individual who is engaged in acquisition activities on behalf of an open fund and who infringes the principles specified in Art. 93a shall be liable to a fine of up to 20,000 zloty.

Article 220.

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[233] **In the wording set forth in Art. 1 item 94 letter a of the Act referred to in footnote 2.**
[234] **In the wording set forth in Art. 1 item 94 letter b of the Act referred to in footnote 2.**
[235] **Added by Art. 170 item 43 of the Act referred to in footnote 36.**
[236] **Added by Art. 170 item 44 of the Act referred to in footnote 36.**

1. Whoever, while being bound by a professional secret relating to the business of the fund, discloses or makes use of the same, shall be liable to a fine of up to 1,000,000 zloty or to imprisonment of up to 3 years.
2. Whoever commits the act referred to in clause 1 for profit or for a personal advantage, shall be liable to a fine of up to 5,000,000 zloty or imprisonment of up to 5 years.

Article 221.
Whoever, while being bound to take the steps referred to in Chapter 18 in connection with a deficit suffered by an open fund, fails to discharge the relevant duties, shall be liable to a fine of up to 1,000,000 zloty.

Article 222.
Subject to criminal liability under Articles 215-221 shall likewise be whoever commits the acts referred to in the aforestated Articles while acting for a corporation. * * *

CHAPTER 23
Modifications to provisions in effect

Articles 223 – 228 [deleted]. [237]

CHAPTER 24
Interim and final provisions

Article 229.
1. Till 31 December 2004 the general society shall manage no more than one open fund operating pursuant to this Act.
2. As of 1 January 2005 the general society may manage two open funds which shall bear, respectively, the designates "A-type open pension fund" and "B-type open pension fund".
3. That open fund which invests according to the terms and standards laid down in Chapter 15 shall before or on 1 January 2005 incorporate in its name the words "A-type open pension fund" .
4.[238] The B-type open pension fund shall not invest its assets in the categories of instrument referred to in Article 141 clause 1 items 3-8, item 10, item 12 and item 14, and clause 3, and in Article 143.
5. The weighted average rate of return and the mandatory minimum rate of return shall be established separately for the A-type open fund and the B-type open fund.
6. Throughout this Act any reference to the ratio of an open fund's net asset value to the cumulative net asset value of all open funds shall, as of 1 January 2005, be understood to mean a ratio of the net asset value of an open fund of a given type to the net asset value of all open funds of that type.
7. Membership in the B-type open fund shall not be granted before the candidate's fiftieth birthday.

Article 230.
[deleted][238]

Article 230a. [239]
Until 15 of February 1999 it is forbidden to conduct any acquisition practice, including this of advertising nature for the open pension funds and to perform acquisition activities for these funds.

Article 231.

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[237] Published in the announcement.
[238] Modified by Art. 1 item 95 of the Act referred to in footnote 2.
[239] Added by Art. 2 item 1 of the Act of 24 July 1998 on the modification of the Employee Pension Programmes Act and on the modification of the Act on organisation and functioning of Pension funds (Journal of Laws No. 98 item 610), which came into force on 31.07.1998.

This Act shall come into force on 1 April 1999, except for:[240]
1) Articles 199-214 and Article 230 -- which shall take effect on 1 May 1998,
2)[241] Articles 1-60, Articles 92-94, Article 152, Articles 157-164, Article 197, Articles 215-222 and Article 230a-- which shall take effect on 1 August 1998.
3)[242] Art. 81-85, art. 90, art. 98 i art. 189-190 which shall take effect from 1 March 1999.

[240] **Introductory clause modified by Art. 2 item 2 letter a of the Act referred to in footnote 240.**
[241] **In the wording set forth in Art. 2 item 2 letter b of the Act referred to in footnote 240.**
[242] **Added by Art. 2 item 2 letter c of the Act referred to in footnote 240.**