ACT

of 20 April 2004

on Individual Retirement Accounts

(Journal of Laws No. 116, item 1205)

Chapter 1

General Provisions

Article 1. The Act specifies the rules for gathering savings in individual retirement accounts, hereinafter referred to as "IRAs", and paying in, making transfer withdrawals, withdrawals and refunds of funds collected in those accounts.

Article 2. The following terms used in the Act shall mean:

1) IRA – a separate entry in the register of investment fund participants, a separate securities account and cash account used to service the securities account in the broker entity, or a separate account in the insurance capital fund, a separate bank account in a bank, maintained on the basis of principles specified by the Act, and to the extent not regulated in the Act – on general principles specified in the regulations applicable to those accounts and registers;

2) collection of savings in the IRA – making payments, transfer withdrawals and accepting transfer withdrawals, as well as investing funds deposited in the IRA;

3) account holder – a natural person collecting funds in the IRA;

4) payment – payment of cash funds into the IRA by the account holder and collection of benefits from securities collected in the account holder's IRA;

5) funds – cash, investment fund participation units, insurance capital fund units, and securities registered in the IRA;

6) investment fund – an open-end investment fund or specialised open-end investment fund within the meaning of the Act of 28 April 1997 on investment funds (Journal of Laws of 2002 No. 49, item 448, and No. 141, item 1178, and of 2003 No. 124, item 1151);

7) broker – a brokerage house or bank conducting brokerage activities within the meaning of the Act of 21 August 1997 – Law on Public Trading of Securities (Journal of Laws of 2002 No. 49, item 447, as amended[1]);

8) insurance company – a life insurance company operating insurance business with regard to insurance specified in section and group 3 of the

[1] Amendments to the uniform text of the Act mentioned were announced in 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 and No. 96, item 959.

Annex to the Act on Insurance Business of 22 May 2003 (Journal of Laws No. 124, item 1151, and of 2004 No. 91, item 870, and No. 96, item 959);

9) bank – a domestic bank within the meaning of the Act of 29 August 1997 – Banking Law (Journal of Laws of 2002 No. 72, item 665, as amended[2]);

10) financial institution – an investment fund, a broker, an insurance company, a bank maintaining the IRA;

11) pension scheme – an occupational pension scheme within the meaning of the Act of 20 April 2004 on Occupational Pension Schemes (Journal of Laws No. 116, item 1207);

12) eligible persons – persons indicated by the account holder in the IRA Agreement, who will receive funds from the IRA in the case of the account holder's death, persons mentioned in Article 832 § 2 of the Act of 23 April 1964 – Civil Code (Journal of Laws No. 16, item 93, as amended[3]), and heirs of the account holder;

13) withdrawal – a withdrawal of funds collected in the IRA, performed for the benefit of:

a) the account holder, after the terms mentioned in Article 34 paragraph 1 subparagraph 1 have been met, or

b) an eligible persons, in the case of the account holder's death;

14) transfer withdrawal – a transfer of funds collected by the account holder in the IRA to another financial institution, or transfer of funds collected in the IRA from the IRA of a deceased person to the IRA of an eligible person or to the pension scheme to which the eligible person acceded, or the simultaneous redemption of participation units in one investment fund and purchase of participation units in another investment fund managed by the same company using the funds obtained from the redemption of participation units (conversion), provided that the redeemed units and the purchased units are registered in the account holder's IRA, or a transfer of funds collected by the account holder in the IRA to the pension scheme to which the account holder acceded, or transfer of funds from the pension scheme to the IRA, in cases specified in the Act on occupational pensions schemes;

15) refund – paying out the funds collected in the IRA if there are no prerequisites for a withdrawal or a transfer withdrawal;

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[2] Amendments to the uniform text of the Act mentioned were announced in Journal of Laws of 2002 No. 126, item 1070, No. 141, item 1178, No. 144, item 1208, No. 153, item 1271, No. 169, item 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 and No. 229, item 2276, and of 2004 No. 64, item 594, No. 68, item 623, No. 91, item 870 and No. 96, item 959.

[3] Amendments to the Act mentioned were announced in Journal of Laws of 1971 No. 27, item 252, z 1976 No. 19, item 122, z 1982 No. 11, item 81, No. 19, item 147 and No. 30, item 210, z 1984 No. 45, item 242, z 1985 No. 22, item 99, z 1989 No. 3, item 11, z 1990 No. 34, item 198, No. 55, item 321 and No. 79, item 464, z 1991 No. 107, item 464 and No. 115, item 496, z 1993 No. 17, item 78, z 1994 No. 27, item 96, No. 85, item 388 and No. 105, item 509, z 1995 No. 83, item 417, z 1996 No. 114, item 542, No. 139, item 646 and No. 149, item 703, z 1997 No. 43, item 272, No. 115, item 741, No. 117, item 751 and No. 157, item 1040, z 1998 No. 106, item 668 and No. 117, item 758, z 1999 No. 52, item 532, of 2000 No. 22, item 271, No. 74, item 855 and 857, No. 88, item 983 and No. 114, item 1191, of 2001 No. 11, item 91, No. 71, item 733, No. 130, item 1450 and No. 145, item 1638, of 2002 No. 113, item 984 and No. 141, item 1176, of 2003 No. 49, item 408, No. 60, item 535, No. 64, item 592 and No. 124, item 1151, and of 2004 No. 91, item 870 and No. 96, item 959.

16) supervisory body – the Securities and Exchange Commission with regard to investment funds or entities conducting brokerage activities, and the Insurance and Pension Fund Supervision Commission with regard to insurance companies, as well as the Banking Supervision Commission with regard to banks;

17) basic contribution – a contribution paid by the employer into a pension scheme;

18) personal data – first name, surname, date of birth, address of residence, taxpayer identification number (NIP) and statistical records number (PESEL) or number of passport or another document confirming the identity in the case of persons who are not Polish nationals;

19) receiver – a receiver, a court supervisor or an administrator within the meaning of the Act of 28 February 2003 – Bankruptcy and Remedial Law (Journal of Laws No. 60, item 535, as amended[4]).

Article 3. 1. The entitlement to make payments to the IRA is vested in a natural person, aged 16 or over, who has unlimited tax obligation within the territory of the Republic of Poland.

2. A minor is entitled to make payments to the IRA only in the calendar year in which he or she has generated income from work performed on the basis of a contract of employment.

Article 4. The account holder is entitled to a tax allowance based on the procedure and rules defined in the provisions on personal income tax when he or she, pursuant to a written agreement on the maintenance of the IRA, collects savings in one IRA only at any time, subject to Articles 14 and 23.

Article 5. Only one account holder may collect savings in the IRA.

Article 6. A natural person who has performed a transfer withdrawal from the IRA to a pension scheme in the particular calendar year may not enter into an agreement on the maintenance of the IRA in that year.

Article 7. 1. A natural person makes the following declarations before entering the agreement on the maintenance of the IRA:

1) that he or she is not collecting funds in an IRA maintained by another financial institution, subject to Article 23, and that in the particular calendar year he or she has not performed a transfer withdrawal from the previously held IRA to a pension scheme, or

2) that he or she has an IRA maintained by another financial institution, quoting the name of that institution and confirming that he or she will perform a transfer withdrawal.

2. In the case mentioned in paragraph 1 subparagraph 1, if a person making a declaration has reached the age of 55, he or she also confirms in the declaration that in the past he or she has not performed a withdrawal of funds collected in the IRA.

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[4] Amendments to the Act mentioned were announced in Journal of Laws of 2003 No. 217, item 2125, and of 2004 No. 91, item 870 and 871 and No. 96, item 959.

3. Before making the declaration mentioned in paragraph 1, the financial institution accepting such a payment is obliged to inform the account holder that in the case of giving a false statement or withholding the truth, he or she will be liable to a penalty provided for in Article 56 of the Act of 10 September 1999 – Penal Tax Code (Journal of Laws No. 83, item 930, as amended[5]) and that in the case of collecting savings in more than one IRA, subject to Articles 14 and 23, income generated from the collection of savings in all IRAs are subject to taxation based on the procedure and rules specified in the provisions on personal income tax.

4. In the declaration mentioned in paragraph 1, the account holder confirms that he or she has been informed about the consequences of:

1) collecting savings in more than one IRA, and

2) signing an agreement on the maintenance of the IRA in the calendar year in which the transfer withdrawal has been made from the previously held IRA to a pension scheme.

Article 8. 1. The IRA is maintained on the basis of a written agreement entered into by the account holder, hereinafter referred to as the "IRA agreement":

1) with an investment fund, or

2) with a broker, for the provision of brokerage services and maintenance of a securities account and a cash account used to service the securities account, or

3) with an insurance company – life insurance with an insurance capital fund, or

4) with a bank, for the maintenance of a bank account.

2. The account holder has the right to change the financial institution maintaining his or her IRA by performing a transfer withdrawal.

3. The account holder may collect funds in the IRA in an insurance capital fund under an agreement of life insurance with insurance capital fund, concluded before the date of signing the IRA agreement, provided that the funds collected in the IRA are recorded separately and the insurance company guarantees the possibility of transfer withdrawals of funds collected in the IRA to another financial institution, subject to principles provided for in Article 29.

4. The account holder may collect funds in the IRA under the agreement on the provision of brokerage services and maintenance of a securities account and cash account used to service the securities account, concluded before the date of signing the IRA agreement, provided that the funds collected in the IRA are recorded separately.

Article 9. 1. The IRA agreement describes in particular:

1) a denotation of the IRA which allows its identification;

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[5] Amendments to the Act mentioned were announced in Journal of Laws of 2000 No. 60, item 703 and No. 62, item 717, of 2001 No. 11, item 82 and No. 106, item 1149, of 2002 No. 41, item 365, No. 74, item 676, No. 89, item 804, No. 141, item 1178 and No. 213, item 1803, of 2003 No. 84, item 774, No. 137, item 1302 and No. 162, item 1569, and of 2004 No. 29, item 257, No. 68, item 623, No. 93, item 894 and No. 97, item 963.

2) the method of denotation of instructions concerning the funds collected in the IRA;

3) steps undertaken by the financial institution in the case where the amount of payments made by the account holder in the particular calendar year exceeds the maximum amount of payments agreed in accordance with Article 13;

4) scope, frequency and form of notification of the account holder about funds collected in the IRA;

5) costs and charges borne by the account holder in relation to the maintenance of the IRA, to the extent not regulated by provisions mentioned in Article 12;

6) agreement termination notice period;

7) date of withdrawal, transfer withdrawal and refund;

8) treatment of benefits generated from securities collected in the account holder's IRA.

2. In the case of signing an IRA agreement with an insurance company, the agreement also contains:

1) specification of principles on which the insurance company separates from the premium the part to be paid to the IRA account in insurance capital fund and indicates the purpose for which the remaining part of the insurance premium is to be used;

2) specification of the part of the premium to be deducted for the purpose mentioned w subparagraph 1 and not forwarded to the account mentioned in Article 19 subparagraph 3.

Article 10. 1. The financial institution accepting the declaration mentioned in Article 7 paragraph 1 subparagraph 2 issues the account holder with a confirmation of conclusion of the IRA agreement, hereinafter referred to as the "confirmation of conclusion of the agreement".

2. The financial institution issues the account holder with the confirmation of conclusion of the agreement also in the case where the account holder intends to perform a transfer of funds collected in a pension scheme to the account holder's IRA.

3. The confirmation of conclusion of the agreement should contain the account holder's personal data and the name of the financial institution with which the account holder has concluded the agreement, as well as the number of the account to which the transfer withdrawal should be performed.

4. In the event of the performance of a transfer withdrawal, the account holder may make payments to the account only after the funds which are the subject of the transfer withdrawal from the previous institution maintaining the IRA have arrived at the account, unless the situation mentioned in Article 14 paragraph 1 takes place, and the account holder has signed an IRA agreement with another financial institution.

Article 11. 1. In his IRA agreement the account holder may indicate one or more persons who will receive the funds collected in the IRA in the case of the account holder's death.

2. The instruction mentioned in paragraph 1 may be changed at any time.

3. If the account holder indicated several eligible persons to receive the funds after his death and has not specified their shares in those funds, or the total of shares specified does not equal 1, it is assumed that the shares of those persons are equal.

4. The indication of the eligible person to receive funds after the account holder's death becomes ineffective if that person died before the account holder. In such a case the share assigned to the deceased eligible person is divided in equal parts between other indicated eligible persons, unless the account holder disposes of this share otherwise.

5. If there are no persons indicated by the account holder, the funds collected in the IRA become part of the estate, with the exception of the case in which the IRA agreement has been concluded with the insurance company. In such a case provisions of Articles 831 and 832 of the Act of 23 April 1964 – Civil Code shall apply accordingly.

Article 12. The principles of maintenance of the IRA, as well as the procedure and terms of conclusion and termination of the IRA agreement are specified in:

1) the investment fund's articles of association – in the case of an investment fund;

2) rules and regulations of maintaining a securities account and a cash account – in the case of a broker;

3) general terms of insurance and rules and regulations of insurance capital funds – in the case of an insurance company;

4) bank account agreement – in the case of a bank.

Article 13. 1. Payments made to the IRA in the calendar year may not exceed an amount equal to 150% of the forecasted average monthly wage in the national economy for the particular year, specified in the Budget Act or in the Interim Budget Act.

2. In the case of the IRA maintained under an agreement of life insurance with insurance capital fund the restriction mentioned in paragraph 1 concerns the part of the insurance premium constituting the payment to the IRA.

3. If by the end of the calendar year preceding the year in which payments to the IRA are made there is no basis mentioned in paragraph 1 to determine the average forecasted monthly wage in the national economy, the average monthly wage from the third quarter of the previous year is taken as the basis for determining the amount mentioned in paragraph 1.

4. The minister competent for social security announces the amount mentioned in paragraph 1 in the Official Journal of the Republic of Poland "Monitor Polski", in the form of an announcement, by the end of the calendar year preceding the year in which the payments are made to the IRA.

5. After exceeding the amount specified in the announcement mentioned in paragraph 4, the financial institution shall forward the overpaid amount in the manner specified in the IRA maintenance agreement.

6. The provisions of paragraph 1 shall not apply to the transfer withdrawals accepted.

7. The payments made by a minor to the IRA may not exceed the income generated by him or her in the particular year from the work performed on the basis of a contract of employment and may not exceed the amount mentioned in paragraph 1.

Article 14. 1. In the event of:

1) opening the liquidation of the financial institution,

2) an announcement of the bankruptcy or legally valid rejection of the application for bankruptcy, or discontinuance of the bankruptcy proceedings with regard to the financial institution, if the institution's assets are insufficient to cover the costs of the proceedings,

3) a final decision of the supervision body on the withdrawal of the permit, or in the case of the expiry of the permit granted to the financial institution maintaining the IRA, enabling it to conduct its activities,

- this institution, or the receiver shall notify the account holder of the fact, within 30 days of the occurrence of the event, subject to Article 28.

2. The notification mentioned w paragraph 1 should moreover contain at least information about:

1) the date by which the account holder shall submit the confirmation of conclusion of the agreement or confirmation of accession to a pension scheme to entities mentioned in paragraph 3, in order to perform the transfer withdrawal, and

2) the effects of the failure to provide the confirmations mentioned in subparagraph 1 within 45 days of receiving the notification.

3. In order to perform the transfer withdrawal, the account holder, within 45 days of receiving the notification mentioned w paragraph 1, shall conclude the IRA agreement with another financial institution and shall submit the confirmation of conclusion of the agreement, or in the case of the accession to a pension scheme, to provide the confirmation of accession to that pension scheme, to the institution maintaining the account holder's IRA to date or to the receiver, respectively.

4. In the case of the account holder's failure to fulfil any of the duties mentioned in paragraph 3, if the terms of the withdrawal mentioned in Article 34 paragraph 1 subparagraph 1 or in Article 46 are not met, the refund of funds awarded in the liquidation or bankruptcy proceedings is performed, subject to provisions applicable for the financial institutions maintaining the IRA.

5. In the event where the account holder has fulfilled the terms mentioned in paragraph 3, the financial institution, the receiver or the Insurance Guarantee Fund mentioned in the Act of 22 May 2003 on Mandatory Insurance, the Insurance Guarantee Fund and the Polish Transport

Insurer Office (Journal of Laws No. 124, item 1152 and of 2004 No. 26, item 225 and No. 96, item 959), respectively, in the case of the satisfaction of claims from agreements mentioned in Article 8 paragraph 1 subparagraph 3, or the Bank Guarantee Fund mentioned in the Act of 14 December 1994 on the Bank Guarantee Fund (Journal of Laws of 2000 No. 9, item 131, as amended[6]), in the case of the satisfaction of claims from agreements mentioned in Article 8 paragraph 1 subparagraph 4, shall perform the transfer withdrawal of funds awarded to the account holder in the liquidation or bankruptcy proceedings to the IRA indicated in the confirmation of conclusion of the agreement.

6. After the submission of the confirmation of the conclusion of the agreement or the confirmation of accession to a pension scheme, respectively, the institution which has previously maintained the account holder's IRA or the receiver sends, within 14 days counted from the date of submission of the confirmation, to:

1) the financial institution with which the account holder has concluded the IRA agreement, or

2) the administrator of the pension scheme, within the meaning of provisions on occupational pension schemes, to which the account holder has acceded, hereinafter referred to as the "administrator"

- information mentioned in Article 21 paragraph 2.

Article 15. 1. The funds collected in the IRA may be encumbered with a pledge. The satisfaction of receivables secured by a pledge from the IRA is treated as a refund.

2. The satisfaction of receivables secured by a pledge from the funds collected in the IRA leads to the transfer of the funds remaining in the IRA to the account holder in the form of a refund.

Article 16. The supervision over the maintenance of the IRA by financial institutions is conducted by supervisory bodies specified in provisions applicable to those institutions.

Article 17. 1. Financial institutions are obliged to transfer semi-annual and annual information about the IRA to competent supervisory bodies by the end of July for the previous six months and by the end of January for the previous year.

2. Supervisory bodies are obliged to draw up and forward to the minister competent for social security the semi-annual and annual collective information about the IRAs maintained by the financial institutions they supervise by 15th August for the previous six months and by 15th February for the previous year.

3. The Council of Ministers shall specify, in the form of a regulation, the scope of information mentioned in paragraph 1 and 2, as well as the procedure of forwarding them, based on the need to provide the minister competent for social security with information necessary to perform tasks related to the development of voluntary forms of saving, supplementing the pension income from the universal pension scheme.

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[6] Amendments to the uniform text of the Act mentioned were announced in Journal of Laws of 2000 No. 86, item 958, No. 119, item 1252 and No. 122, item 1316, of 2001 No. 154, item 1802, of 2003 No. 60, item 535, No. 217, item 2124 and No. 223, item 2218, and of 2004 No. 91, item 870.

Article 18. Only the financial institutions maintaining an IRA in accordance with the Act are authorised to describe the activities they conduct, or to use the term "individual retirement account" and the "IRA" acronym in advertisements.

Chapter 2

Identification of the IRA and system control

Article 19. Funds collected by the account holder in the IRA are recorded in a separate:

1) entry in the register of participants of the investment fund;

2) securities account and cash account used to service the securities account at the broker;

3) account in an insurance capital fund;

4) bank account in a bank.

Article 20. All account holder's instructions concerning the funds collected in the IRA must be denoted in a manner allowing their identification.

Article 21. 1. The financial institution records in the IRA all operations which have been performed during the period in which this institution maintained the IRA.

2. If the account holder submits an instruction to perform a transfer withdrawal to another financial institution or to a pension scheme, the previous financial institution forwards the following information to that financial institution or the administrator, together with the transfer withdrawal:

1) account holder's personal data;

2) date of the first payment, or the date of acceptance of the first transfer withdrawal, whichever is earlier;

3) total payments made in each calendar year and the name of the financial institution accepting the payment;

4) amounts and dates of transfer withdrawals accepted on the account holder's IRA and the name of the financial institution or data of the administrator, and the data of the employer operating the pension scheme, within the meaning of provisions on occupational pension schemes, who make the withdrawals;

5) amounts and dates of transfer withdrawals performed, and in the case of a transfer of securities or cash collected at the broker, also the type and number of those securities, and the name of the financial institution or the data of the administrator, and the data of the employer operating the pension scheme to which the transfer withdrawal is performed;

6) amount of basic contributions paid in the case where a transfer withdrawal from a pension scheme has been performed to the account holder's IRA.

3. Information mentioned in paragraph 2 includes also the data submitted by all previous financial institutions maintaining the account holder's IRA.

4. The financial institution, when performing a transfer withdrawal of funds collected in the IRA of a deceased account holder to the IRA of an eligible person or to a pension scheme to which the eligible person acceded, submits the information specified in paragraph 2 subparagraph 5 together with the transfer titled to the financial institution maintaining the IRA of the eligible person or the administrator, respectively.

5. The minister competent for public finance, in coordination with the minister competent for social security shall specify, in the form of a regulation, the specimen of information mentioned in paragraph 2, as well as the date and the procedure of its submission, taking into account the need to ensure the correctness of the data about the account holder's IRA sent between financial institutions or from a financial institution to a pension scheme.

Article 22. 1. The financial institution or the receiver, when performing a withdrawal mentioned in Article 34 paragraph 1 subparagraph 1 or in Article 46, is obliged to draw up and submit information about the performance of the withdrawal to the head of the tax office competent for the account holder in personal income tax matters, by the 7th day of the month following the month in which the withdrawal took place.

2. The account holder, before performing a withdrawal, shall notify the financial institution or the receiver about the head of tax office competent for the personal income tax matter with regard to the account holder and shall present the decision of a pension awarding body on the awarding of a pension entitlement if the account holder is under 60.

3. Information mentioned in paragraph 1 contains:

1) data identifying the IRA;

2) account holder's personal data;

3) date of first payment or date of acceptance of the first transfer withdrawal, whichever is first;

4) total payments made in each calendar year;

5) amount and date of transfer payments accepted in the account holder's IRA and information about the name of the financial institution or data of the administrator and data of the employer operating the pension scheme, who make such withdrawals;

6) amount of basic contributions paid in in the case where a transfer withdrawal from a pension scheme has been performed to the account holder's IRA;

7) amount and date of the withdrawal;

8) copy of the decision of the pension awarding body on the awarding of a pension entitlement if the account holder is under 60.

4. The account holder's failure to meet the obligation mentioned w paragraph 2 will lead to the financial institution not performing the withdrawal.

5. The minister competent for public finance, in coordination with the minister competent for social security shall specify, in the form of a regulation, the specimen of information mentioned in paragraph 3, as well as the method of forwarding such information, allowing for the need to ensure the possibility of verifying the account holder's entitlement to a tax allowance.

Chapter 3

IRA in investment funds

Article 23. In the case specified in Article 8 paragraph 1 subparagraph 1, the account holder may enter into IRA agreements with various investment funds managed by the same investment fund company, with a reservation that the total amount of payments in to funds in the calendar year may not exceed amounts mentioned in Article 13.

Article 24. The account holder may perform a conversion of fund participation units into participation units of other investment funds maintaining the IRA, managed by the same company.

Article 25. 1. In the case of a merger of investment funds, the fund taking over the investment fund in which the account holder has been collecting funds in the IRA notifies the account holder, in the form specified in the IRA agreement , within 14 days of the date of merger, about the event as well as the number of participation units assigned to the account holder and their value.

2. The notification mentioned w paragraph 1 contains information specified in Article 14 paragraph 2 exclusively in the event where the investment fund taking over the account holder's IRA has not maintained an IRA.

Article 26. In the case where the take-over of the management of the investment fund by another investment fund company results in the account holder holding participation units in the IRA in investment funds managed by different investment fund companies, Article 14 shall apply accordingly.

Chapter 4

IRA in brokerage institutions

Article 27. 1. Agreements mentioned in Article 8 paragraph 1 subparagraph 2 provide for depositing funds in securities admitted for public trading, excluding securities mentioned in Article 3 paragraph 3 of the Act of 21 August 1997 – Law on Public Trading of Securities, subject to paragraph 2.

2. Agreements mentioned in Article 8 paragraph 1 subparagraph 2 may allow for the possibility of submitting orders the subject of which are securities with prices depending on the price of securities entered in the account holder's IRA exclusively for the purpose of reduction of the investment risk but on condition that they are traded in the regulated market.

3. In the event mentioned w paragraph 2 the agreement should also define the broker's actions in the situation where the order submitted is incompliant with the purpose indicated in paragraph 2.

Article 28. 1. If the supervisory body issues a decision ordering the transfer of securities and cash and documents related to the maintenance of securities accounts and cash accounts to another broker, in the situation of the expiry or withdrawal of the permit to conduct brokerage activities the broker to whom securities and cash are transferred shall retain the identification of funds collected in the IRA.

2. The broker, together with the transfer of securities and cash collected in the account holder's IRA, in the situation mentioned in paragraph 1, shall submit to the broker indicated by the supervisory body information mentioned in Article 21 paragraph 2.

3. The broker to whom securities and cash have been transferred shall call upon the account holder within 14 days of the date of transfer, to enter into an IRA agreement or make a transfer withdrawal.

4. In the case mentioned in paragraph 1, within 45 days of receiving the call, the account holder shall enter into the IRA agreement with the entity to which his or her securities and cash have been transferred, or perform a transfer withdrawal to another financial institution or to a pension scheme to which the account holder acceded.

5. In the case where the broker to whom the securities and cash as well as the documents related to the maintenance of securities accounts and cash accounts have been transferred does not maintain the IRA, the transfer of those funds to another financial institution is treated as a transfer withdrawal.

6. In the case where the account holder has failed to adhere to the deadline mentioned in paragraph 4, the funds collected in the IRA are refunded.

Chapter 5

IRA in an insurance company

Article 29. 1. An insurance company may not cover the costs of insurance protection from the part of the insurance premium constituting the payment into the IRA.

2. From the assets of the insurance capital fund the insurance company collects exclusively the costs related to the purchasing and selling fund assets, constituting the equivalent of charges borne on behalf of third parties whose intermediation the insurance company is obliged to use pursuant to separate provisions, and the insurance capital fund administration fee.

3. After the performance of the transfer withdrawal, the parties to the life insurance agreement with the insurance capital fund under which the IRA has been maintained may continue the agreement on terms specified in that agreement. The performance of the transfer withdrawal may not constitute the basis for the termination of the life insurance agreement by the insurance company.

Article 30. In the case of performance of the transfer withdrawal to the insurance company, all of the transferred funds are paid in to the account holder's account in the insurance capital fund.

Article 31. In the case where the account holder's funds in the IRA are collected in more than one insurance capital fund, the insurance company is obliged to separate information about the total value of all participation units held in the insurance company, purchased for the payments made into the IRA.

Chapter 6

IRA in a bank

Article 32. The bank enters into an agreement for maintaining an IRA in the form of a savings account, in accordance with the terms specified in the Act of 29 August 1997 – Banking Law, unless the provisions of this Act provide otherwise.

Article 33. In the case of a transfer withdrawal or a refund of funds collected in the IRA, the bank transfers the savings collected, together with the interest due as of the date of the transfer withdrawal or the refund, calculated on the basis of principles binding in the case of continuation of the IRA agreement.

Chapter 7

Withdrawal, transfer withdrawal and refund of funds collected in the IRA

Article 34. 1. The withdrawal of funds collected in the IRA takes place exclusively:

1) at the request of the account holder after he or she reaches the age of 60 or has acquired the pension entitlement and has reached the age of 55 as well as fulfilled the following condition:

a) making payments into the IRA at least for any 5 calendar years, or

b) has made half of the value of payments no later than 5 years before the date of submission of the withdrawal request by the account holder;

2) in the case of the account holder's death – at the request of the eligible person.

2. Excluding the cases mentioned in Article 14 paragraph 1 subparagraphs 1 and 2, the withdrawal should be performed within no more than 14 days of:

1) submission of the withdrawal request by the account holder;

2) submission of the withdrawal request by the person mentioned in paragraph 1 subparagraph 2 and submission of:

a) the account holder's death certificate and document confirming the identity of the eligible person, or

b) a valid court decision on the acquisition of inheritance and joint statement of all heirs on the method of division of funds collected by the account holder, or a valid court decision on the division of inheritance and documents stating the identity of heirs

- unless the eligible persons demand a withdrawal at a later date.

3. In the case where the investment fund has suspended the repurchasing of participation units and the conditions mentioned in paragraph 2 have been fulfilled, the withdrawal takes place within 14 days of resuming the redemption of participation units.

4. The account holder who has performed the withdrawal may not open an IRA again.

Article 35. 1. The transfer withdrawal is performed:

1) from the financial institution maintaining the IRA to another financial institution with which the account holder has concluded an IRA agreement, or

2) from the financial institution maintaining the IRA to a pension scheme to which the account holder acceded, or

3) from a pension scheme, in cases mentioned in the provisions on occupational pension schemes, to the financial institution with which the account holder concluded an IRA agreement, or

4) from the IRA of a deceased account holder to the IRA eligible person to a pension scheme to which the eligible person has acceded.

2. The transfer withdrawal is performed pursuant to the account holder's or the eligible person's instruction after the prior conclusion of the IRA agreement with another financial institution or after the accession to the pension scheme and presentation of the confirmation of conclusion of the agreement or the confirmation of accession to the pension scheme, respectively, to the institution performing the transfer withdrawal.

3. In the case of a transfer withdrawal from the IRA to a pension scheme, the transfer withdrawal is performed to the account of the pension scheme.

4. Excluding the cases mentioned in Article 14 paragraph 1 subparagraphs 1 and 2, the transfer withdrawal should be performed within a period no longer than 14 days of:

1) the submission of the transfer withdrawal instruction by the account holder, or

2) the presentation of documents mentioned in Article 34 paragraph 2 subparagraph 2 eligible persons, and submission of the transfer withdrawal instruction

- provided there are no prerequisites for suspending the redemption of participation units specified in the provisions on investment funds.

5. At the moment of forwarding funds in accordance with paragraph 2, the IRA agreement concluded with the financial institution performing the transfer withdrawal is terminated.

Article 36. 1. Only the entire funds collected in the IRA may be the subject of the withdrawal and transfer withdrawal, with the exclusion of the case in which the account holder performs a transfer withdrawal between investment funds managed by the same company, and the cases mentioned in Article 14 paragraph 1 subparagraphs 1 and 2.

2. Each of the eligible persons entitled to receive funds collected in a deceased person's IRA may perform a transfer withdrawal of only the entire amount of funds to which he or she is entitled to his or her IRA or to the pension scheme to which he or she has acceded.

Article 37. 1. The refund of funds collected in the IRA takes place in the case of a termination of the IRA agreement by any of the parties if there are no prerequisites for a withdrawal or a transfer withdrawal.

2. Leaving the funds collected in the IRA in the account holder's account if the IRA agreement has expired, and there are no prerequisites for a withdrawal or a transfer withdrawal, is treated as equivalent to a refund, also for tax purposes.

3. In the case where in the account holder's IRA a transfer withdrawal from a pension scheme has been accepted, the financial institution, before making the refund, within 7 days of the date of submission of the notice of termination by the account holder, transfers the amount of 30% of total contributions paid into the pension scheme to the bank account indicated by the Social Insurance Institution.

4. The amount mentioned in paragraph 3 constitutes the income of the Social Insurance Fund.

5. The information about the amount mentioned in paragraph 3 is recorded on the account of the insured person account mentioned in Article 40 paragraph 1 of the Act of 13 October 1998 on Social Insurance System (Journal of Laws No. 137, item 887, as amended[7]), as a pension insurance premium due for the month in which the amount was forwarded to the Social Insurance Institution.

6. The minister competent for social security, taking into account the need to ensure the correct recording of data in the insured person's account, shall specify in the form of a regulation:

1) the detailed scope of data, including in particular those concerning the financial institution and the account holder, provided by the financial institution on the payment document used to transfer the amount mentioned in paragraph 3;

2) the method and procedure for recalculating the amount mentioned in paragraph 3 for the benefit assessment base.

7. In the case of terminating the IRA agreement by any of the parties, the financial institution shall inform the account holder that the withdrawal covers the funds collected in the IRA less the tax due, and in the case mentioned w paragraph 3, also less the amount constituting 30 % of the amount of base contributions paid to the pension scheme. Moreover, the financial institution, when terminating the agreement, notifies the account holder of the possibility of performing a transfer withdrawal.

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[7] Amendments to the Act mentioned were announced in Journal of Laws of 1998 No. 162, item 1118 and 1126, z 1999 No. 26, item 228, No. 60, item 636, No. 72, item 802, No. 78, item 875 and 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 and No. 154, item 1792, of 2002 No. 25, item 253, No. 41, item 365, No. 74, item 676, No. 155, item 1287, 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 and No. 228, item 2255, and of 2004 No. 19, item 177, No. 64, item 593 and No. 99, item 1001.

8. In the case of terminating the IRA agreement by the account holder, the latter is obliged to make a statement that he or she has become acquainted with the consequences of the refund mentioned in paragraph 7.

9. The subject of the refund may be exclusively the entire amount of funds collected in the IRA, and in the case where the account holder has been collecting funds on the basis of agreements concluded with different investment funds managed by the same company, the subject of the refund is the entire amount of funds collected in those funds.

10. The refund of funds collected in the IRA should take place before the expiry of the agreement termination deadline.

Article 38. 1. The withdrawal, the transfer withdrawal and the refund of funds collected in the IRA is performed in cash.

2. The provision of paragraph 1 shall not apply to securities collected in the IRA:

1) in the case of a transfer withdrawal from a broker to another entity performing brokerage activities;

2) encumbered with a pledge, in the case of their transfer to a creditor authorised to the satisfaction of claims by means of a transfer of items subject to the pledge;

3) which have ceased to be quoted in the regulated market or their quotation has been suspended for at least 30 days.

Article 39. 1. The agreement concluded with the financial institution may determine the deadline no longer than 12 months counting from the date of conclusion of the agreement within which the withdrawal, the transfer withdrawal or the refund performed involves the payment of an additional fee by the account holder the amount of which will be determined by the financial institution in the agreement.

2. In the case where the account holder makes a withdrawal, a transfer withdrawal or a refund before the expiry of the deadline mentioned in paragraph 1, the financial institution has the right to deduct an additional payment from the funds collected in the IRA which have been paid out, transferred or refunded.

3. After the expiry of the deadline mentioned w paragraph 1, the broker, when performing the transfer withdrawal of funds collected in the IRA, may collect a charge for the transfer of securities and cash, but no higher than the charge collected from that entity by the National Deposit of Securities (Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna), specified in the rules and regulations mentioned in Article 127 of the Act of 21 August 1997 – Law on Public Trading in Securities.

4. The provisions of paragraph 1 shall not apply in the case of a conversion.

Chapter 8

Penal provisions

Article 40. 1. Whoever uses the term “individual retirement account” or the acronym “IRA” to describe activities conducted without being authorised to do so shall be subject do a fine of PLN 1,000,000 or imprisonment of up to 3 years.

2. The same penalty shall be imposed on anyone who commits the act specified in paragraph 1, acting on behalf or in the interest of another natural person, legal person or organisational unit without the legal personality.

Chapter 9

Changes in regulations currently in force

Article 41. In the Act of 28 July 1983 on Inheritance and Gift Tax (Journal of Laws of 1997 No. 16, item 89, as amended[8]), in Article 3 , in subparagraph 5 the full-stop is replaced by a comma and subparagraph 6 is added, reading as follows:

> "6) acquiring the funds collected in the individual retirement account by inheriting.".

Article 42. In the Act of 26 July 1991 on Personal Income Tax (Journal of Laws of 2000 No. 14, item 176, as amended[9]) the following changes are introduced:

> 1) in Article 21, in paragraph 1, after subparagraph 58, subparagraph 58a is added, reading as follows:
>
> "58a) income from the savings in the individual retirement account, within the meaning of the provisions on individual retirement accounts, generated in relation to:
>
> > a) collecting and withdrawal of funds by the account holder,
> >
> > b) withdrawal of funds performed for the benefit of an eligible persons entitled to the funds after the account holder’s death,
> >
> > c) transfer withdrawal
>
> - however, the exemption shall not apply if the account holder has been collecting his or her savings in more than one individual retirement account, unless the provisions allow for such a possibility,";

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[8] Amendments to the uniform text of the Act mentioned were announced in Journal of Laws of 1997 No. 137, item 926 and No. 139, item 932, of 2000 No. 22, item 270 and No. 120, item 1268, of 2001 No. 8, item 64, of 2002 No. 200, item 1681, and of 2003 No. 137, item 1302.

[9] Amendments to the uniform text of the Act mentioned were announced in Journal of Laws of 2000 No. 22, item 270, No. 60, item 703, No. 70, item 816, No. 104, item 1104, No. 117, item 1228 and No. 122, item 1324, of 2001 No. 4, item 27, No. 8, item 64, No. 52, item 539, No. 73, item 764, No. 74, item 784, No. 88, item 961, No. 89, item 968, No. 102, item 1117, No. 106, item 1150, No. 110, item 1190, No. 125, item 1363 and 1370 and No. 134, item 1509, of 2002 No. 19, item 199, No. 25, item 253, No. 74, item 676, No. 78, item 715, No. 89, item 804, No. 135, item 1146, No. 141, item 1182, No. 169, item 1384, No. 181, item 1515, No. 200, item 1679 and No. 240, item 2058, of 2003 No. 7, item 79, No. 45, item 391, No. 65, item 595, No. 84, item 774, No. 90, item 844, No. 96, item 874, No. 122, item 1143, No. 135, item 1268, No. 137, item 1302, No. 166, item 1608, No. 202, item 1956, No. 222, item 2201, No. 223, item 2217 and No. 228, item 2255, and of 2004 No. 29, item 257, No. 54, item 535, No. 93, item 894, No. 99, item 1001, No. 109, item 1163 and No. 116, item 1203.

2) in Article 30:

a) in paragraph 1, after subparagraph 7, subparagraph 7a is added, reading as follows:

"7a) for the collection of savings in more that one individual retirement account, within the meaning of provisions on individual retirement accounts – in the amount of 75 % of the income generated in each individual retirement account,",

b) after paragraph 3, paragraph 3a shall be added, reading as follows:

"3a. The income mentioned w paragraph 1 subparagraph 7a is the difference between the amount constituting the value of funds collected in the individual retirement account and the total payments into the individual retirement account. No losses from the capital and property rights suffered in the particular tax year and in previous years are deducted from this income.";

3) in Article 30a:

a) in paragraph 1, in subparagraph 9, the full-stop is replaced by a comma and subparagraph 10 is added, reading as follows:

"10) from account holder's income in the individual retirement account generated from the refund, within the meaning of the provisions on individual retirement accounts, of funds collected in that account.",

b) after paragraph 7, paragraph 8 is added, reading as follows:

"8. To income mentioned in paragraph 1 subparagraph 10, Article 30 paragraph 3a shall apply.".

Article 43. In the Act of 21 August 1997 – Law on Public Trading of Securities (Journal of Laws of 2002 No. 49, item 447, as amended[10]) the following changes are introduced:

1) in Article 31, in paragraph 1, in subparagraph 9, the full-stop at the end is replaced with a comma, and subparagraph 10 is added, reading as follows:

"10) undertaking factual and legal actions related to servicing the investor club mentioned in Article 34b, pursuant to the agreement concluded.";

2) after Article 34a, Article 34b is added, reading as follows:

"Article 34b. 1. Natural persons with full capacity for legal transactions, pursuant to an agreement which shall be concluded in the written form or otherwise shall be invalid, may associate in investor clubs. No less than 3 and no more than 20 people may be united in one investor club.

[10] Amendments to the uniform text of the Act mentioned were announced in 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 and No. 96, item 959.

2. In the agreement mentioned in paragraph 1, members of an investor club undertake to:

1) take joint actions in order to gather knowledge about the rules of making investments in the securities market, in particular through joint investments into publicly traded securities,

2) refrain from participating in other investor clubs,

3) refrain from contracting liabilities related to the operations of the investor club with total value exceeding the value of assets collected in the securities accounts maintained for the investor club and in cash accounts used to service the securities accounts.

3. During each calendar year, each member of the investor club is entitled to make the payment of cash with total amount not exceeding PLN 20,000 to cash accounts used to service securities accounts maintained for that club.

4. The investor club or its members are not entrepreneurs within the meaning of the Act of 19 November 1999 – Business Activity Law (Journal of Laws No. 101, item 1178, as amended[11]).

5. Provisions of Articles 860-864, Article 865 § 1 and Articles 866-875 of the Civil Code shall apply to the agreement mentioned in paragraph 1, unless the provisions of paragraphs 1-4 provide otherwise.".

Article 44. In the Act of 29 August 1997 – Tax Regulations (Journal of Laws No. 137, item 926, as amended[12]) the following changes are introduced:

1) in Article 182, § 2 shall read as follows:

"§ 2. The provisions of § 1 shall apply accordingly to insurance companies, investment funds and banks conducting brokerage activities, as regards individual retirements accounts maintained by them, as well as to brokerage houses.";

2) in Article 275, § 3 shall read as follows:

"§ 3. The provision of § 2 shall apply also to insurance companies and investment funds, as regards the individual retirement accounts maintained by them, and to brokerage houses, banks conducting brokerage activities and investment fund companies.".

Article 45. In the Act of 29 August 1997 on the National Bank of Poland (Journal of Laws No. 140, item 938, as amended[13]), in Article 38, paragraph 2 shall read as follows:

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[11] Amendments to the Act mentioned were announced in Journal of Laws of 2000 No. 86, item 958 and No. 114, item 1193, of 2001 No. 49, item 509, No. 67, item 679, No. 102, item 1115 and No. 147, item 1643, of 2002 No. 1, item 2, No. 115, item 995 and No. 130, item 1112, of 2003 No. 86, item 789, No. 128, item 1176 and No. 217, item 2125, and of 2004 No. 54, item 535 and No. 91, item 870.

[12] Amendments to the Act mentioned were announced in Journal of Laws of 1997 No. 160, item 1083, z 1998 No. 106, item 668, z 1999 No. 11, item 95 and No. 92, item 1062, of 2000 No. 94, item 1037, No. 116, item 1216, No. 120, item 1268 and No. 122, item 1315, of 2001 No. 16, item 166, No. 39, item 459, No. 42, item 475, No. 110, item 1189, No. 125, item 1368 and No. 130, item 1452, of 2002 No. 89, item 804, No. 113, item 984, No. 153, item 1271 and No. 169, item 1387, of 2003 No. 130, item 1188, No. 137, item 1302, No. 170, item 1660 and No. 228, item 2255 and 2256, and of 2004 No. 29, item 257, No. 64, item 593, No. 68, item 623, No. 91, item 868 and No. 93, item 894.

[13] Amendments to the Act mentioned were announced in Journal of Laws of 1998 No. 160, item 1063, of 2000 No. 53, item 648, No. 62, item 718 and No. 119, item 1252, of 2001 No. 8, item 64, No. 110, item 1189 and No. 154, item 1784 and 1800, of 2002 No. 126, item 1070 and No. 141, item 1178, and of 2003 No. 65, item 594, No. 137, item 1303, No. 209, item 2035 and No. 228, item 2260.

"2. The statutory reserve of the banks is the part, expressed in zlotys, of the monetary values and foreign currencies, collected in bank accounts, funds obtained form the sale of securities, with the exception of securities secured by mortgage, with term to maturity exceeding five years, as well as debentures with term to maturity exceeding five years, and other funds accepted by the bank, subject to refunding, with the exception of funds accepted from another domestic bank, as well as funds accepted from a foreign bank pursuant to agreements entered into before the effective date of the Act, or funds obtained from abroad for at least 2 years and funds obtained pursuant to agreements on maintaining individual retirement accounts within the meaning of provisions on individual retirement accounts.".

Chapter 10

Transitional and final provisions

Article 46. The withdrawal of funds collected in the IRA:

1) to account holders born before 31 December 1945 takes place at the request of the account holder after he or she has fulfilled the following condition:

a) making payments to the IRA in at least any 3 calendar years, or

b) making half of the value of payments into the IRA no later than 3 years before the submission of the withdrawal request by the account holder;

2) to account holders born between 1 January 1946 and 31 December 1948 takes place at the request of the account holder after he or she reached the age of 60, or after acquiring earlier pension entitlement and fulfilling the following condition:

a) making payments to the IRA in at least any 4 calendar years, or

b) making half of the value of payments into the IRA no later than 4 years before the submission of the withdrawal request by the account holder.

Article 47. The provision of Article 37 paragraph 3 shall apply to basic contributions paid into the pension scheme after the effective date of the Act of 20 April 2004 on Occupational Pension Schemes (Journal of Laws No. 116, item 1207).

Article 48. The announcement mentioned in Article 13 paragraph 4 shall be issued for the first time by the minister competent for social security no later than 15 days before the effective date of the Act.

Article 49. The Act comes into effect as of 1 September 2004 with the exception of Article 13 paragraph 4 and Article 48 which come into effect as of the date of their announcement.