

LAW OF UKRAINE

”ON MANDATORY STATE PENSION INSURANCE”

(Vidomosty Verkhovnoy Rady (VVR), 2005 # 49-51, p. 376)

(In the year of 2004, agriculture enterprises – payers of the flat agricultural tax – will pay contributions set by this Law at the rate and according to the procedure specified by the Law of Ukraine “On the Flat Agriculture Tax” (320-14) pursuant to Laws # 1344-IV (1344-15) dated November 27, 2003, VVR, 2004, # 17-18, p. 250).

As amended by Laws:

- # 1878-IV (1878-15) dated June 24, 2004, VVR, 2000, # 49, p. 528
- # 2153-IV (2153-15) dated November 4, 2004, VVR, 2005, # 2, p. 42
- # 2287-IV (2287-15) dated December 23, 2004, VVR, 2005, # 6, p.137
- # 2291-IV (2291-15) dated December 23, 2004, VVR, 2005, # 6, p. 141
- # 2343-IV (2343-15) dated January 13, 2005, VVR, 2005, # 9, p. 184
- # 2505-IV (2505-15) dated March 25, 2005, VVR, 2005, # 17, # 18-19, p. 267
- # 2613-IV (2613-15) dated May 31, 2005, VVR, 2005, # 25, p. 339
- # 2658-IV (2658-15) dated June 16, 2005

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This Law, developed pursuant to the Constitution of Ukraine and the Fundamentals of Ukrainian Legislation on Mandatory State Social Insurance, lays down principles, foundations and mechanisms of operation for the system of mandatory state pension insurance, granting, recalculation and payment of pensions and provision of social services from the Pension Fund formed through insurance contributions of employers and budgetary transfers and from other sources provided for by this Law, as well as governs the procedure for formation of the Accumulation Pension Fund and financing of its expenditures on purchase of life annuities for, or on lump-sum payments to, insured individuals, their family members and other persons provided for by this Law.

Any changes in conditions and norms associated with the mandatory state pension insurance can only be made by way of amending this Law.

SECTION I. GENERAL PROVISIONS

ARTICLE 1. DEFINITION OF TERMS

The terms below shall be used in this Law in the following meanings:

Actuarial calculations – a financial analysis of short-term and long-term projections for the mandatory state pension insurance, which includes a forecast of financial flows, estimates of financial liabilities, a long-term forecast of the pension system state and sustainability, and a detailed analysis of short-term and long-term effects of any changes in the pension system;

Life annuity from the Mandatory Accumulation Pension Fund (hereinafter referred to as life annuity) – a pension benefit stipulated in a life annuity contract that is payable monthly subject to a procedure prescribed by law to the insured individual after he/she reaches the retirement age, or to his/her family members, or heirs in cases as specified herein;

Insured individual – an individual who pursuant to this Law is subject to the mandatory state pension insurance and pays/paid contributions, and/or on behalf of whom contributions are/were paid as prescribed under the mandatory state pension insurance;

Custodian – a bank that operates under legislation on banks and banking and meets the requirements of this Law concerning the custody and servicing of the Accumulation Fund's assets;

Accrual Rate – a factor determined pursuant to this Law in order to calculate the covered service period in calculation of the pension benefit amount from the solidarity system of the mandatory state pension insurance;

Asset management company – a legal entity that is duly licensed to carry out professional asset management activities for pension assets and is selected by way of tender;

Minimum pension – the state social guaranty whereof amount is defined by this Law;

Minimum insurance contribution – an amount determined as a product of the minimum wage and the insurance contribution rate effective on the date of wage (income) receipt;

Accumulation pension account – the section of a personal record card within the system of personified record keeping that shows the status of the insured individual's pension assets in the accumulation system of the mandatory state pension insurance;

Accumulation Pension Fund (hereinafter referred to as Accumulation Fund) – a special-purpose, off budget fund established pursuant to this Law to accumulate insurance contributions of insured individuals. The insurance contributions shall be recorded on accumulation pension accounts and invested for a return for the benefit of the insured individuals. The pension assets of the Accumulation Fund shall be used to purchase life annuity contracts or make lump-sum payments to the insured individuals, and in cases specified herein, to their family members, or heirs, and for other purposes specified herein;

Non-state pension fund – a non-state pension fund established and operating under legislation on non-state pensions;

Individuals incapable of work – individuals who have attained the statutory retirement age or have been qualified as invalids, including handicapped children, as well as individuals eligible for a survivor's pension under this Law;

Pension asset unit of the Accumulation Fund (hereinafter referred to as pension asset unit) – a measure of the total value of pension assets of the Accumulation Fund accrued and recorded on an insured individual's pension account. This unit is used to determine the pension assets value at the moment of valuation;

Lump sum – a benefit paid from the Accumulation Fund to insured individual on attainment of the retirement age and in other cases specified herein;

Investment Policies – a document that pursuant to this Law defines Accumulation Fund investment directions and limits, investment return levels, administration costs, and expenditures on purchase of life annuities and payment of lump sums in respective year;

Pension benefits – cash benefits from the mandatory state pension insurance system paid in a form of pension, life annuity, or lump sum;

Pension – a monthly cash benefit from the solidarity system of the mandatory state pension insurance paid to an insured individual who has attained the retirement age specified in this Law or has been qualified as an invalid, or such benefit paid to his/her family members in cases specified herein;

Pension assets of the Accumulation Fund (hereinafter referred to as pension assets) – cash, securities, and property rights and liabilities formed in the Accumulation Fund pursuant to this Law;

Pensioner – an individual in receipt of a pension or life annuity benefits under this Law, or in the event of death of such individual, his/her family members in receipt of survivor's pension in cases specified herein;

Personified record keeping within the mandatory state pension insurance system (hereinafter referred to as personified record keeping) – organizing and keeping records of data on an insured individual. This data shall be used within the mandatory state pension insurance system subject to the procedure herein;

Affiliated entity:

- Any legal entity that exercises control over a given legal entity, or is under control of the given legal entity, or is under common control jointly with the given legal entity;
- Any individual or members of his/her family who exercise control over a given legal entity. The members of such individual's family will be considered to include his/her spouse, children or parents of both the individual and his/her spouse, as well as the spouse of anybody of his/her children or parents;

- Any officer of a given legal entity authorized to act legally on behalf of this entity toward establishment, alteration or termination of legal relations, as well as members of the family of such officer.

Pursuant to this Law, to exercise control shall mean to possess, whether directly or via affiliated individuals or legal entities, the biggest interest (shareholding, stake) of 20 percent or more in the authorized capital of a legal entity, or to have the biggest number of votes in the management board of that legal entity. For an individual, the total amount of interest in a legal entity (number of votes in its management board) shall be determined as a total of all corporate rights belonging to such individual, his/her family members, and legal entities controlled by such individual or his/her family members;

Representatives of insured individuals – trade unions, or associations of trade unions, or other bodies (representatives) authorized by employees;

Representatives of employers – employers’ organizations, or associations of employers’ organizations, or other bodies (representatives) authorized by employers;

Professional asset management activities for pension assets – professional activities under the Law of Ukraine “On State Regulation of Securities Market in Ukraine” associated with management of assets of the Accumulation Fund and aimed to preserve their value and earn an investment return for the benefit of insured individuals;

Board of the Accumulation Fund – the supreme collegial management body for the accumulation system of the mandatory state pension insurance established and operating subject to the procedures herein;

Employer – the owner of an enterprise, institution or organization, or a body authorized by such owner, irrespective of their ownership form, activities and the way these activities are carried out; any individual who employs hired labor (including that of foreigners who lawfully work for hire in Ukraine); the owner of a foreign enterprise, institution, organization (including international organizations), branch or representative office located in Ukraine who employs hired labor unless international agreements of Ukraine ratified by the Supreme Rada provide otherwise;

Social services – services provided to individuals at the expense of the Pension Fund subject to the conditions and procedures herein;

Covered service period – a period (term) during which an individual was subject to the mandatory state social insurance and paid mandatory state pension insurance contributions under earlier legislation, or such contribution were paid on his/her behalf; and/or a period during which the individual is subject to the mandatory state pension insurance under this Law, and for which insurance contributions have been paid;

Insurance contributions – social insurance contributions and mandatory state pension insurance contributions paid under earlier legislation; and mandatory state pension insurance contributions paid under this Law;

Insurance organization – a duly licensed legal entity engaged solely in life insurance business that sells life annuity policies and pays life annuity benefits;

Insurants – employers and other entities paying mandatory state pension insurance contributions under this Law;

Tender – advertised bidding organized and carried out subject to the procedures herein;

Authorized bank – a bank that operates under legislation on banks and banking and carries out clearing and cash operations with assets of the Pension Fund;

Net unit value of pension assets – a unit value of pension assets that is determined subject to the procedure herein by dividing the net value of pension assets by the total number of units outstanding on the day of the calculation;

Net value of pension assets – a difference between the value of pension assets as of the day of calculation and the total liabilities of the Accumulation Fund outstanding as of the day of calculation. This difference shall be calculated by a method and subject to a procedure established by the State Commission for Securities and Stock Market on negotiations with the State Commission for Regulation of Financial Services Markets of Ukraine and the National Bank of Ukraine.

ARTICLE 2. STRUCTURE OF THE UKRAINIAN PENSION SYSTEM

1. The Ukrainian pension system shall comprise three pillars:

- First pillar – the solidarity system of the mandatory state pension insurance (hereinafter referred to as solidarity system) based on the principles of solidarity and subsidization. Pensions and social services from this system shall be provided at the expense of the Pension Fund subject to the conditions and procedures herein.
- Second pillar – the accumulation system of mandatory state pension insurance (hereinafter referred to as accumulation pension insurance system) based on the principles of accumulation of insured individual's money in the Accumulation Fund and financing of expenditures on purchase of life annuity contracts and payment of lump sums subject to the conditions and procedures herein.
- Third Pillar – the non-state pension system based on the principle of voluntary participation of individuals, employers and their associations in generation of pension savings with the purpose of pension provision to the individuals subject to conditions and procedures established by legislation on non-state pensions.

2. The first and second pension pillars constitute the mandatory state pension insurance system in Ukraine.

The second and third pension pillars constitute the accumulation pension system in Ukraine.

3. For certain categories of individuals Ukrainian laws may stipulate pension conditions, norms and procedures that differ from those of the mandatory state pension insurance and non-state pensions.

4. Ukrainian citizens may participate in, and draw pensions from, different Ukrainian pension pillars concurrently. Obligation to participate or any limitations on participating in respective Ukrainian pension pillars and drawing pension benefits shall be established by pension laws.

Participation of foreigners and stateless persons in the Ukrainian pension system and participation of Ukrainian citizens in foreign pension systems shall be governed by this Law, other pension laws, and international agreements ratified by the Supreme Rada.

ARTICLE 3. ENTITIES OF THE UKRAINIAN PENSION SYSTEM

1. Entities of the solidarity system shall include:

- Insured individuals, and in cases specified herein, their family members and other persons;
- Insurants;
- Pension Fund;
- Authorized bank; and

- Enterprises, institutions and organizations (hereinafter referred to as organizations) that carry out payment and delivery of pensions.
2. Entities of the accumulation pension system shall include:
- Individuals on and in behalf of whom money is accumulated and invested;
 - Enterprises, institutions, organizations and individuals that remit contributions to the accumulation pension system;
 - Accumulation Fund;
 - Non-state pension funds;
 - Legal entities that exercise management of the Accumulation Fund and non-state pension funds, and management of their pension assets;
 - Custodian; and
 - Insurance organizations.

Ukrainian laws may specify other entities of the accumulation pension system.

ARTICLE 4. UKRAINIAN PENSION LEGISLATION

1. Ukrainian pension legislation shall be based on the Constitution of Ukraine and comprise the Fundamentals of Ukrainian Legislation on Mandatory State Social Insurance, this Law, the non-state pension law, laws stipulating pension conditions that differ from those of the mandatory state pension insurance and non-state pensions, and international pension agreements ratified by the Supreme Rada (hereinafter referred to as pension laws), as well as other laws and normative acts adopted pursuant to the pension laws that regulate relations in the pension sphere of Ukraine.

Where an international agreement of Ukraine ratified by the Supreme Rada provides otherwise than Ukrainian pension legislation does, the international agreement provisions shall be applicable.

The following shall come within the exclusive domain of the pension laws:

- Pension types;
- Conditions of participation in the pension system or its individual pillars;
- Retirement age for men and women on attainment of which an individual becomes eligible for pension benefits;
- Sources of funds for pensions;
- Pension conditions, norms and procedures; and
- Management arrangement and procedures in the pension system.

ARTICLE 5. PURVIEW OF THIS LAW

1. This Law shall regulate relations arising among entities of the mandatory state pension insurance system. Other laws and normative acts may only be applied to these relations in cases specified herein or where they are not inconsistent with this Law.

2. The following shall come within the exclusive domain of this Law:

- Principles and structure of the mandatory state pension insurance;
- Circle of individuals subject to the mandatory state pension insurance;
- Insurance contributors, and their rights and obligations;

- Procedure for charging, calculating and paying insurance contributions, and for collecting overdue contributions;
- Conditions of eligibility for pension benefits, and procedure for determination of their amounts;
- Retirement age for men and women on attainment of which an individual becomes eligible for pension benefits;
- Minimum old age pension;
- Procedure for paying pension benefits under the mandatory state pension insurance;
- Procedure for using money of the Pension Fund and the Accumulation Fund; and
- Management arrangement and procedures within the mandatory state pension insurance system.

ARTICLE 6. SOCIAL BENEFITS TO INDIVIDUALS INCAPABLE OF WORK

1. In addition to pension benefits from the pension system, incapable-of-work individuals shall be eligible for supplements, allowances and raises to the said benefits, and an additional pension subject to a procedure and from sources of funds defined by law.
2. Where the total of all benefits specified in item 1 above, including the pension benefits from the pension system and other incomes, is below the subsistence level set by law for incapable-of-work individuals, such individuals shall be eligible for state social assistance subject to a procedure, in amounts, and from sources of funds defined by law.

ARTICLE 7. PRINCIPLES OF THE MANDATORY STATE PENSION INSURANCE

1. The following principles shall underlie the mandatory state pension insurance:
 - Insurance conditions and procedures are defined legislatively;
 - Insurance is mandatory for individuals employed under a labor agreement (contract) or on any other legal ground, as well as self-employed individuals and individual business entities;
 - Individuals not subject to the mandatory state pension insurance under this Law have right to voluntary participation in the mandatory state pension insurance system;
 - Every able-bodied individual is interested in own security after retirement;
 - Insured individuals have equal rights to pension benefits and equal obligations to pay contributions under the mandatory state pension insurance;
 - Pension amount depends on the length of covered service period and the amount of wage (income);
 - Solidarity and subsidization within the solidarity system;
 - Expenditures on provision of pensions and social services are financed from insurance contributions, budgetary transfers, and special-purpose funds;
 - A part of insurance contributions is channeled to the Accumulation Fund to purchase life annuity contracts and pay lump sums – depending on the individual savings amount accrued including investment return;
 - The state guaranties the rights of insured individuals under this Law;
 - Management of the Pension Fund is based on parity representation of insured individuals, employers and the state, and on the principles of publicity, transparency and accessibility;

- The Pension Fund is obliged to finance expenditures associated with provision of pensions and social services to the extent specified by this Law;
 - Money of the mandatory state pension insurance is used in accordance with its intended purpose and in an efficient manner; and
 - Entities of the mandatory state pension insurance system respond for violations of this Law as well as for nonperformance or improper performance of their obligations.
2. Pensions and other types of social benefits and assistance that are the main source of subsistence must secure a living standard at least at the subsistence level set by law.

ARTICLE 8. INDIVIDUALS ELIGIBLE FOR PENSION BENEFITS AND SOCIAL SERVICES

1. The following individuals shall be eligible for pensions and social services from the solidarity system:
- 1) Ukrainian citizens insured under this Law who attain the retirement age established by this Law, or are duly qualified as invalids, and have a covered service period sufficient for respective pension type, and in case of their death, their family members as specified in Article 36 herein and other persons specified this Law;
 - 2) Individuals to whom a pension was granted under the Law of Ukraine “On Pensions” (except for social pensions) before entry into force of this Law, or individuals to whom a pension (monthly cash allowance for life) was granted under other legislative acts if they were eligible for a pension under the Law of Ukraine “On Pensions” – provided that they are not in receipt of a pension (monthly cash allowance for life) from other sources – and in cases specified herein, their family members;
2. Eligible for life annuity and a lump sum from the Accumulation Fund shall be insured individuals and their family members and/or heirs subject to the conditions and procedures herein.
3. Individuals that are not subject to the mandatory state pension insurance but voluntarily paid insurance contributions to the solidarity system and/or the accumulation pension insurance system in accordance with the procedure and at the rates established by this Law shall be, subject to conditions specified herein, eligible for a pension and social services from the Pension Fund and/or life annuity or a lump sum from the Accumulation Fund;
4. Foreigners and stateless persons lawfully residing in Ukraine shall be eligible for pension benefits and social services from the mandatory state pension insurance system on an equality with Ukrainian citizens subject to the conditions and procedures herein, unless international agreements ratified by the Supreme Rada provide otherwise.

ARTICLE 9. PENSION BENEFITS AND SOCIAL SERVICES

1. The following benefits from the Pension Fund shall be granted under this Law within the solidarity system:
- 1) Old age pension;
 - 2) Disability pension due to a general disease (including a non-industrial injury and disability from childhood); and
 - 3) Survivor’s pension.
2. The following benefits shall be paid from money kept on accumulation pension accounts in the Accumulation Fund:
- 1) Certain period life annuity;

- 2) Refund life annuity;
 - 3) Joint life and survivor annuity; and
 - 4) Lump sum.
3. Social services shall be provided from the solidarity system at the expense of the Pension Fund. The social services under this Law shall include a pensioner funeral allowance.

ARTICLE 10. BENEFIT OPTION

1. Only one pension shall be granted to an individual simultaneously eligible for different pensions (old age, disability, and survivor's) at his/her option.
2. Only one life annuity type shall be granted to an individual eligible for a life annuity at his/her option.

ARTICLE 11. INDIVIDUALS SUBJECT TO THE MANDATORY STATE PENSION INSURANCE

1. The following individuals shall be subject to the mandatory state pension insurance:
 - 1) Ukrainian citizens, foreigners (unless international agreements ratified by the Supreme Rada provide otherwise) and stateless persons employed under a labor agreement (contract) with, or on other legal grounds at, or perform works under agreements in civil law for, enterprises, institutions and organizations established in accordance with Ukrainian legislation irrespective of their ownership form, activities and the way these activities are carried out; branches, representative offices, divisions and other separate units of these enterprises and organizations; associations of individuals; individual business entities; and other persons (including corporate and individual business entities that opted for a special tax treatment, such as fixed tax, single tax, or fixed agricultural tax, or bought a special trade license);
 - 2) Members of collective and leased enterprises, agricultural cooperatives and farms including those who opted for a special tax treatment (fixed tax, single tax, fixed agricultural tax, or special trade license);
 - 3) Individual business entities including those who opted for a special tax treatment (fixed tax, single tax, fixed agricultural tax, or special trade license) and members of families of the said individuals who participate in their business activities;

The members of families of individual business entities that participate in business activities of these individuals shall include the spouse, parents, children, and other dependents who have attained 15 years of age and are not in labor or civil-law relations with the individual business entity but together with him/her carry out the business activities and get a part of income from these activities;
 - 4) Self-employed persons: individuals engaging in advocacy, notarial, creative and other activities associated with getting income directly from the activity;
 - 5) Ukrainian citizens employed abroad by diplomatic missions and consular institutions of Ukraine, and branches, representative offices and other separate units of enterprises and organizations (including international organizations) established under Ukrainian legislation (unless international agreements ratified by the Supreme Rada provide otherwise);
 - 6) Ukrainian citizens and stateless persons employed by foreign diplomatic missions and consular institutions, and branches, representative offices and other separate units of foreign enterprises and organizations and international organizations located on the territory of Ukraine (unless international agreements ratified by the Supreme Rada provide otherwise);

- 7) Individuals holding elective offices in public authorities, local governments, associations of individuals, trade unions, and political parties who get a wage (remuneration) for their work in the elective office;
- 8) Individuals doing their term service in the Armed Forces of Ukraine, the Security Service of Ukraine, and other military formations established under Ukrainian laws, as well as in the units within the Ministry of Internal Affairs of Ukraine;
- 9) Employees of paramilitary formations, the command staff and ranks of the courier communication service within the central communications and informatization authority, and the command staff and ranks of mine rescue units irrespective of affiliation, as well as personnel of the wreck rescue service established on permanent basis pursuant to legislation;
- 10) Individuals doing their alternative (nonmilitary) service;
- 11) Individuals in receipt of monthly insurance benefits under the Law of Ukraine "On Mandatory State Social Insurance against Industrial Accidents and Occupational Diseases that Caused Disability," except for individuals in receipt of survivor's benefits and non-working individuals in receipt of a disability pension in the event of industrial accident and occupational disease;
- 12) Individuals undergoing off-the-job professional training, retraining or development as directed by enterprises, institutions and organizations (in case when such individuals do not retain their wage and receive a stipend subject to legislation);
- 13) Individuals in receipt of a child care benefit for a child under three years under laws;
- 14) One of non-working able-bodied parents, adopters, guardians, or tutors who actually takes care of a handicapped child, as well as non-working able-bodied individuals taking care of a Group-I invalid or an elderly who needs permanent attendance as concluded by a medical institution or has attained 80 years of age, if such non-working able-bodied individuals are in receipt of a benefit or a compensation under law; and
- 15) Individuals in receipt of a temporary disability benefit;

(Item 16 of Article 11 shall be excluded under the Law # 2505-IV (2505-15) dated March 25, 2005)

ARTICLE 12. VOLUNTARY PARTICIPATION IN THE MANDATORY STATE PENSION INSURANCE SYSTEM

1. Individuals aged 16 years or older that do not belong among those subject to the mandatory state pension insurance as specified in Article 11.1 herein, including foreigners and stateless persons who permanently reside or work in Ukraine and Ukrainian citizens who permanently reside or work abroad, unless international agreements ratified by the Supreme Rada provide otherwise, shall have right to voluntary participation in the mandatory state pension insurance system.

The said individuals may voluntarily participate in the solidarity system or the accumulation pension insurance system, or in both.

2. Individuals specified in item 1 above shall voluntarily participate in the mandatory state pension insurance system for a period stipulated in a contract on voluntary participation in the mandatory state pension insurance system but not less than one year.

3. Individuals specified in item 1 above shall apply the territorial office of the Pension Fund as per their place of residence. The form of application and the list of documents to be attached therewith shall be approved by the Pension Fund Board.

The territorial office of the Pension Fund that received an application for voluntary participation in the mandatory state pension insurance system is authorized to check data in the application and require the applicant to provide documents evidencing the data.

The territorial office of the Pension Fund within 30 calendar days of receipt of the application shall enter into a contract on voluntary participation in the mandatory state pension insurance system (hereinafter referred to as voluntary participation contract) with the applicant. The voluntary participation contract shall conform to a Model Contract as approved by the Pension Fund Board.

4. The voluntary participation contract must contain:

- Document title;
- Information on the individual that is subject to personified record keeping under this Law;
- Type of the mandatory state pension insurance system in which the individual will participate;
- Validity of the contract;
- Contribution rate and payment procedure;
- Conditions of eligibility for pension benefits under this Law;
- Termination clause;
- Rights and obligations of the parties, and responsibility for nonperformance or improper performance of the contract;
- Other terms and conditions as agreed by the parties or envisaged by the Model Voluntary Participation Contract that are not inconsistent with this Law; and
- Signatures of the parties.

5. The voluntary participation contract may provide for a one-off payment of insurance contributions for prior periods. The contribution amount thus paid for each month may not be less than the minimum insurance contribution.

6. The voluntary participation contract shall come into force on the date of signature.

7. The territorial office of the Pension Fund shall deny voluntary participation contract in case when the applicant:

- Is subject to the mandatory state pension insurance;
- Does not meet other requirements set forth in Item 1 above;
- Provided incomplete or wrong information;
- Has already entered into a voluntary participation contract that is still valid, or failed to perform the earlier contract;
- Wishes to enter into a contract for a period of less than one year.

Denial of voluntary participation contract in other cases shall be impermissible.

8. The voluntary participation contract may be terminated before its expiry date:

By the insured individual:

- When the contract has been in effect for not less than one year;
- Where the territorial office of the Pension Fund systematically violates the contract;
- By mutual agreement of the parties, provided the contract has been in effect for not less than one year.

By the territorial office of the Pension Fund:

- When the insured individual becomes subject to the mandatory state pension insurance under this Law;
- Where there appear new circumstances that do not comply with the requirements of this Law for individuals having the right to voluntary participation in the mandatory state pension insurance;
- Where the insured individual systematically violates the contract;
- In case of death of the insured individual.

Termination of voluntary participation contract before its expiry date in other cases shall be impermissible.

ARTICLE 13. TERMINATION OF PARTICIPATION IN THE MANDATORY STATE PENSION INSURANCE SYSTEM

1. Participation of insured individuals in the mandatory state pension insurance system shall be terminated:

- When the individual subject to the mandatory state pension insurance under this Law has lost his/her status of insured individual under this Law;
- On expiry of voluntary participation contract, or termination of such contract before its expiry in cases specified herein;
- When a pension under this Law has been granted to the insured individual and he/she has ceased employment, or when the insured individual has become eligible for a life annuity or lump sum under this Law;
- In case of death of the insured individual.

2. An individual who did not pay insurance contributions under the mandatory state pension insurance during periods of study, having a status of invalid, temporary stay abroad, etc. shall reserve the right to his/her covered service period acquired and the pension assets recorded on his/her accumulation pension account.

3. An individual who terminated his/her participation in the mandatory state pension insurance system may renew it when he/she acquires a status that makes him/her subject to the mandatory state pension insurance under this Law, or by way of entering into a voluntary participation contract subject to the procedure herein.

ARTICLE 14. INSURANTS

1. Insurants under this Law shall include:

1) Employers:

- Enterprises, institutions and organizations established in accordance with Ukrainian legislation irrespective of their ownership form, activities and the way these activities are carried out, associations of individuals, trade unions, and political parties (including branches, representative offices, divisions and other separate units of the aforesaid entities that have a separate balance sheet and settle with insured individuals independently), individual business entities, and other persons (including corporate and individual business entities that opted for a special tax treatment, such as fixed tax, single tax, fixed agricultural tax, or special trade license) that employ hired labor under a labor agreement (contract), or

on other legal grounds, or under agreements in civil law – for individuals specified in Articles 11.1.1), 10) and 15) herein;

- Collective and leased enterprises, agricultural cooperatives and farms including those that opted for a special tax treatment (fixed tax, single tax, fixed agricultural tax, or special trade license) – for individuals specified in Article 11.1.2) herein;
 - Diplomatic missions and consular institutions of Ukraine, and branches, representative offices and other separate units of enterprises and organizations (including international organizations) established under Ukrainian legislation that have a separate balance sheet and settle with insured individuals independently – for individuals specified in Article 11.1.5) herein;
 - Foreign diplomatic missions and consular institutions, and branches, representative offices and other separate units of foreign enterprises and organizations and international organizations located on the territory of Ukraine – for individuals specified in Article 11.1.6) herein;
- 2) Enterprises, institutions, organizations, military units, and bodies that pay wages (remuneration), cash allowances, and benefits, – for individuals specified in Articles 11.1.7)–9) and 12)–14) herein;

(Item 3 of Article 14 shall be excluded under the Law # 2505-IV (2505-15) dated March 25, 2005)

- 3) Fund of Mandatory State Social Unemployment Insurance of Ukraine – for individuals specified in Article 11.1.16) herein; and
- 4) Insured individuals specified in Articles 11.1.3) and 4) herein.

ARTICLE 15. CONTRIBUTORS

1. Contributors to the solidarity system shall include insurants specified in Article 14.1 herein and insured individuals specified in Article 12.1 herein.
2. Contributors to the Accumulation Fund shall include insured individuals specified in Articles 11.1.1)–7), 9), 10), 12) and 15) herein and Article 12.1 herein.
3. Insurants shall acquire the status of contributors on the date of their registration with territorial office of the Pension Fund, and individuals specified in Article 12.1 herein, on the effective date of their voluntary participation contract.
4. Contributors shall be notified of their registration as contributors within ten days of registration. The form of notice shall be approved by the Pension Fund Board.

ARTICLE 16. RIGHTS AND OBLIGATIONS OF INSURED INDIVIDUAL

1. Insured individual shall have the following rights:
 - 1) To get a Certificate of Mandatory State Social Insurance subject to a procedure prescribed by law;
 - 2) To get confirmation of payment of insurance contributions from insurant, including that in writing;
 - 3) To demand payment of insurance contributions from insurant, also judicially;

- 4) To be provided free of charge by executive bodies of the Pension Fund with data entered on his/her personal record card within the system of personified record keeping, including information on pension assets recorded on his/her accumulation pension account and on pension benefits granted and effected, in a form as approved by the Pension Fund Board and subject to the procedure herein;
- 5) To apply to territorial office of the Pension Fund for rectification of data entered on his/her personal record card within the system of personified record keeping;
- 6) Subject to a procedure prescribed by law, to select or change insurance organization that pays life annuity;
- 7) To choose pension payment procedure;
- 8) Subject to a procedure prescribed by law, to appeal against actions of insurant, executive bodies of the Pension Fund, their officers, and other entities of the mandatory state pension insurance system;
- 9) To draw pension benefits subject to the conditions and procedures herein;
- 10) To remain a participant in the mandatory state pension insurance system in case of suspension of insurance contributions before attainment of the retirement age subject to the requirements herein;
- 11) To terminate voluntary participation contract subject to the procedure herein; and
- 12) Other rights arising from this Law.

2. Insured individual shall be obliged:

- 1) To produce his/her Certificate of Mandatory State Social Insurance at request of insurant and officers of executive bodies of the Pension Fund;
- 2) At request of insurant and territorial office of the Pension Fund, provide them with documents evidencing data that has to be or has been entered on his/her personal record card within the system of personified record keeping;
- 3) To notify territorial offices of the Pension Fund of any changes in data entered on his/her personal record card within the system of personified record keeping, of going abroad, and of any circumstances that cause a change in the status of insured individual within ten days of occurrence;
- 4) To enter into life annuity contract with selected insurance organization and not to terminate this contract for life (except for the cases of changing insurance organization specified herein); and
- 5) To comply with other requirements of this Law and other normative acts adopted pursuant to this Law.

ARTICLE 17. RIGHTS AND OBLIGATIONS OF INSURANTS

1. Insurant shall have right:

- 1) To be provided free of charge by territorial offices of the Pension Fund with information necessary for performance of insurant's obligations under this Law;
- 2) To get from territorial offices of the Pension Fund acknowledgement of insurance contributions paid by the insurant;
- 3) Subject to a procedure prescribed by law, to appeal against decisions of Pension Fund bodies and actions of officers of executive bodies of the Pension Fund; and

4) To defend own rights and lawful interests as well as the rights and lawful interests of insured persons, also in court;

2. Insurant shall be obliged:

1) Subject to procedure approved by the Pension Fund Board, to register as contributor with territorial offices of the Pension Fund within ten days of:

- getting certificate of state registration as business entity;
- getting license for notarial and other activities;
- taking decision on establishment of the institution, organization, branch, representative office, or other separate unit;
- changing legal status or address, if law does not provide for state registration of institutions, organizations and separate units;
- entering into labor contract with employee;
- changing surname, name and patronymic.

Insurant shall be obliged to register with territorial offices of the Pension Fund irrespective of whether or not the insurant actually carries out economic activities and settles labor remuneration.

- 2) To keep records of pays (income) of insured individual for each calendar month and calendar year, and store such data for a period until July 1, 2000, for 75 years, and thereafter for the entire contributory period plus five years after ceasing paying contributions. This data must be stored on paper and in an electronic form subject to availability of tools that ensure identity of the paper and electronic document forms. After expiry of the said period the documents shall be transferred to archive for proper storage for 70 years subject to procedure as approved by the Cabinet of Ministers of Ukraine;
- 3) To admit officers of executive bodies of the Pension Fund to conduct contribution audits, and provide them with documents envisaged by legislation and give explanations on questions that arise in the course of such audits;
- 4) To submit reporting to territorial offices of the Pension Fund complying with terms, procedures and forms established by the Pension Fund;
- 5) To provide, free of charge, insured individual and, at request, members of deceased insured individual's family with information on his/her wage (income), insurance contributions paid, and other information concerning the insured individual that is supplied to territorial offices of the Pension Fund;
- 6) To charge, calculate and pay insurance contributions in due time and in full amount;
- 7) At request of executive bodies of the Pension Fund and insured individuals for whom the insurant pays contributions, to produce the notice of registration as contributor;
- 8) When hiring or entering into respective contract with an individual, to request that the individual produce his/her Certificate of Mandatory State Social Insurance;
- 9) To notify territorial office of the Pension Fund of hiring or entering into respective contract with an individual who is not registered with the mandatory state pension insurance system (also when such individual is hired for the first time) or failed to produce his/her Certificate of Mandatory State Social Insurance at request of the insurant, and to provide necessary information and documents for registration of such individual;

- 10) To take the Certificate of Mandatory State Social Insurance in territorial office of the Pension Fund on behalf of the individual whom the insurant is obliged to register with the mandatory state pension insurance system, and give it to the insured individual;
- 11) To notify territorial offices of the Pension Fund of:
- Liquidation (reorganization) of the enterprise, institution or organization within ten days of taking respective decision;
 - Any change in accounting requisites of the enterprise, institution or organization, or its location or legal address within ten days of such change;
 - Opening or closing current accounts in banks or State Treasury bodies that are used to carry out respective activity;
 - Number of employees and their wages (incomes) in a form as established;
 - Any change in personified record-keeping data on an insured individual on or in behalf of whom the insurant pays contributions within ten days of getting such data;
- 12) To comply with other requirements of this Law and other normative acts adopted pursuant to this Law.

ARTICLE 18. CONTRIBUTIONS UNDER THE MANDATORY STATE PENSION INSURANCE

1. The rate of insurance contributions, including that of the contribution part channeled to the Accumulation Fund, shall be set by the Supreme Rada for insurants and insured individuals based on the actuarial calculations assuming that these contributions will have to ensure provision of pension benefits and social services to insured individuals under this Law and cover administration costs of the mandatory state pension insurance systems.
2. Proposals on insurance contribution rates shall be made by the Cabinet of Ministers of Ukraine simultaneously with referring the draft Law on the State Budget of Ukraine for next year.
3. Insurance contributions shall be a special-purpose obligatory payment levied throughout Ukraine subject to the procedure herein;
4. Insurance contributions shall not be included in taxes and other obligatory payments that constitute the tax system. These contributions shall not come under tax legislation.
5. Insurance contributions may not be put to the State Budget of Ukraine or budgets at other levels, withdrawn from the Pension Fund or the Accumulation Fund, or used for purposes other than those specified herein.
6. Legislation may not establish any privileges in charging and payment of the insurance contributions or exemptions from payment of the contributions.

ARTICLE 19. CHARGING INSURANCE CONTRIBUTIONS

1. Insurance contributions to the solidarity system shall be charged:

For employer – on the amounts of actual expenditures on labor remuneration (cash allowance) of employees including basic and additional wage and other incentives and compensations, whether in cash or in kind, that are defined under normative acts adopted pursuant to the Law of Ukraine “On Labor Remuneration,” remuneration of individuals for works (services) performed under agreements in civil law that are subject to individual income tax, and temporary disability benefits payable for the initial days of disability at the expense of the employer;

For the insurants specified in Article 14.1.2) herein:

- on the amounts specified in Item 1, second paragraph, above;
- on the amounts of cash allowance and other pays to servicemen and employees of paramilitary formations subject to procedure established by the Cabinet of Ministers of Ukraine;
- on the amounts of benefits or compensations subject to procedure established by the Cabinet of Ministers of Ukraine;

For the insured persons specified in Article 14.1.4) herein – on the amounts of insurance benefits subject to procedure established by the Cabinet of Ministers of Ukraine; (Article 19, Part 1, Paragraph 7 as amended by Law # 2505-IV (2505-15) dated March 25, 2005)

For individuals specified in Article 14.1.5) herein – on the amounts of income (profit) related to respective activity and subject to individual income tax;

For members of collective and leased enterprises, agricultural cooperatives and farms – on the amounts of income that is distributed among such members and is subject to individual income tax;

For individuals participating voluntarily – on the amounts stipulated in the voluntary participation contract.

2. Insurance contributions to the Accumulation Fund shall be charged on all amounts of taxable income (profit) of insured individuals, and for individuals participating voluntarily, on the amounts stipulated in the voluntary participation contract.

3. Insurance contributions pursuant to Items 1 and 2 above shall be charged on the amounts that are not reduced under legislation on individual income tax.

4. Insurance contributions shall be charged on the amounts specified in Items 1 and 2 above subject to a limit as set by law governing the insurance contribution rate. This limit shall be set annually at a level of seven average wages of the last calendar year and may not be lower than the maximum amount of actual expenditures on labor remuneration of employees, taxable income (profit), and total taxable income (maximum wage/income) that are subject to contributions to social funds as of the effective date of this Law.

5. Insurance contributions shall be charged on the amounts specified in Items 1 and 2 above that are not reduced by taxes and other obligatory payments and contributions payable from the said amounts under legislation, as well as by deductions made under legislation, loan agreements, credit buying, etc., or made for other purposes as ordered by income recipient.

6. Insurance contributions shall be charged on the amounts specified in Items 1 and 2 above irrespective of sources of funds, form, procedure and place of payment and use, as well as whether the said amounts were actually paid after their calculation as payable.

ARTICLE 20. CALCULATION AND PAYMENT OF INSURANCE CONTRIBUTIONS

1. Insurance contributions shall be calculated only in a money form, also when charged on pays (income) in kind.

Insurance contributions charged on amounts expressed in a foreign currency shall be calculated by way of converting the said amounts into the Ukrainian national currency at the exchange rate established by the National Bank of Ukraine as of the date of calculation.

2. Insurance contributions of the insured individuals specified in Articles 11.1.1), 2), 5)–10) and 12) herein shall be calculated by insured persons based on accounting and other documents that are the ground for, or confirmation of, calculation of the wage (income) subject to insurance contributions under this Law.

3. In cases specified herein, insurance contributions shall be calculated by territorial offices of the Pension Fund based on contribution audit reports, reporting submitted by insureds, accounting and other documents that confirm the wage (income) amount subject to insurance contributions under this Law.

Subject to procedure as approved by the Cabinet of Ministers of Ukraine, territorial office of the Pension Fund shall calculate insurance benefits using an indirect method based on estimates of the insured's gross income and costs, the number of individuals in labor relations with the insured, the output of products (services) produced (sold), and the amount of taxes paid and other obligatory payments under legislation in the following cases:

- When the insured or officers of the insured evade submission of reporting or other documents on payment of insurance contributions to the territorial office of the Pension Fund;
- When the insured does not keep records or does not have appropriate primary documents;
- When the amount of insurance contributions charged by the insured is not confirmed by documents.

Territorial offices of the Pension Fund shall calculate insurance contributions for prior periods based on the contribution rate effective as of the calculation date of the pays (income) subject to insurance contributions under this Law.

4. Insurance contributions shall be paid only in a money form by transferring amounts of the solidarity system contributions to bank accounts of executive bodies of the Pension Fund, and amounts of the contributions to the accumulation pension insurance system, to bank account of the Accumulation Fund or bank account of the non-state pension fund selected by the insured individual, respectively.

5. Insureds shall pay insurance contributions in cashless form by transferring amounts from their bank account.

Individual insureds who do not have bank accounts shall pay insurance contributions in cash via banking institutions.

6. Insureds shall be bound to pay insurance contributions charged for respective base period in 20 calendar days from the end of the period at the latest.

The base period shall be:

- For the insureds specified in Articles 14.1.1), 2), 4) herein, calendar month; and (Article 20, Part 6, Paragraph 3 as amended by Law # 2505-IV (2505-15) dated March 25, 2005)
- For the insureds specified in Article 14.1.5) herein, quarter.

In case when during the base period there are pays (income payments) that are subject to insurance contributions under this Law, insureds, simultaneously with effecting these payments, shall be bound to effect advance payments in a form of contributions chargeable on the said pays (income).

In case of an insured not having enough money to pay full wages (income) and respective amounts of insurance contributions simultaneously, such wages and contributions shall be paid proportionally subject to a procedure approved by the Pension Fund Board.

Failure to effect the advanced payments shall entail financial sanctions applied against the insured as provided for by this Law.

Insureds shall transfer insurance contributions at the same time as they receive (transfer) means for labor remuneration (income payment), including those in a cashless form, in kind, or from sales proceeds on goods (services). It shall be presumed that the fact of receiving (transferring) means for labor remuneration (income payment) takes place when respective amounts are received in cash,

entered to bank account of recipient or transferred by order of the recipient for any purpose, or goods (services) or any other items are received to set off against the said pays (income), or deductions under legislation or writ or any other deductions are actually made from these pays (income).

Insurance contributions for the individuals specified in Articles 11.1.8), 11)–14) herein shall be paid at the expense of the state and local budgets and special-purpose funds from which cash allowances, insurance benefits, assistance benefits, and compensation are paid to these individuals. The procedure and dates of such contribution payments shall be approved by the Cabinet of Ministers of Ukraine. (Article 20, Part 6, Paragraph as amended by Law # 2505-IV (2505-15) dated March 25, 2005)

7. The individuals specified in Article 12.1 herein shall pay insurance contributions on dates stipulated in the voluntary participation contract but at least once per quarter.

8. Insurance contributions chargeable under this Law on the amounts of pays (income) for a period between the day when the insurant becomes obliged to register as a contributor and the day of his/her registration with Pension Fund bodies shall be paid (collected) on the general grounds pursuant to this Law for the entire such period.

9. The following dates shall be considered the date of insurance contribution payment:

- In case when the amounts of contributions are transferred in a cashless form from bank account of the insurant to that of the Pension Fund body, or in cases specified herein, to bank account of the Accumulation Fund – the day when the banking or State Treasury institution debits the insurant's bank (special registration) account for the payment amount, irrespective of when this amount is credited to the bank account of the Pension Fund body;
- In case when the amounts of contributions are paid in cash – the day when the insurant brings money into a banking institution or a post office to be remitted to bank accounts of the Pension Fund body and/or the Accumulation Fund.

10. Insurants who fail to pay insurance contributions in due time and in full shall be liable to financial sanctions envisaged by this Law, and officers guilty of contribution offenses shall be liable disciplinary, administratively, civilly, or criminally.

11. Insurance contributions overpaid to the accumulation pension insurance system, including those paid from the wages (income) of an insured individual employed plurally where such wages (income) exceed the limit specified in Article 19.4 herein, shall be returned to such individual, or at his/her option, left in the Accumulation Fund and recorded on his/her accumulation pension account subject to procedure approved by the Cabinet of Ministers of Ukraine.

12. Insurance contributions shall be payable irrespective of the contributor's financial circumstances.

Banking institutions shall accept from insurants payment orders and other payment instruments to give (transfer) money for payment of wages (income) that are subject to insurance contributions under this Law, and shall give (transfer) such money only when the insurant simultaneously orders that due amounts of insurance contributions be transferred, or produces documents confirming that these amounts have been actually paid. Banks that fail to comply with this requirement shall, subject to a procedure established by the National Bank of Ukraine and at their own expense, pay to respective territorial office of the Pension Fund an amount that equals to that of unpaid contributions with the right of recourse against the insurants.

In case a contributor in addition to the obligation to pay insurance contributions also has tax and other payments obligations under law, or liabilities to creditors, the contribution obligation shall be

preferential and shall be prior as against all other obligations except for the obligation to pay wages (income).

13. Insurance contributions overpaid to the solidarity system shall be returned to insureds, or by their consent, set off against future payments according to a procedure and in a time as set by the Pension Fund Board.

ARTICLE 21. PERSONIFIED RECORD KEEPING WITHIN THE MANDATORY STATE PENSION INSURANCE SYSTEM

1. Pension Fund bodies shall keep record of all insured individuals and personified records of insurance contributions, develop and maintain a unified database of insured individuals, and keep records of assets on accumulation pension accounts in the Accumulation Fund.

Data obtained from the following entities shall be used to form the information base of the personified record keeping system:

- State Register of Individual Taxpayers;
- State Tax Administration bodies;
- Employers;
- Individuals;
- Registry Offices;
- State Employment Service;
- Mandatory state social insurance funds;
- Asset management company;
- Custodian; and
- Other enterprises, institutions, organizations and military formations.

Information from the database of the personified record keeping system may be provided to insureds and insured individuals at their request in a form of document that complies with requirements of legislation.

2. A personal record card shall be opened for each insured individual under his/her permanent identification number from the State Register of Individual Taxpayers.

3. Any personal record card shall contain the following information:

1) Conditionally-fixed data section:

- Modified identification number;
- Present surname, name and patronymic;
- Surname at birth;
- Date of birth;
- Place of birth;
- Sex;
- Address of permanent residence;
- Series, number and title of source document for the card;
- Citizenship;

- Information on dependents and children of the insured individual;
 - Telephone number (optional);
 - Note of death of the insured individual;
- 2) Service, wage and contribution section:
- Identification number;
 - Year under review;
 - Rate of insurance contribution to the Pension Fund in respective month;
 - Amount of insurance contributions to the Pension Fund paid for respective month;
 - Covered service period;
 - Special labor conditions making the insured individual eligible for pension privileges;
 - Amount of wage (cash allowance, income) from which insurance contributions were paid for respective month;
 - Income (profit) of individuals who engage in business activities and opted for a special tax treatment (fixed tax, single tax, fixed agricultural tax, or special trade license);
- 3) Section showing pensions paid from the Pension Fund by months:
- Effective date of pension;
 - Month of pension calculation (recalculation, indexation);
 - Total of covered service periods;
 - Accrual rate;
 - Wage (income) coefficient;
 - Wage (income) for pension calculation, recalculation and indexation;
 - Pension amount payable;
 - Insured individual's dependents;
- 4) Section showing status of the insured individual's pension assets or benefits paid to heirs of the accumulation pension account:
- Amount of wage (cash allowance, income) from which insurance contributions were paid for respective month;
 - Rate and amount of insurance contributions paid to the accumulation pension account for respective month;
 - Investment return accrued to date;
 - Net value of pension assets;
 - Total number of pension asset units;
 - Amount transferred to the insurance organization selected by the insured individual in payment for a life annuity contract, and date of the transfer;
 - Lump sum paid pursuant to Article 56 herein, and date of the payment;
 - Note of death of the insured individual.

4. Personal record card shall be stored for life of the insured individual, and after his/her death, for 75 year on paper and in an electronic form subject to availability of tools that ensure identity of the paper and electronic document forms.

5. Executive bodies of the Pension Fund shall obtain data on settlement and other accounts opened by insurant-employers from banks that keep such accounts.

6. Information on the individuals specified in Articles 11.1.1), 2), 5)–10) and 12)–15) herein shall be supplied to territorial office of the Pension Fund by insurant-employers, respective enterprises, institutions, organizations, military units, and bodies that pay wage, cash allowance (earnings), or benefits, to such individuals. Information on the insured individuals specified in Articles 11.1.3) and 4) herein shall be supplied to territorial office of the Pension Fund by such individuals themselves, on the individuals specified in Articles 11.1.11) of the present Law – by the Fund of Social Insurance against Industrial Accidents and Occupational Diseases of Ukraine and the Fund of Mandatory State Social Unemployment Insurance of Ukraine, on the individuals, which were subject to the universal obligatory state social insurance against unemployment and received unemployment allowance (except for its lump-sum payment for organization of entrepreneurial business by an unemployed individual) and material assistance in the period of professional training, re-training and improvement of qualification – by the Fund of Universal Obligatory State Social Insurance of Ukraine in case of unemployment. Document forms and their submission procedure and time shall be approved by the Pension Fund Board. (Article 21, Part 6 as amended by Law # 2505-IV (2505-15) dated March 25, 2005)

7. Registry Offices shall notify territorial offices of the Pension Fund of death of an individual within ten days of death registration. The form of such notice shall be established by legislation.

8. Authorities responsible for registration of individual business entities shall be bound to send one copy of registration card to the territorial office of the Pension Fund as per the place of individual business entity registration.

ARTICLE 22. INFORMATION IN THE MANDATORY STATE PENSION INSURANCE

1. Information in the mandatory state pension insurance shall be used subject to requirements of legislation on information.

2. Data of the personified record keeping system shall be used by executive bodies of the Pension Fund as follows:

- To confirm participation of insured individual in the mandatory state pension insurance system;
- To calculate insurance contributions;
- To determine eligibility of insured individual or his/her family members for pension benefits under this Law;
- To calculate, recalculate and index pension benefits under this Law;
- To be provided to insured individual at his/her request or in cases specified herein;
- To be provided to insurance organizations selling life annuities; and
- To be provided to auditor who pursuant to this Law audits the Accumulation Fund.

3. Pension Fund bodies may provide data of the personified record keeping system to legal entities and individuals other than those listed in Item 2 above only by a court decision in cases specified by law.

4. The Pension Fund shall take organizational and technical measures aimed to protect data of the personified record keeping system, inter alia by limiting the circle of officers who have access to such data ex officio.

Persons having access to or using data of the personified record keeping system shall be liable at law for unlawful disclosure of such information.

ARTICLE 23. SETTLEMENT OF DISPUTES

Any dispute arising from legal relations under this Law shall be settled by Pension Fund bodies or judicially.

SECTION II. COVERED SERVICE PERIOD IN THE SOLIDARITY SYSTEM

ARTICLE 24. PERIODS COMPRISING THE COVERED SERVICE PERIOD

1. Covered service period shall mean a period (term) during which an individual is subject to the mandatory state pension insurance, and for which he/she has monthly paid insurance contributions at an amount of not less than the minimum insurance contribution.

In addition to actual covered service period used to calculate old age pension, that for calculation of disability or survivor's pensions shall also include a period between the date on which the disability was diagnosed and the date on which the insured individual attains the age specified in Article 26.1 herein, or a period between the date of breadwinner's death and the date on which he/she would have attained the age specified in Article 26.1 herein, respectively, such periods being counted on general grounds.

A period during which an individual was subject to the universal obligatory state social insurance against unemployment, received unemployment allowance (except for its lump-sum payment for organization of entrepreneurial business by an unemployed individual) and material assistance in the period of professional training, re-training and improvement of qualification shall be included in the covered service period. (Part 1 of Article 24 is supplemented by Paragraph following Law # 2505-IV (2505-15) dated March 25, 2005).

2. Covered service period shall be calculated by territorial offices of the Pension Fund subject to requirement of this Law based on data of the personified record keeping system. Such calculations for periods prior to implementation of the personified record keeping system shall be done based on the documents and procedure prescribed by legislation that was in effect before entry into force of this Law.

3. Covered service period shall be calculated in months. Any incomplete month of employment of an individual subject to, or participating voluntarily in, the mandatory state pension insurance shall be counted in his/her covered service period as a complete month, provided that contributions for this month were paid at an amount of not less than the minimum insurance contribution.

If the amount of contributions paid for a month is below the minimum insurance contribution, this period shall be counted as a complete month in the covered service period, provided that a contribution is additionally paid in a manner prescribed by the Pension Fund Board to make the total amount of contributions paid for this month not less than the minimum insurance contribution.

In case no such additional contribution is paid, the period counted in the covered service period shall be determined for each contributory month by the formula:

$$LP = CP/MIC,$$

where LP is the length of period in months counted in the covered service period; CP is the amount of contributions actually paid for the month; and MIC is the minimum insurance contribution for this month.

Employment periods after pension is granted shall be counted in the covered service period on general grounds.

The covered service period shall be counted one time except for cases specified in this Law.

4. Employment periods and other periods that were counted in the length of service used in granting pensions before entry into force of this Law shall be counted in the covered service period subject to the procedure and conditions envisaged by earlier legislation.

One year shall be additionally counted in the covered service period for each complete year of employment – before entry into force of this Law – underground and in especially harmful and heavy labor conditions as per List No. 1 of Enterprises, Jobs, Professions, Positions, and Indicators approved by the Cabinet of Ministers of Ukraine that made the employee eligible for privileged retirement.

ARTICLE 25. ACCRUAL RATE

1. Accrual rate used in pension calculation shall be determined, rounding to the fifth decimal place, by the formula:

$$A = \frac{M \cdot S}{100\% \cdot 12},$$

where A is accrual rate, M is months of covered service period, and S is percentage score determined pursuant to this Law for one year of covered service period. For a period of participation only in the solidarity system the percentage score for one year of covered service period shall be 1 percent, and for a period of participation in both solidarity and accumulation pension insurance systems, 0.8 percent.

For an individual who has participated in both the solidarity and accumulation systems, single accrual rate shall be determined as a sum of the accrual rate pertaining to the period of participation only in the solidarity system and the accrual rate determined for the period of participation in both the solidarity and accumulation systems.

2. Accrual rate, also taking into account periods before entry into force of this Law, may not exceed 0.75, and that taking into account the covered service period envisaged by the second paragraph of Article 24.4 herein, may not exceed 0.85.

SECTION III. OLD AGE PENSIONS FROM THE SOLIDARITY SYSTEM

ARTICLE 26. ELIGIBILITY FOR OLD AGE PENSION

1. Men after attainment of 60 year and women after attainment of 55 years of age shall be eligible for an old age pension, provided they have a covered service period of at least five years.

ARTICLE 27. OLD AGE PENSION AMOUNT

1. The amount of old age pension shall be determined by the formula:

$$P = W \cdot A,$$

where P is pension amount in hryvnyas, W is pensionable wage (income) in hryvnyas determined pursuant to Article 40 herein, and A is accrual rate determined pursuant to Article 25 herein.

2. At the option of insured individual, the part of old age pension pertaining to the covered service period acquired before entry into force of this Law may be determined under earlier legislation, and the part pertaining to the covered service period acquired after entry into force of this Law, under this Law.

In this case, the pension part calculated under earlier legislation may not exceed maximum pensions defined by law for respective categories of pensioners, and may not be lower than the employment-related old age pension plus living support that were effective on the effective date of this Law.

Old age pension calculated according to earlier legislation shall be increased after the effective date of this Law until the date it is granted subject to provisions of Articles 42.1 and 42.2 herein.

3. Old age pension calculated according to Item 1 above shall not be limited.

ARTICLE 28. MINIMUM OLD AGE PENSION

1. Minimum old age pension for men having 25 years and women having 20 years of covered service period shall be set at the minimum subsistence level for not-able-to-work individuals set specified by the Law.

For each full year of the covered service period, which exceeds 25 and 20 years (males and females, respectively), old-age pensions shall be increased by one percent of the pension calculated in accordance with Article 27 of the present Law, but not more than by one percent of the minimum amount of the old-age pension specified in Paragraph 1 of this Part. (Article 28, Part 1, Paragraph 2 as amended by Law # 2505-IV (2505-15) dated March 25, 2005)

(Part 1 of Article 28 as amended by Law # 2291-IV (2291-15) dated December 23, 2004).

2. If individual's covered service period is shorter than one specified by Part 1 of this Article, the old age pension to this individual shall be prorated according to his/her actual covered service period based on the minimal old age pension. (Article 28 shall apply to retiree whose pensions were granted prior to enactment of this Law pursuant to Law # 2291-IV (2291-15) dated December 23, 2004)

3. Minimum amount of the old-age pensions established by Paragraph 1 of Part 1 of this Article shall be used exclusively to determine the amount of pensions granted under the present Law. (Article 28 is supplemented by Part 3 following Law # 2505-IV (2505-15) dated March 25, 2005)

ARTICLE 29. INCREASE IN OLD AGE PENSION IN CASE OF DEFERRED RETIREMENT

1. Old age pension to an individual eligible for it under Article 26 herein who decides to defer retirement and begin drawing his/her pension at a later date shall be granted based on the covered service period as of the date of application for the pension, and its amount calculated pursuant to Article 27 herein shall be increased for each complete year of such deferment as follows:

Years of retirement deferment	Percentage increase in pension
1	3.00%
2	6.71%
3	11.83%
4	18.54%
5	27.07%
6	36.46%
7	46.85%
8	58.43%
9	71.19%
10	85.32%

Old age pension shall not be increased for any incomplete year of such deferment.

SECTION IV. DISABILITY PENSIONS FROM THE SOLIDARITY SYSTEM

ARTICLE 30. ELIGIBILITY FOR DISABILITY PENSION

1. Disability pension shall be granted in the event of disability that resulted in full or partial incapacity to work due to a general disease (including a non-industrial injury and disability from childhood), provided the invalid has a covered service period as specified in Article 32 herein.
2. Disability pension shall be granted irrespective of whether the individual becomes disabled during employment period, before placement at work, or after ceasing employment.
3. Disability pension in the event of industrial accident and occupational disease shall be granted under the Law of Ukraine “On Mandatory State Social Insurance against Industrial Accidents and Occupational Diseases that Caused Disability.”

ARTICLE 31. DISABILITY GROUPS

1. Three disability groups have been defined depending on the degree of incapacity to work.
The cause, group, time of origin, and period of disability shall be determined by a medico-social expert examination authority pursuant to legislation.
2. Pension Fund bodies and insured individuals shall have the right of appeal against decisions taken by medico-social expert examination authorities subject to a procedure prescribed.

ARTICLE 32. COVERED SERVICE PERIOD REQUIRED FOR DISABILITY PENSION

1. Individuals qualified as invalids shall be eligible for a disability pension, provided that at the time of origin of disability they have a covered insurance period as follows:
 - Individuals aged 23 years or younger, two years;
 - Individuals aged 24 to 26 years, three years;
 - Individuals aged 27 to 31 years, four years, and
 - Individuals aged 32 year or older, five years.
2. In case disability befalls an individual during his/her military term service, a disability pension shall be granted irrespective of whether or not he/she has any covered service period.

ARTICLE 33. DISABILITY PENSION AMOUNT

1. Depending on the disability group, disability pensions shall be granted at a rate as follows: Group I, 100 percent, Group II, 90 percent, and Group III, 50 percent of old age pension calculated pursuant to Articles 27 and 28 herein.

2. Not working disabled individuals of Groups II, III with covered service period of 25 and 20 years (males and females, respectively) may choose to have their disability pensions be set at the rate of the old age pension calculated under Articles 27, 28 of this Law. (Article 33 is complemented by Part 2 according to Law # 2153-IV (2153-15) dated November 4, 2004.) (Article 33 shall apply to disabled individuals who retired prior to enactment of Law # 2153-IV (2153-15) dated November 4, 2004.)

ARTICLE 34. DISABILITY PENSION PERIOD

1. Disability pension shall be granted for the entire disability period as established. Disability pension to disabled men older than 60 and women older than 55 years shall be granted for life. Reexamination of such individuals shall be carried out only on their application.

ARTICLE 35. DISABILITY PENSION PERIOD IN CASE OF CHANGED DISABILITY GROUP OR RESTORED CAPACITY TO WORK

1. In case of a change in disability group, the pension shall be paid at a new amount from the date of such change.

In case the individual is qualified as a lower-group invalid, his/her pension granted previously shall be continued until the end of the month in which the disability group is changed.

In case a reexamination qualifies the individual as able-bodied, the pension shall be continued until the end of the last month in the period for which he was qualified as an invalid.

2. In case an individual fails to show up at medico-social expert examination authority for reexamination in due time, his/her disability pension shall be suspended from the first day of the month following the month in which he/she had to show up.

3. In case an invalid missed reexamination with a good excuse, or he/she is qualified as an invalid again, his/her disability pension shall be renewed from the date it was suspended until the date of reexamination but not longer than for three years, if the medico-social expert examination authority qualifies him/her as an invalid during this period. The pension thus renewed shall be paid for this period at the rate as previously granted, even though the reexamination might qualify the invalid for another disability group (higher or lower).

If a disability pension is suspended because of health recovery, or because the invalid missed reexamination without good excuse, then, in case he/she qualifies as an invalid again, the previously granted pension shall be renewed from the date he/she is qualified as an invalid again, provided that not more than five years have elapsed after such suspension. If more than five years have elapsed, pension shall be granted on general grounds.

Medico-social expert examination authorities shall be bound to notify territorial offices of the Pension Fund, subject to a procedure prescribed by law, of reexamination results and any failure of disability pension recipients to show up for reexamination.

SECTION V. SURVIVOR'S PENSIONS FROM THE SOLIDARITY SYSTEM

ARTICLE 36. ELIGIBILITY FOR SURVIVOR'S PENSION

1. Survivor's pension shall be granted to incapable-of-work dependent members of a deceased breadwinner's family, provided that the breadwinner as of the date of his/her death had a covered service period that would have made him/her eligible for a disability pension, and in case of death of a pensioner or individuals as specified in Article 32.2 herein, irrespective of covered service period. Survivor's pension to children shall be granted irrespective of whether they were the deceased breadwinner's dependents.

The parents and spouse of the deceased who were not his/her dependents shall be eligible for a survivor's pension when they lose their source of subsistence.

2. Incapable-of-work family members shall be considered to include:

- 1) Spouse, father, and mother if they are invalids or have attained the retirement age specified in Article 26.1 herein;
- 2) Children of deceased breadwinner (including those born within 10 months of the breadwinner's death) under 18 years of age, or older if they become invalids before attainment of 18 years;

Children who study under a daytime form of training at higher educational institutions of the first to fourth accreditation level or vocational educational institutions – until graduation but not longer than until 23 years of age;

Orphans – until 23 years of age irrespective of whether or not they are students; and

- 3) Spouse, and in absence of spouse, parent, or brother/sister, or grandparent of deceased breadwinner irrespective of their age and capacity to work if he/she does not work and looks after a child of the deceased until such child attains eight years of age.

3. The individuals specified in Item 2 above shall be considered to be dependents of deceased breadwinner if they:

- a) Were completely maintained by the deceased breadwinner;
- b) Received from the deceased breadwinner support that was their permanent and basic source of subsistence.

The deceased breadwinner's family members for whom his/her support was their permanent and basic source of subsistence but who are in receipt of a pension themselves shall have right to switch to the survivor's pension, if they wish so.

4. Adopted children shall have right to a survivor's pension on an equality with own children.

5. Step children shall have right to a survivor's pension on an equality with own children, provided they did not receive alimonies from their parents.

6. Minor children eligible for a survivor's pension shall remain eligible in the event of their adoption.

7. Provisions of this Law concerning the family of a deceased shall be also applicable accordingly to the family of an individual duly declared missing or deceased.

8. Survivor's pensions associated with industrial accident or occupational disease shall be granted under the Law of Ukraine "On Mandatory State Social Insurance against Industrial Accidents and Occupational Diseases that Caused Disability."

ARTICLE 37. SURVIVOR'S PENSION AMOUNT

1. Survivor's pension shall be granted at a rate as follows: for one incapable-of-work family member, 50 percent of old age pension of deceased breadwinner, and for two or more incapable-of-work family members, 100 percent of old age pension of deceased breadwinner to be distributed equally among such family members.
2. Survivor's pension to orphans shall be granted at the rates specified in Item 1 above based on the old age pension of each parent.

ARTICLE 38. SURVIVOR'S PENSION PERIOD. CHANGE IN PENSION AMOUNT

1. Survivor's pension shall be granted for the entire period during which the deceased breadwinner's family member is considered incapable of work under Article 36 herein, and for life of family members who have attained the retirement age specified in Article 26.1 herein.
2. A change in the amount or discontinuation of survivor's pension to family members shall take effect on the first day of the month following the month in which there occur circumstances that cause such change or discontinuation.

ARTICLE 39. GRANTING ONE SURVIVOR'S PENSION TO ALL FAMILY MEMBERS. APPORTIONING PENSION

1. One joint pension shall be granted to all family members eligible for the survivor's pension.
2. By request of a family member, his/her share of the total survivor's pension shall be apportioned and paid separately.

Such apportioning shall take effect from the first day of the month following the month in which such family member applies for apportioning.

SECTION VI.

**PROCEDURE FOR DETERMINATION OF PENSIONABLE WAGE (INCOME)
IN THE SOLIDARITY SYSTEM. GRANTING, RECALCULATION AND
PAYMENT OF PENSION**

ARTICLE 40. PROCEDURE FOR DETERMINATION OF PENSIONABLE WAGE (INCOME)

1. Taken into account in pension calculation shall be wage (income) over any 60 successive calendar months before July 1, 2000, irrespective of any breaks, and the entire covered service period from July 1, 2000.

In case the covered service period is less than that specified in the first paragraph above, taken into account shall be wage (income) over the actual covered service period.

At the option of applicant, up to 60 successive months shall be excluded from the pensionable period, provided that these months account for not more than 10 percent of the covered service period.

To calculate an old age pension pursuant to Article 27.2 herein, pensionable wage for the part of old age pension pertaining to the covered service period acquired before entry into force of this Law shall be determined subject to the conditions and procedures of earlier legislation, and that for the part pertaining to the covered service period acquired after entry into force of this Law, subject to the provisions of the first paragraph above.

Wage (income) over the covered service period before July 1, 2000, shall be taken into account in pension calculation based on duly issued documents on wage (income), and that over the covered service period from July 1, 2000, based on data of the personified record keeping system.

2. Pensionable wage (income) of an insured individual shall be calculated by the formula:

$$W = W_A \cdot (S_C/N),$$

where W is pensionable wage (income) in hryvnyas, W_A is the average wage in Ukrainian industries in the year preceding the year of application for pension, S_C is sum of wage (income) coefficients of individual months ($C_1 + C_2 + C_3 + \dots + C_N$), and N is number of covered service period months for which the wage (income) coefficients were calculated.

In case of unavailability of data on the average wage in Ukrainian industries in the year preceding the year of application at the moment when the pension is granted, the determination of pensionable wage (income) shall take into consideration the preceding year's months for which such data is available, and when the data on the entire year becomes available, the pensionable income shall be recalculated.

The wage (income) coefficient for each month in the pensionable covered service period of an insured individual shall be determined by the formula:

$$C = W_P/W_A,$$

where C is wage (income) coefficient, W_P is pensionable wage (income) of the individual in the month for which the coefficient is calculated, and W_A is the average wage in Ukrainian industries in the month for which the coefficient is calculated.

The pensionable wage (income) of an insured individual under this Law in the month for which the wage (income) coefficient is calculated shall be determined by the formula:

$$W_P = W + W_{AC},$$

where W_P is pensionable wage (income) of the individual under this Law in the month for which the wage (income) coefficient is calculated, W is the individual's wage (income) from which insurance contributions under this Law were actually paid for the month for which the wage (income) coefficient is calculated, and W_{AC} is the individual's wage (income) estimate based on the additional contribution paid for this month pursuant to Article 24.3 herein and calculated by the formula:

$$W_{AC} = AC/R \cdot 100\%,$$

where AC is the additional contribution paid under Article 24.3, and R is the rate of contribution to the solidarity system in the month concerned.

Where for pension calculation an insured individual provides data on his/her wage (income) over a period before January 1, 1992, it shall be assumed for the purposes of wage (income) coefficient determination that the average monthly wage in the respective year (quarter) is the average wage in each of its months.

In case of unavailability of data on the average wage in Ukrainian industries in preceding month(s) at the moment when the pension is granted, the determination of wage (income) coefficient(s) shall take into consideration the last months for which such data is available, and when the data on the month(s) preceding the application becomes available, the coefficient(s) shall be recalculated.

3. When calculating a wage (income) from which insurance contributions were actually paid under this Law for the month for which the wage (income) coefficient is calculated for insured individuals who engaged in business activities and opted for a special tax treatment (fixed tax, single tax, fixed agricultural tax, or special trade license) and members of families of the said individuals who

participated in their business activities, their income in respective month shall be determined by the formula:

$$W = T \cdot P/R,$$

where W is wage (income) from which contributions under this Law were actually paid for the month for which the wage (income) coefficient is calculated, T is respective tax (license) in hryvnias actually paid falling on this month, P is percentage deductible to the Pension Fund within respective period from the tax (license) actually paid, and R is contribution rate to the solidarity system in this month.

When determining income of an individual business entity, the wage (income) coefficient calculation shall consider the tax (license) paid by such individual without any increase in it, as provided for by legislation for his/her family members who participate in his/her business activities and hired individuals.

When determining income of a family member of the individual business entity, the wage (income) coefficient calculation shall consider the increase in tax (license) payment that is provided for by legislation and associated with such family member.

4. When calculating a wage (income) from which insurance contributions were actually paid under this Law for the month for which the wage (income) coefficient is calculated for insured individuals who pay insurance contributions at a flat rate, including members of their families who participated in their business activities, their income in respective month shall be determined by the formula:

$$W = F/R \cdot 100\%,$$

where W is wage (income) from which contributions under this Law were actually paid for the month for which the wage (income) coefficient is calculated, F is flat-rate contribution actually paid for this month, and R is contribution rate to the solidarity system in this month.

ARTICLE 41. PAYS (INCOMES) COUNTED IN PENSIONABLE WAGE (INCOME)

1. The following shall be counted in pensionable wage (income):

- 1) Pays (income) received by an insured individual after enactment of this Law within amounts from which insurance contributions under this Law were actually calculated and paid to the Pension Fund up to the limit set by legislation for wage (income) subject to insurance contributions; and
- 2) Pays (income) received by an insured individual before enactment of this Law within amounts that pursuant to earlier legislation were subject to contributions under state social insurance or mandatory state pension insurance, and for periods before imposition of the ceiling for wage (income) subject to such contributions, within amounts that were included in pensionable wage under the Law of Ukraine "On Pensions" and did not exceed 5.6 average wages in Ukraine as of the date when such amounts were received;

The pensionable wage (income) of individuals who, prior to capping wages subject to pension contributions, received pay (income) for works the duration of which exceeded a calendar month, shall include pay (income), which according to the old legislation was included in the pensionable wage under the Law of Ukraine "On Pension" and did not exceed 5.6 average wages in Ukraine, prorated monthly. A list of these individuals and procedure for calculating their pensionable wages (income) will be established by the Cabinet of Ministers of Ukraine; (Part 2 of Article 41 is complemented by a new paragraph following Law # 2343-IV (2343-15) dated January 13, 2005)

- 3) Amounts of wage (income) determined based on the additional contribution paid under Article 24.3 herein.

ARTICLE 42. INDEXING AND RECALCULATING PENSIONS TO ALLOW FOR MOVEMENTS IN THE AVERAGE WAGES IN THE NATIONAL ECONOMY, MINIMUM SUBSISTENCE LEVEL AND COVERED SERVICE PERIOD

(Title of Article 42 as amended by Law # 2291-IV (2291-15) dated December 23, 2004)

1. Pensions granted under this Law shall be indexed according to legislation on money incomes of individuals.

2. Besides indexation of pension envisaged by Item 1 of this Article, in case the amount of the average wage in Ukraine for the previous year has increased based on the data of a specially authorized central body of executive power in the branch of statistics, from March 1 of current year pensions shall be increased by coefficient of at least 20 percent of last-year growth in the average wage in Ukraine as against preceding year, except for the cases when the increase of pensions for preceding year has exceeded this coefficient. If the coefficient of pension increase for the preceding year was less than the one specified in this Part, the increase of pensions shall be executed taking into account the previous increase. (Article 42, Part 2, Paragraph 1 as amended by Law # 2505-IV (2505-15) dated March 25, 2005)

The rate of, and a procedure for, such increase shall be defined, within the Pension Fund budget, by decision of the Cabinet of Ministers of Ukraine.

3. The pension calculated under Article 28 of this Law shall be recalculated every time the statutory minimum subsistence level to the disabled is revised. Recalculated pensions will be payable effective the day of setting the revised minimum subsistence level. (Article 42 is supplemented by a new part following Law # 2291-IV (2291-15) dated December 23, 2004)

4. In case of an insured individual continuing employment after a pension was granted, the pension shall be recalculated to take into account the covered service period after granting the pension.

Each such pension recalculation shall be carried out not earlier than in two years after preceding recalculation, taking into account the covered service period after granting the pension.

Pension recalculation shall be based on the wage (income), from which the pension was calculated, or the covered service periods specified in Article 40.1 herein.

ARTICLE 43. RECALCULATION OF PENSIONS GRANTED BEFORE ENTRY INTO FORCE OF THIS LAW

1. Old age, disability, survivor's and long-service pensions granted before entry into force of this law shall be recalculated subject to the norms of this Law based on documents on age, covered service period, wage (income), and other documents that are in the pension file as of the time of recalculation and comply with requirements of earlier legislation, as well as based on additional documents received by Pension Fund bodies.

2. To recalculate a pension granted before entry into force by this Law, account shall be taken of the wage (income) on which that pension was based according to the documents available in the pension file or, at the option of the pensioner, the wage (income) over the period specified in Article 40.1 herein. In this case, the wage (income) for pension calculation shall be determined pursuant to Article 40.2 herein by applying the average wage in Ukrainian industries in 2002.

ARTICLE 44. APPLICATION PROCEDURES

1. Application for granting, recalculation or deferment of pension, along with necessary documents attached, shall be submitted to territorial office of the Pension Fund, or its authorized agency or person subject to procedures as approved by the Pension Fund Board on negotiation with the central labor and social policy authority.
2. Insured individual may apply for an old age pension not earlier than one month before attainment of the retirement age.

ARTICLE 45. EFFECTIVE DATES AND PERIODS OF PENSIONS

1. Pension shall be granted from the application date except for the following cases when it is granted from an earlier date:
 - 1) Old age pension shall be granted from the date following the day of attainment of retirement age, if the individual applies for the pension within three months after he/she attained the retirement age;

In case of an incomplete year of retirement deferment, for which the pension is not increased, the pension calculated under Article 29.1 herein shall be granted from the date following the last day in the complete year of deferment counted in the covered service period, and where there is no such complete year, from the date following the day when the individual attained the retirement age;
 - 2) Disability pension shall be granted from the date the individual was qualified as an invalid, if he/she applies for the pension within three months of the date of such qualification;
 - 3) Survivor's pension shall be granted from the date following the day of breadwinner's death, if the pension is applied for within 12 months of the day of death.
2. Pension shall be granted for life or a period of eligibility for the pension under this Law.
3. Switch from one type of pension to another shall be effective from the date of submission of application along with all necessary documents attached.
4. Except for cases specified by Part 1 of Article 35, Part 2 of Article 38, Part 3 of Article 42, and Part 5 of Article 48 of this Law, a granted pension shall be recalculated from the following dates (Article 45, Part 4, Paragraph 1 as amended by Law # 2291-IV (2291-15) dated December 23, 2004):
 - In case there arises a right to an increase in the pension – the first day of months in which the pensioner applies for recalculation, if he/she submits the application along with all necessary documents attached not later than the 15th day of the month; and the first day of next month, if he/she submits the application along with all necessary documents attached after the 15th day of the month;
 - In case there occur circumstances that entail a decrease in the pension – the first day of months in which such circumstances occur, if they occur not later than the 15th day of the month; and the first day of next month, if they occur after the 15th day of the month.
5. Territorial office of the Pension Fund shall process application documents for pension granting (recalculation), and within ten days of receipt of the documents shall take a decision on either granting (recalculation) of pension or denial of pension (recalculation).

ARTICLE 46. BACK PENSION PAYMENT

1. Calculated amounts of pension, for which a pensioner was entitled but did not receive in due time at his/her own fault, shall be paid back for a period not longer than three years before applying for pension payment. In this case, a part of the pension amount, which is due for a period of up to 12 month, shall be paid as a lump sum, and the rest shall be paid monthly in equal installments that do not exceed the monthly pension amount.

2. Calculated amounts of pension that were not received at a fault of the body responsible for pension granting and payment shall be paid back without any limitation, and a compensation for a partial loss of income shall be charged.

Compensation for a partial loss of pension associated with a violation of payment terms shall be effected according to law.

ARTICLE 47. PAYMENT OF PENSIONS

1. Pensions shall be paid monthly not later than the 25th day of month for which the pension is due, only in a money form, and in the place specified in the application as the pensioner's place of permanent residence within Ukraine.

Pensions shall be paid irrespective of currently received wage (income), or pension benefits from the accumulation pension insurance system, or pension benefits from non-state pension system.

2. Pensions may be paid by attorney, based on a duly executed and valid letter of attorney. Pensions shall be paid by attorney for the entire duration of the letter of attorney, provided the pensioner each year renews his/her application for payment of pension by attorney.

3. Pension to a pensioner serving a term of imprisonment shall be paid on general grounds subject to a procedure prescribed by law.

ARTICLE 48. PAYMENT OF PENSIONS TO INDIVIDUALS FULLY MAINTAINED BY THE STATE

1. Twenty-five percent of granted pension shall be paid to a pensioner during his/her stay in an institution where he/she is fully maintained by the state. In case his/her pension exceeds the cost of such maintenance, a difference between the pension and the maintenance shall be paid, but not less than 25 percent of the pension.

2. In case of a pensioner staying in an institution where he/she is fully maintained by the state who has dependent family members incapable of work, as those specified in Article 36.2 herein, the pension shall be paid as follows: 25 percent of the pension to the pensioner, and another part but not more than 50 percent of the granted pension to such family members.

3. The balance of pension after payments to the pensioner and his/her family members pursuant to Items 1 and 2 above shall, on personal application from the pensioner, be transferred to the institution where the pensioner stays fully maintained by the state. Such money shall be entered to bank account of institutions above budgetary assignments and used only to improve the living standards of institutionalized pensioners subject to a procedure approved by the Cabinet of Ministers of Ukraine.

4. Survivor's pension to institutionalized orphans shall be paid in full by transferring their pensions to their personal bank accounts.

Survivor's pension to other children fully maintained by the state shall be paid at 50 percent by transferring it to their personal bank accounts. The balance of pension after such payment shall be transferred to bank account of the institution where the child stays fully maintained by the state, and shall be used only to improve the living standards of institutionalized children.

5. Subject to provisions of this Article, pension shall be paid from the first day of month following the month in which the pensioner is institutionalized.

ARTICLE 49. DISCONTINUATION AND RENEWAL OF PENSIONS

1. Pension shall be discontinued by a decision of territorial offices of the Pension Fund or by a court decision:

- 1) If the pension was granted based on documents that contained wrong data;
- 2) For the entire period of residence abroad of the pensioner, unless an international agreement of Ukraine ratified by the Supreme Rada provides otherwise;
- 3) In case of the pensioner's death;
- 4) In case of not receiving the granted pension for six successive months; and
- 5) In other cases envisaged by law.

2. Pension shall be renewed by a decision of territorial office of the Pension Fund within ten days after fact-finding, provided there are conditions for renewal. Renewal of pension shall be subject to the procedure in Articles 35.3 and 46 herein.

ARTICLE 50. WITHHOLDING OF OVERPAID PENSION AMOUNTS. DEDUCTIONS FROM PENSIONS

1. Pension amount overpaid due to an abuse on the part of pensioner or due to provision of wrong data by insurant may be returned by the pensioner voluntarily or withheld based on a decision of territorial offices of the Pension Fund or judicially.

2. Deductions from a pension shall be effected subject to a procedure prescribed by law based on a court decisions, rulings, resolutions and sentences (associated with execution upon property), writs of notary, and other decisions and resolutions whereof execution pursuant to law is carried out in accordance with a procedure established for execution of court decisions.

Any deduction from a pension shall be calculated based on the pension amount due to the pensioner.

Not more than 50 percent of pension may be deducted for support of family members (alimony), to refund loss from theft of property of enterprises and organizations, to indemnify for injury to health or death inflicted by the pensioner, and to return overpaid wage in cases provided for by law.

Not more than 20 percent of pension may be deducted in any other case of collection.

ARTICLE 51. PAYMENT OF PENSION IN CASE OF PENSIONER LEAVING FOR RESIDENCE ABROAD

1. In case of a pensioner leaving for permanent residence abroad, the pension granted to him in Ukraine shall be paid out for six month in advance counting from month that follows the month in which he/she is withdrawn from record at his/her place of permanent residence. Pension to such pensioner living abroad shall be paid if so provided by an international agreement of Ukraine ratified by the Supreme Rada.

ARTICLE 52. PAYMENT OF PENSION DUE BUT NOT RECEIVED BECAUSE OF PENSIONER'S DEATH

1. Pension due to a pensioner but not received by him/her because of death shall not be heritable and shall be paid – for up to the month of death inclusive – to his/her dependent family members incapable of work, as those specified in Article 36.2 herein. Such pension to the parents and spouse as well as family members who were members of the pensioner's household as of the day of his/her

death shall be paid irrespective of whether they qualify as incapable of work subject to Article 36.2 herein or whether they were dependents of the deceased.

2. In case of several family members of a deceased pensioner applying for his/her pension that is due but not received, the amount due under this Article shall be divided among them equally.

The pension amount specified herein shall be paid if it is applied for not later than in 12 months of the pensioner's death.

ARTICLE 53. PENSIONER FUNERAL ALLOWANCE

1. In case of death of a pensioner, a pensioner funeral allowance shall be paid to individuals who carried out the funeral. The allowance amount shall be equal to two monthly pensions that the pensioner was in receipt of at the moment of death.

**SECTION VII.
PENSION BENEFITS FROM THE ACCUMULATION FUND**

ARTICLE 54. TYPES OF PENSION BENEFITS FROM THE ACCUMULATION FUND

1. Insured individual on attainment of the retirement age specified in Article 26.1 herein shall be eligible for a life annuity or a lump sum at the expense of assets recorded on his/her accumulation pension account in the Accumulation Fund.

2. Insurance and payments under life annuity contract with insurance organization selected by insured individual shall be governed by the Law of Ukraine "On Insurance."

The amount of life annuity shall be calculated by the insurance organization actuarially, based on the value of the insurance contract paid up, future investment return ensured by the insurance organization, further investment costs, and the life expectancy for men and women.

Time and procedure for life annuity payments shall be stipulated in the life annuity contract.

3. Insurance organizations that pay life annuities under this Law shall establish a Centralized Insurance Fund and shall secure their solvency in compliance with the insurance law.

4. Lump sum to an insured individual from the Accumulation Fund shall be paid by territorial office of the Pension Fund subject to the procedure established by Article 56 herein.

Pension benefits paid to insured individuals at the expense of their assets in the Accumulation Fund shall be subject to taxation under tax laws of Ukraine.

5. Insurance organizations that pay benefits under life annuity contracts paid up at the expense of assets in the Accumulation Fund shall be bound to calculate, withhold and transfer to the budget taxes on such monthly benefits subject to the procedure prescribed by tax laws of Ukraine.

ARTICLE 55. PROCEDURE FOR ENTERING INTO, AND PAYMENT FOR, LIFE ANNUITY CONTRACT

1. Insured individual on attainment of the retirement age specified in Article 26.1 herein shall enter into a life annuity contract with an insurance organization. Subject to requirements of this Law, the life annuity contract shall be entered into in compliance with insurance legislation.

To enter into the life annuity contract, the insured individual shall apply to the insurance organization within one month before attainment of the retirement age specified in Article 26.1 herein. The form of such application shall be established by the insurance organization.

2. The insured individual shall notify the territorial office of the Pension Fund of the insurance organization he/she has selected and shall submit a written application for transferring his/her savings to this insurance organization to pay for the life annuity contract.

Within ten days of receipt of such application, the territorial office of the Pension Fund shall be bound to ensure that such transfer to the insurance organization selected is effected at an amount as recorded on the insured individual's accumulation pension account.

Where an insured individual fails to submit such application within one month of attainment of the retirement age, the territorial office of the Pension Fund shall be bound to find out causes of such failure and suggest that the insured individual enter into a life annuity contract.

In case the insured individual declines entering into such contract, except for cases when he/she wishes to continue employment and defer receipt of the old age pension, the territorial office of the Pension Fund shall independently enter into a certain period life annuity contract in behalf of the individual and shall transfer savings on his/her accumulation pension account to the insurance organization. In this case, the cost of the certain period life annuity contract must not exceed average cost of certain period life annuity contract for individuals of respective retirement age. The average cost of life annuity contract shall be determined based on latest information on costs of life annuity contracts published by insurance organizations pursuant to Item 7 below.

3. Executive bodies of the Pension Fund shall have right to auditing conclusion of life annuity contracts for their compliance with requirements of this Law and other normative acts.

Territorial office of the Pension Fund shall have right to deny a request of insured individual to transfer his/her savings to insurance organization in the following cases:

- The life annuity contract was concluded with an individual ineligible for life annuity;
- The life annuity contract was concluded with an insurance organization that does not meet the requirements of this Law for insurance organizations that may carry out insurance and payments under life annuity contracts envisaged by this Law;
- The life annuity contract was concluded in violation of, or is inconsistent with, this Law and other normative acts;
- Neither the territorial office of the Pension Fund nor the insured individual has entered into a life annuity contract; and
- The amount of pension assets recorded on the accumulation pension account of the insured individual is below the minimum amount required to pay for a life annuity contract.

Denial of transfer to pay for life annuity contract in any other case shall be impermissible.

The territorial office of the Pension Fund shall notify the insured individual and the insurance organization in writing of denial of transfer to pay for the life annuity contract.

The insured individual or the insurance organization may appeal against such denial in the Pension Fund Executive Directorate or judicially.

Territorial offices of the Pension Fund shall be liable at law for any unfounded denial of transfer to pay for life annuity contract.

Information on life annuity contract concluded and money transferred to pay for the contract shall be recorded in the personified record keeping system.

4. Procedure for selection and change of insurance organizations that sell life annuity contracts shall be approved by the Cabinet of Ministers of Ukraine.

5. In case no life annuity contract has been concluded because the insured individual died or was duly declared missing or deceased, the territorial office of the Pension Fund shall take steps to the effect that the money belonging to the insured individual be paid to his/her heirs pursuant to requirements of this Law.

In case territorial office of the Pension Fund has not found out why an insured individual has not applied for a life annuity contract, the assets belonging to this individual shall be recorded on his/her accumulation pension account on general grounds.

6. The State Commission for Regulation of Financial Services Markets of Ukraine shall monthly furnish the Pension Fund with information on costs of life annuity contracts, estimates of life annuities under such contracts for different retirement ages, rates of investment return used to calculate life annuities, and current financial status of insurance organizations.

Any insurance organization shall publicize figures of costs of life annuity contracts, estimates of life annuities under such contracts for different retirement ages, and rates of investment return not later than ten days before the beginning of month in which these become effective, and shall apply such rates of investment return to all insured individuals who intend to enter into a life annuity contract during this month.

The cost of any life annuity contract may not be higher than that calculated by the State Commission for Regulation of Financial Services Markets of Ukraine.

At request of insured individual, territorial office of the Pension Fund shall inform him/her free of charge in writing of the pension assets recorded on his/her accumulation pension account, as well as of costs of life annuity contracts, estimates of life annuities under such contracts for different retirement ages, and rates of investment return of insurance organizations in previous years.

ARTICLE 56. ELIGIBILITY FOR LUMP SUM AND LUMP SUM PAYMENT PROCEDURE

1. In case of an insured individual whose pension assets at the moment he/she becomes eligible for a pension are below the minimum amount required to pay for a life annuity contract, such individual (and in case of his/her death, his/her family members or heirs) shall be eligible for a lump sum. The minimum amount required to pay for a life annuity contract shall be set by State Commission for Regulation of Financial Services Markets of Ukraine.

At request of insured individual, lump sum shall be also payable in case he/she is leaving for permanent residence abroad.

2. In case of an insured individual qualified as a group-I or II invalid and eligible for a disability pension under this Law, his/her pension assets shall be used at his/her option as follows:

- To pay him/her a lump sum, irrespective of whether or not the assets are sufficient to pay for a life annuity contract; or
- To pay for a life annuity contract when he/she attains the retirement age specified in Article 26.1 herein, if the assets suffice to pay for such contract.

Pension assets belonging to an insured individual qualified as a group-III invalid shall remain in the Accumulation Fund until attainment of the retirement age specified in Article 26.1 herein, and then shall be used either to buy a life annuity or, if the amount is insufficient, to pay a lump sum.

3. In case an insured individual dies before attaining the retirement age specified in Article 26.1 herein, his/her pension assets shall be inherited as prescribed by the Civil Code of Ukraine, unless the insured individual specified other individuals entitled to the assets.

Any insured individual shall have right any time to specify individuals entitled to the amount recorded on his/her accumulation pension account in case of his/her death, and define distribution of this amount among them.

Individuals who are entitled to inherit an amount on the accumulation pension account of a deceased individual and has not yet attained the retirement age specified in Article 26.1 herein may apply for directing this money to their accumulation pension accounts in the Accumulation Fund. In this case this money shall not be taxed.

In case of a deceased insured individual who has no heir, his/her pension assets shall be accounted in the investment return of the Accumulation Fund, whereof a note shall be made in the personal record card within the system of personified record keeping, and the custodian notified.

To get a lump sum, insured individual, or his/her family members or heirs shall submit to territorial office of the Pension Fund an application and documents confirming their eligibility for this benefit.

Lump sum shall be paid within five working days of receipt of application and necessary documents.

ARTICLE 57. LIFE ANNUITIES

1. Insurance organizations engaging in life annuities shall be bound to offer the following life annuities to any insured individual: certain period life annuity, refund life annuity, and joint life and survivor annuity.

2. Certain period life annuity shall mean a monthly benefit paid for life of a pensioner but at least for ten years from the date it is granted. In case of death of the pensioner, the life annuity for the rest of the said period shall be payable to heirs as specified in the life annuity contract or as prescribed by the Civil Code of Ukraine.

3. Refund life annuity shall mean a monthly benefit paid for life of a pensioner.

In case the total annuity amount paid before death of the pensioner is less than the value of the annuity contract as entered into, the difference between the two amounts shall be payable to heirs as specified in the life annuity contract or as prescribed by the Civil Code of Ukraine.

4. Joint life and survivor annuity shall mean a monthly benefit paid for life of a pensioner, and after his/her death, for life of his/her spouse who has attained the retirement age specified in Article 26.1.

5. Insured individual shall have right to free choice of one of the life annuities specified above.

6. The life annuity chosen by insured individual shall be stipulated in his/her life annuity contract.

The life annuity contract must also stipulate the rate of investment return used to calculate the life annuity chosen.

Insurance organizations shall calculate life annuity within three working days of receipt of payment for the life annuity contract.

Insurance organizations shall be prohibited from asking any medical certificate from any insured individual.

Termination of life annuity contract at will of any party shall be prohibited.

SECTION VIII.

MANAGEMENT ARRANGEMENT AND PROCEDURES IN THE SOLIDARITY SYSTEM

ARTICLE 58. THE PENSION FUND

1. The Pension Fund shall be the body that directs and manages the solidarity system, collects, accumulates and accounts insurance contributions, grants pensions and prepares documents for their payment, ensures timely and full financing and payment of pensions and funeral allowances, audits the use of Pension Fund money, solves issues in relation to accounting of pension assets of insured individuals on accumulation pension accounts, administers the Accumulation Fund, and performs other functions envisaged by this Law and the Charter of the Pension Fund.

The Pension Fund shall be a self-governing nonprofit organization and shall carry on its activities based on the Charter as approved by its Board.

The Pension Fund shall acquire a status of legal entity on the date of its registration with a specially authorized executive agency.

2. The Charter of the Pension Fund must contain the following information:

- Name and location of the Pension Fund;
- Intended activities of the Pension Fund;
- Rights, obligations and responsibilities of the Pension Fund;
- Management bodies of the Pension Fund, and their rights, obligations and responsibilities;
- Procedure for establishment and operation of the Accumulation Fund;
- Decision-making procedure for the Pension Fund Board, and a list of issues whereof decision requires two-thirds of total votes of the Board and a majority vote of each party;
- Rights, obligations and responsibilities of Pension Fund Board members, procedure for their appointment or election (delegation), and grounds and procedure for their removal and recall, also by a decision of a state supervisory authority;
- Election procedure, powers and responsibilities of the Chairperson and Deputy Chairpersons of the Pension Fund Board, and grounds and procedure for their removal;
- Functions of the Pension Fund Executive Directorate and its subordinate territorial offices;
- Procedure for supervision of Executive Directorate activities on the part of the Pension Fund Board;
- Sources of Pension Fund revenues and their intended uses;
- Procedure for formation and use of Pension Fund reserves and idle cash;
- Procedure for financing of expenditures associated with performance of its functions by the Pension Fund Executive Directorate, management of the Pension Fund, and development of its material and IT base;
- Procedure for rule-making within the terms of reference of the Pension Fund Board and Executive Directorate;
- Procedure for amending the Charter of the Pension Fund; and
- Other provisions relevant to Pension Fund activities.

3. The Pension Fund may not carry on any activities other than those specified in Item 1 above, and may not use resources of the mandatory state pension insurance for purposes not associated with the activities specified herein.

ARTICLE 59. MANAGEMENT BODIES OF THE PENSION FUND

1. The Pension Fund shall be managed based on parity representation of the state, insured individuals, and employers.
2. Management of the Pension Fund shall be exercised by its Board and Executive Directorate.

ARTICLE 60. THE PENSION FUND BOARD

1. The Board shall be the supreme management body of the Pension Fund. The Board shall be formed based on parity representation of insured individuals, employers, and the state.
2. Insured individuals, employers, and the state shall each have five representatives on the Pension Fund Board.

The representatives from the state shall be appointed and recalled by the Cabinet of Ministers of Ukraine, and the representatives from insured individuals and employers shall be elected (delegated) and recalled by the parties independently.

Appointment or election (delegation) of Board members shall take place not later than three months before the term of respective Board members expires.

3. The term of Pension Fund Board members shall be six years. No Board member may be elected to the Board for two successive terms.

Board members shall perform their duties on an honorary basis. In case when sent by the Board on a special errand pertaining to their Board member duties, they shall be reimbursed for traveling expenses from the Pension Fund.

Any Board member may be recalled before expiry of term on an initiative of the party he/she is a representative of, or on an initiative of the Board in the following cases:

- The member systematically fails to perform or performs improperly his/her duties;
- The member has applied for withdrawal from the Board;
- The member has ceased being a representative of respective party;
- The member has been sentenced in final judgment;
- The member is unable to perform his/her duties on grounds of ill health as confirmed by relevant medical certificate;
- The member has ceased being a Ukrainian citizen or left for permanent residence abroad.

The term of any Board member also expires in case of death.

4. The Pension Fund Board shall be chaired by Chairperson elected from among Board members for a term of two years.
5. The Pension Fund Board shall function by way of meeting. Board meetings shall be convened by the Board Chairperson, and in case of his/her absence, a Deputy Chairpersons, according to a schedule approved by the Board but at least once per quarter. Extraordinary Board meetings may be convened on an initiative of the Board Chairperson, a Deputy Chairperson, the Pension Fund Supervisory Council, a majority of representatives from one of the parties on the Board, or one-third of Board members.

6. The first meeting of the Pension Fund Board shall be held not later than two months after appointing full Board. The first meeting shall be convened and called to order by the head of the central labor and social policy authority.

7. Meetings of the Pension Fund Board shall have a quorum when a majority of representatives from each party are present. Any Board member shall have one vote, except as provided in Item 8 below.

8. Any decision of the Pension Fund Board shall be considered taken if a simple majority of the Board members present at the meeting votes for it. In case of a tie, the Board Chairperson shall have the casting vote.

Any Board member unable to be present at a Board meeting with a good excuse (illness, long-term business trip, vacation, etc.) may vote by proxy, giving a written authorization to vote to another Board member representing the same party. Any Board member present at a meeting may stand proxy for only one absent member.

The written authorization to proxy vote shall be submitted to the Board Chairperson, and in case of his/her absence, to a Deputy Chairperson, at the beginning of the meeting.

9. Decisions taken by the Pension Fund Board within its terms of reference shall be binding, inter alia to all insured persons and insured individuals where such decisions concern them. Board decisions shall be executed in a form of resolution.

10. Board resolutions of the Pension Fund must be officially publicized.

11. A representative from the Pension Fund Executive Directorate shall take minutes of Board meetings. Recorded in the minutes shall be items on the agenda, the substance of speeches and comments on the speeches, and voting results. The person who has taken the minutes and the Board Chairperson or any other person who chaired the meeting shall sign the minutes. The Pension Fund Executive Directorate shall be responsible for storage of minutes and other documents of the Board.

12. Documents of the Pension Fund Board shall be stored for 15 years in a Pension Fund archive, and then committed to the state for archival storage.

13. The Director of the Executive Directorate and members of the Supervisory Council of the Pension Fund shall attend Board meetings with a voice but no vote.

ARTICLE 61. POWERS OF THE PENSION FUND BOARD

1. The Pension Fund Board shall:

- 1) Define current and long-range tasks of the Pension Fund;
- 2) Approve normative document that will govern operation of the Pension Fund, including the Charter and amendments thereto, rules of procedure for Board meetings, regulations on the Pension Fund Executive Directorate, and regulations on territorial offices of the Pension Fund;
- 3) Elect the Board Chairperson and two Deputy Chairpersons from among Board members;
- 4) Consider and approve the Pension Fund budget for next year, amendments thereto, and report on execution thereof, and within ten days of approving shall send such budget, amendment and report to the Cabinet of Ministers of Ukraine;
- 5) Define an accounting and record keeping procedure for assets of the Pension Fund and the Accumulation Fund;
- 6) Audit the use, accounting, record keeping and reporting associated with Pension Fund assets;
- 7) Solve issues of formation and use of the Pension Fund financial sustainability reserves;

- 8) Guide and supervise activities of the Pension Fund Executive Directorate and its subordinate territorial offices;
- 9) Annually and as necessary hear reports of the Director of the Pension Fund Executive Directorate on its activities;
- 10) Consider candidates for, and approve appointment of, the Director of the Pension Fund Executive Directorate, and on a proposal from the Director, Deputy Directors, heads of Executive Directorate units, and chiefs of territorial offices, and shall take decisions on their removal;
- 11) Approve a staff ceiling for the Pension Fund Executive Directorate, conditions for labor remuneration subject to legislation, a limit on administration costs and cost estimates of the Pension Fund for performance of Executive Directorate functions under this Law;
- 12) Commit to the Cabinet of Ministers of Ukraine proposals on rates of contributions under the mandatory state pension insurance and rates of increase in pensions as provided for in Article 42.2 herein;
- 13) On negotiation with the State Commission for Securities and Stock Market, approve investment rules for the Pension Fund future deficit reserve;
- 14) On negotiation with the State Commission for Securities and Stock Market, draft proposals on candidacy for the investment adviser and terms and conditions of contract with the investment adviser to be submitted for consideration and approval by the Accumulation Fund Board;
- 15) Approve personnel training, development and rating activities for staff of the Pension Fund Executive Directorate and territorial offices;
- 16) Based on parity representation of insured individuals, employers and the state, form commissions or task forces for separate activities of the Pension Fund that will operate on an honorary basis;
- 17) Approve tender conditions and procedure for selection of the auditor and pension payment and delivery organizations;
- 18) Define the authorized bank;
- 19) Approve annual reports on Pension Fund activities and publicize such reports subject to the procedure herein; and
- 20) Perform other functions envisaged by the Charter of the Pension Fund.

2. Pension Fund resolutions and other normative documents concerning rights and obligations of individuals shall be subject to state registration according to procedure established by the Cabinet of Ministers of Ukraine.

ARTICLE 62. CHAIRPERSON AND DEPUTY CHAIRPERSONS OF THE PENSION FUND BOARD

1. The Chairperson and Deputy Chairpersons of the Pension Fund Board shall be elected for a term of two years based on rotation of representatives from each party, and shall represent the three different parties.
2. The Chairperson of the Pension Fund Board shall:
 - Convene, organize and chair Board meetings;
 - Sign minutes of Board meetings and documents approved by the Board within three days thereof;
 - Report to state supervisory authorities on Pension Fund activities;

- Represent the Pension Fund to all institutions and organizations in Ukraine and abroad, as well as to international organizations;
- Ad interim, between Board meetings, suspend powers of the Director of the Pension Fund Executive Directorate in case of nonperformance or improper performance of official duties or law violation by the latter; and
- Perform other duties envisaged by the Charter of the Pension Fund.

3. The Chairperson of the Pension Fund Board may temporarily delegate his functions to Deputy Chairpersons.

In case the Chairperson of the Pension Fund Board is temporarily absent due to illness or stay abroad, or if he/she is removed from office, and in other cases envisaged by legislation, one of Deputy Chairpersons shall act the Chairperson.

4. The Chairperson and Deputy Chairpersons of the Pension Fund Board may be removed from office before expiry of term by majority vote of Board members for nonperformance or improper performance of their duties, and may be recalled as provided in Article 60.3 herein.

The Chairperson and Deputy Chairpersons shall be liable at law for nonperformance or improper performance of their duties.

ARTICLE 63. EXECUTIVE DIRECTORATE OF THE PENSION FUND AND ITS TERRITORIAL OFFICES

1. The Executive Directorate and its subordinate territorial offices shall be executive bodies of the Pension Fund.

2. The Pension Fund Executive Directorate shall be a standing executive body, shall organize and ensure implementation of Board decisions and act on behalf of the Pension Fund within the terms of reference and subject to the procedure as established by the Charter of the Pension Fund and the Regulations on the Executive Directorate, and shall be accountable to the Pension Fund Board.

The Main Departments of the Pension Fund in the Autonomous Republic of Crimea, oblasts and the Cities of Kyiv and Sevastopol, as well as the Departments of the Pension Fund in cities, raions and city raions shall be territorial offices of the Pension Fund Executive Directorate. The Pension Fund (Main) Departments shall be legal entities having an independent budget and a seal bearing the State Emblem and the entity name.

The territorial offices shall be established and operate based on the Regulations on Territorial Offices of the Pension Fund as approved by the Pension Fund Board.

3. The Pension Fund Executive Directorate shall be headed by the Director.

Officers of the Pension Fund executive bodies shall include: Director, Deputy Directors, heads of units of the Executive Directorate, and chiefs of the territorial offices as approved by the Pension Fund Board on an initiative of the Director.

Officers of the Pension Fund executive bodies shall be personally liable for nonperformance of improper performance of their duties.

4. The Director of the Pension Fund Executive Directorate shall:

- Manage day-to-day operation of the Pension Fund and solve all issues of its activities, except for those coming within the terms of reference of the Pension Fund Board;
- Issue orders on issues coming within his/her terms of reference;
- Attend Pension Fund Board meetings with a voice but no vote;

- Ensure preparation of documents that the Pension Fund Board Chairperson will need for Board meetings;
- Ensure drafting of documents that will be put for approval by the Pension Fund Board;
- Represent the Pension Fund to all institutions and organizations in Ukraine, and on commission of the Pension Fund Board Chairperson, abroad and to international organizations;
- Allocate duties among Deputy Directors;
- Propose to the Pension Fund Board for its approval candidates for Deputy Directors, heads of units of the Executive Directorate, and chiefs of the territorial offices, and shall make proposals on their removal;
- Propose to the Pension Fund Board Chairperson on suspension of powers of officers in case of nonperformance or improper performance of official duties or law violation by the latter;
- Hire and dismiss employees of the Executive Directorate, encourage them, and apply disciplinary sanctions against them;
- Quarterly submit documented information on Pension Fund activities to the Chairperson of the Supervisory Council of the Pension Fund;
- Be personally responsible for carrying out decisions of the Pension Fund Board;
- Approve information on organizations carrying out payment and delivery of pensions that is annually officially publicized by the Executive Directorate; and
- Perform other duties envisaged by the Charter of the Pension Fund and the Regulations on the Executive Directorate.

5. The Director of the Pension Fund Executive Directorate shall have right to taking decisions at his/her discretion where the Pension Fund Board fails to take a decision within time set by the Charter on the following issues:

- Establishment of a record keeping procedure for assets of the Pension Fund and the Accumulation Fund;
- Approval of personnel training, development and rating activities for staff of the Pension Fund executive bodies; and
- Other issues of Executive Directorate operation as envisaged by the Charter of the Pension Fund and the Regulations on the Executive Directorate, except for approval of a staff ceiling for the Executive Directorate and a limit on administration costs and cost estimates of the Pension Fund for performance of Executive Directorate functions under this Law.

The aforesaid decisions of the Director of the Executive Directorate, whereof he/she must notify in writing the Pension Fund Board and state supervisory authorities in the sphere of the mandatory state pension insurance, shall be considered valid until a Pension Fund Board meeting at which such decisions are either approved or cancelled.

ARTICLE 64. RIGHTS AND OBLIGATIONS OF THE PENSION FUND EXECUTIVE DIRECTORATE AND ITS TERRITORIAL OFFICES

1. The Pension Fund Executive Directorate and its territorial offices shall have right to the following:

- 1) Be provided free of charge by state authorities, enterprises, institutions and organizations irrespective of their ownership form, activities and the way these activities are carried out, and

individual business entities with data on charged, calculated and paid insurance contributions, as well as other data necessary for performance of their functions under this Law;

- 2) Carry out, but not more frequently than once per calendar year, scheduled audits, and in cases provided for by legislation, off-schedule audits, of books, statements, budgets and other documents relevant to charging, calculating and paying insurance contributions of any enterprise, institution, organization and individual business entity, and obtain from them necessary explanations, references and data (also in writing) on questions that arise in the course of such audits;
- 3) Require managers and other officers of enterprises, institutions and organizations, as well as individual business entities, to eliminate discovered violations of legislation on contribution charging, calculation and payment procedures, financial operations with money of the Pension Fund, and procedure for use of such money;
- 4) Take, subject to a procedure prescribed by law, from enterprises, institutions, organizations and individual business entities any documents that evidence concealed (understated) wages (income) and other pays subject to insurance contributions, or violation of procedures for using money of the Pension Fund and Accumulation Fund;
- 5) Initiate bankruptcy proceedings at law against any enterprise, institution and organization. or initiate cancellation of state registration of any individual business entity, in case they systematically fail to pay insurance contributions;
- 6) Apply financial sanctions envisaged by this Law;
- 7) Enforce collection of overdue insurance contributions from contributors;
- 8) Be provided free of charge by the State Commission for Regulation of Financial Services Markets of Ukraine with information on indicators used to calculate life annuities;
- 9) Initiate, subject to a procedure prescribed by law, bringing to account individuals guilty of violation of mandatory state pension insurance legislation;
- 10) In case of discovered violations of procedures for contribution charging, calculation and payment and use of Pension Fund money, apply, subject to a procedure prescribed by law, to agencies of the Prosecutor's Office, the Ministry of Internal Affairs, the Security Service, and the Tax Police;
- 11) Enter into contracts on voluntary participation in the mandatory state pension insurance system; and
- 12) Perform other functions envisaged by legislation.

2. The Pension Fund Executive Directorate shall be bound:

- 1) Before April 1 of year following the reporting year, to draw up an annual report on execution of the Pension Fund budget, submit such report to the Pension Fund Board and Supervisory Council, and upon its approval, officially publicize it;
- 2) Annually before August 1, to draft a Pension Fund budget for next year, and submit it to the Pension Fund Board for approval;
- 3) To perform functions associated with pension granting (recalculation), and ensure timely and full financing of pensions and social services;
- 4) To administer the Accumulation Fund;
- 5) To provide logistics support to operation of the Pension Fund Board and Supervisory Council;

- 6) Within its terms of reference, to supervise compliance of insurants and insured individuals with this Law;
- 7) To prepare and officially publicize annual actuarial calculations on financial status of the mandatory state pension insurance system;
- 8) To ensure organization of the personified record keeping system and timely entry of data on insurants and insured individuals in this system;
- 9) To audit data supplied by insurants and insured individuals to the personified record keeping system;
- 10) At request of any insured individual, to provide him/her with data that is entered on his/her personal record card within the system of personified record keeping;
- 11) To inform insured individuals in writing on acquisition of eligibility for a pension, pension granting or denial, pension amount and payment procedure, possibilities and conditions for switching to another pension type, and procedure for appeal against decisions of executive bodies of the Pension Fund;
- 12) To give a month notice to a pensioner of the date and grounds of pension discontinuation;
- 13) To consult free of charge insurants and insured individuals, orally and in writing and through the media, on application of mandatory state pension insurance legislation, and explain them their rights, obligations and responsibilities, contributing and reporting procedures, and other issues under this Law;
- 14) To submit to state supervisory authorities reporting and information prescribed by this Law;
- 15) To submit to the Cabinet of Ministers of Ukraine actuarial calculations with a proposed contribution rate for next year, including the part of insurance contributions channeled to the Accumulation Fund;
- 16) To attend meetings of medico-social expert examination authorities;
- 17) At request of labor and social policy authorities, to provide them with documents necessary to audit granting (recalculation) and payment of pensions and provision of social services;
- 18) To audit use of Pension Fund money in organizations carrying out pension payment and delivery;
- 19) To maintain within the personified record keeping system a general register of contributors, and within the latter, a register of contributors to the solidarity system and the accumulation pension insurance system; and
- 20) To ensure carrying out a tender for selection of the auditor and pension payment and delivery organizations.

3. While administering the Accumulation Fund, the Pension Fund Executive Directorate shall be bound:

- 1) To provide logistics support to operation of the Accumulation Fund Board;
- 2) To draft and submit to the Accumulation Fund Board for its approval the Investment Policies and the Investment Standards for assets of the Accumulation Fund as provided by Article 89 herein.
- 3) Pursuant to a decision of the Accumulation Fund Board, to contract an investment adviser, asset management companies, custodian and auditor(s) for the Accumulation Fund;
- 4) To open an account of the Accumulation Fund with the selected custodian;

- 5) To ensure record keeping and timely entry of data on insured individuals and the status or their pension assets on accumulation pension accounts;
- 6) At least once per year, to send to every insured individual a written statement of the status of pension assets recorded on his/her accumulation pension account;
- 7) To notify in writing any insured individual of the total amount on his/her accumulation pension account;
- 8) To inform insured individuals in writing of conditions and procedure for purchase of a life annuity contract or payment of a lump sum from the Accumulation Fund;
- 9) At request of any insured individual, to provide him/her with information obtained from the State Commission for Regulation of Financial Services Markets of Ukraine as per Article 55.7 herein on indicators used to calculate life annuities;
- 10) To ensure timely and full transfer of savings on accumulation pension accounts of insured individuals to buy life annuity contracts or pay lump sums, and inform the asset management companies thereof; and
- 11) To instruct the custodian as to disbursements associated with administration of the Accumulation Fund and fees of the investment adviser, asset management companies and custodian.

ARTICLE 65. THE SUPERVISORY COUNCIL OF THE PENSION FUND

1. The Supervisory Council of the Pension Fund (hereinafter referred to as Supervisory Council) shall be formed to supervise compliance of the Pension Fund with mandatory state pension insurance legislation.

2. The Supervisory Council shall be composed of 15 individuals equally representing insured individuals, employers and the state.

The representatives from the state shall be appointed and recalled by the Cabinet of Ministers of Ukraine, and the representatives from insured individuals and employers shall be elected (delegated) and recalled by the parties independently.

Appointment or election (delegation) of Supervisory Council members shall take place not later than three months before the term of respective Supervisory Council members expires.

3. Supervisory Council members shall perform their duties on an honorary basis.

The term of Supervisory Council members shall be six years.

No Supervisory Council member may be appointed or elected (delegated) to the Supervisory Council for more than two successive terms.

Any Supervisory Council member shall be recalled before expiry of term on an initiative of the party he/she is a representative of in the following cases:

- The member systematically fails to perform or performs improperly his/her duties;
- The member has applied for withdrawal from the Supervisory Council;
- The member has ceased being a representative of respective party;
- The member has been sentenced in final judgment;
- The member is unable to perform his/her duties on grounds of ill health as confirmed by relevant medical certificate;
- The member has ceased being a Ukrainian citizen or left for permanent residence abroad.

The term of any Supervisory Council member also expires in case of death.

ARTICLE 66. CHAIRPERSON AND DEPUTY CHAIRPERSONS OF THE SUPERVISORY COUNCIL

1. The Supervisory Council shall be chaired by Chairperson.

The Chairperson and two Deputy Chairpersons of the Supervisory Council shall be elected from among Supervisory Council members for a term of two years based on rotation of representatives from each party.

The Chairperson of the Supervisory Council may not be a representative of the party whereof representative is the Chairperson of the Pension Fund Board.

The Chairperson of the Supervisory Council shall allocate duties among Deputy Chairpersons. In case the Chairperson is temporarily absent due to illness or stay abroad, or if he/she is removed from office, and in other cases envisaged by legislation, one of Deputy Chairpersons shall act the Chairperson.

2. The Chairperson of the Supervisory Council shall quarterly convey to its members documented information provided by the Pension Fund Executive Directorate on activities of the Pension Fund.

In case Supervisory Council members have any comments or questions to such information, the Chairperson of the Supervisory Council shall be bound to convene a working meeting of Supervisory Council members and officers of the Executive Directorate. The Executive Directorate shall be bound to ensure such meeting and give necessary explanation supported by proper documents and calculations.

3. By decision of the Supervisory Council Chairperson, a question shall be brought forward at a Supervisory Council meeting as to carrying out a Pension Fund audit by Supervisory Council members or an independent auditor (auditing firm).

ARTICLE 67. MEETINGS OF THE SUPERVISORY COUNCIL

1. The Supervisory Council shall meet according to a schedule, but at least once per quarter. Extraordinary meetings shall be convened by the Supervisory Council Chairperson, as well as at request of one-third of Supervisory Council members.

2. Meetings of the Supervisory Council shall have a quorum when not less than two-thirds of its members and not less than a half of representatives from each party are present. If the quorum is not reached, the meeting shall be adjourned for seven calendar days.

3. Decisions of the Supervisory Council shall be taken by a simple majority of Supervisory Council members present at the meeting. In case of a tie, the Supervisory Council Chairperson shall have the casting vote. Any member of the Supervisory Council shall have one vote, except as provided in the second paragraph below.

Any Supervisory Council member unable to be present at a Supervisory Council meeting with a good excuse (illness, long-term business trip, vacation, etc.) may vote by proxy, giving a written authorization to vote to another Supervisory Council member representing the same party. Any Supervisory Council member present at a meeting may stand proxy for only one absent member.

The written authorization to proxy vote shall be submitted to the Supervisory Council Chairperson at the beginning of the meeting.

4. The Pension Fund Board Chairperson or Deputy Chairpersons and Executive Directorate Director or Deputy Directors shall attend Supervisory Council meetings with a voice but no vote.

5. The Pension Fund Executive Directorate shall be responsible for keeping records of Supervisory Council meetings and maintaining documentation of the Supervisory Council. The minutes of a Supervisory Council meeting shall be signed by the person who chaired the meeting.

The Executive Directorate shall be responsible for storage of Supervisory Council documents. The Supervisory Council documents shall be stored for 15 years in a Pension Fund archive, and then committed to the state for archival storage.

ARTICLE 68. POWERS OF THE SUPERVISORY COUNCIL

1. The Supervisory Council shall:

- Elect the Chairperson of the Supervisory Council;
- Approve its rules of procedure;
- Agree on the Pension Fund budget and approve execution thereof within ten working days of receipt, and provide its comments and proposals to the Pension Fund Board;
- Hear reports of the Pension Fund Board and Executive Directorate on execution of Pension Fund tasks and use of its money, and gives relevant recommendations;
- When necessary, require the Pension Fund Board to carry out an audit of the Pension Fund or its separate activities;
- Move the Pension Fund Board for removal and bringing to account of the Pension Fund Executive Directorate Director and Deputy Directors and chiefs of territorial offices in case of nonperformance or improper performance of their duties, and in other cases envisaged by law;
- Form task forces to supervise activities of the Pension Fund, its compliance with mandatory state pension insurance legislation, and use of Pension Fund money; and
- Have right to convening extraordinary meetings of the Pension Fund Board.

ARTICLE 69. REQUIREMENTS TO MEMBERS OF THE PENSION FUND BOARD AND SUPERVISORY COUNCIL

1. Any member of the Pension Fund Board and Supervisory Council shall be a Ukrainian citizen.
2. No individual may be simultaneously a member of the Pension Fund Board and a member of the Supervisory Council.
3. The Pension Fund Board Chairperson and Deputy Chairpersons shall only be individuals with complete higher education who have at least a five-year service experience in social security, public administration and/or trade unions, finances or economy and meet other qualifying requirements set by the Charter of the Pension Fund.
4. Members of the Pension Fund Board and Supervisory Council shall have no right to being in any labor relations with executive bodies of the Pension Fund.
5. The Supervisory Council Chairperson and Deputy Chairpersons must have an experience in management of financial or auditing agencies, or at least a five-year experience of unit heads in the said agencies.
6. A member of the Pension Fund Board or the Supervisory Council shall be an individual with complete higher education who has a service experience in social security, public administration and/or trade unions, finances or economy and meets other qualifying requirements set by the Charter of the Pension Fund.

7. No individual who was convicted of a deliberate crime or sentenced to an occupational ban may be a member of the Pension Fund Board or the Supervisory Council.

ARTICLE 70. REQUIREMENTS TO OFFICERS OF THE PENSION FUND EXECUTIVE DIRECTORATE

1. An individual with complete higher education and at least a five-year managerial experience in pensions, finances and/or economy may be appointed the Director of the Pension Fund Executive Directorate.
2. Individuals with complete higher education and at least a two-year service experience in social security, finances or economy may be appointed Deputy Directors, heads of units and chiefs of territorial offices of the Pension Fund Executive Directorate.
3. No individual who was convicted of a deliberate crime may be an officer of the Pension Fund Executive Directorate.

**SECTION IX.
MONEY OF THE PENSION FUND**

ARTICLE 71. BUDGET OF THE PENSION FUND

1. The Pension fund budget shall be a plan of formation and use of a special-purpose insurance fund formed through contributions to the solidarity system and from other sources of revenues defined by this Law.
2. The Pension Fund budget shall be approved by the Pension Fund Board not later than December 10 of year preceding the budget year.
3. The Pension Fund budget shall be drafted based on annual actuarial calculations.
4. The Pension Fund Board shall establish procedures for Pension Fund budget development, approval and execution.

ARTICLE 72. REVENUE SOURCES OF THE PENSION FUND BUDGET

1. Revenue sources of the Pension Fund budget shall include:
 - 1) Contributions under the mandatory state pension insurance, except for the part of such contributions that is channeled to the Accumulation Fund;
 - 2) Return on investment of the Pension Fund future deficit reserve;
 - 3) Transfers from the State Budget and special-purpose funds effected in cases specified in this Law;
 - 4) Financial sanctions applied under this Law and other laws against legal entities and individuals for violation of contribution charging, calculation and payment procedures and misuse of Pension Fund money, as well as administrative sanctions applied under law against officers and individuals for the said violations;
 - 5) Charitable contributions of legal entities and individuals;
 - 6) Voluntary contributions; and
 - 7) Other revenues consistent with law.

2. Revenues of the Pension Fund shall not be included in the State Budget and shall not be subject to tax.

ARTICLE 73. USE OF PENSION FUND MONEY

1. Money of the Pension Fund shall be used:

- 1) To pay pensions under this Law;
- 2) To provide social services under this Law;
- 3) To finance administration costs associated with performance of functions assigned to Pension Fund bodies;
- 4) To pay for pension payment and delivery services; and
- 5) To form the Pension Fund reserves;

2. Use of Pension Fund money for purchase of life annuity contracts or payment of lump sums and for purposes not specified in this Law shall be prohibited.

ARTICLE 74. PENSION FUND RESERVES

1. Pension Fund shall form reserves to ensure its financial sustainability.

The Pension Fund reserves shall include a reserve for current requirements and a reserve for budget deficit in future periods. The reserves shall be kept on two separate sub-accounts of one Pension Fund account.

Formation and use procedures for the Pension Fund reserves shall be established by the Pension Fund Board.

2. The current requirements reserve shall be formed to secure timely and full financing of pensions and social services, and shall equal an amount required monthly by the Pension Fund for the said purposes as per the Pension Fund budget. The current requirements reserve shall be approved within the Pension Fund budget.

3. The current requirements reserve shall be used and refilled so that at the beginning of each month on its sub-account there is an amount equal to the month's requirements of the Pension Fund for payment of pensions and provision of social services as per the Pension Fund budget.

4. A surplus after payment of pensions, provision of social services and formation of the current requirements reserve shall go to the Pension Fund future deficit reserve, which is to cover a budget deficit that may be caused in future periods by a demographic change in Ukraine.

5. The current requirements reserve shall be kept with the authorized bank, and the future deficit reserve, with the custodian. The custodian shall keep and account the future deficit reserve separately from pension assets of the Accumulation Fund.

ARTICLE 75. PENSION FUND FUTURE DEFICIT RESERVE

1. The amount of the Pension Fund future deficit reserve shall be determined based on annual actuarial calculations.

The Pension Fund Board shall approve the amount of the future deficit reserve within the Pension Fund budget, simultaneously setting a procedure for its formation and use.

2. The future deficit reserve shall be invested in order to protect it and get a return. Investment procedure and rules for the future deficit reserve shall be the same as those prescribed by this Law for the Accumulation Fund.
3. The asset management companies selected for the Accumulation Fund based on tender shall invest the future deficit reserve.
4. The asset management companies and the custodian shall draw up and submit reports on investment of the future deficit reserve to the Pension Fund Board, the State Commission for Securities and Stock Market and the State Commission for Regulation of Financial Services Markets of Ukraine. The reporting procedures and forms shall be established by the Pension Fund Board on negotiation with the State Commission for Securities and Stock Market and the State Commission for Regulation of Financial Services Markets of Ukraine.
5. The Pension Fund Executive Directorate shall annually draw up a report on formation of the future deficit reserve containing a conclusion as to whether this reserve is sufficient for the Pension Fund to secure its liabilities in the solidarity system for next 75 years, and shall submit such report to the Pension Fund Board for approval.
6. If during a year the future deficit reserve is below 90 percent of the amount actuarially determined as necessary to secure long-term financial sustainability of the Pension Fund and discharge of its pensions and social services liabilities, the Pension Fund Board shall be bound to submit proposals to the Cabinet of Ministers of Ukraine as to sources of funds to refill and balance the Pension Fund budget.

ARTICLE 76. PENSION FUND ACCOUNTING

1. Executive bodies of the Pension Fund shall carry out accounting of Pension Fund revenues and expenditures.
2. Pension Fund money shall be recorded on single account of the Pension Fund and kept on separate accounts of its territorial offices with the authorized bank.

ARTICLE 77. ACTUARIAL CALCULATIONS. ACTUARIES

1. The Pension Fund Executive Directorate shall ensure annual actuarial calculation of the financial status of the mandatory state pension insurance system for next one, five and ten years, and every fifth year, for next 75 years.
2. Actuarial calculations shall be carried out according to techniques approved by the Cabinet of Ministers of Ukraine.
3. Results of actuarial calculations shall be executed in a form of report drawn up and signed by the actuaries who performed the calculations. The said report shall contain data, methods and assumptions used in the calculations, as well as conclusions regarding the financial status of the mandatory state pension insurance system and recommended measures to be taken to secure the system's financial sustainability.

Within ten days of the signing, the report shall be sent to the Pension Fund Board, the Supervisory Council and the Cabinet of Ministers of Ukraine, subject to provisions of Article 22 herein.

4. The actuaries may be individuals meeting the requirements of a Regulations on the Actuarial Unit as approved by the Pension Fund Board. When additional actuarial calculations are necessary, the Pension Fund Executive Directorate may involve appropriate specialists and experts whose fees shall be subject to approval by the Pension Fund Board.

SECTION X.

ENTITIES OF THE ACCUMULATION PENSION INSURANCE SYSTEM

ARTICLE 78. THE ACCUMULATION FUND

1. The Pension Fund shall found the Accumulation Fund as a special-purpose off-budget fund.
2. The Pension Fund Executive Directorate shall administer the Accumulation Fund.
3. The asset management companies shall manage pension assets of the Accumulation Fund.
4. The Pension Fund Executive Directorate shall open accounts of the Accumulation Fund with the custodian.
5. Any insured individual who pays insurance contributions (or for whom such contributions are paid) to the Accumulation Fund shall have right to diverting these contributions to any non-state pension fund. To this effect, the insured individual shall submit to territorial office of the Pension Fund the following documents:
 - 1) Statement of selecting a non-state pension fund;
 - 2) Filled-out form, as established by the Pension Fund Board, with information on the selected non-state pension fund; and
 - 3) Copy of the pension contract concluded by the individual with the non-state pension fund.
6. Relations associated with the insurance contributions passed to the selected non-state pension fund, subsequent investment of pension assets of the insured individual and payment of a life annuity or a lump sum shall be governed by legislation on non-state pensions.

ARTICLE 79. REVENUE SOURCES OF AND USE OF ASSETS OF THE ACCUMULATION FUND

1. Revenue sources of the Accumulation Fund shall include:
 - 1) Contributions of insured individuals that are channeled to the Accumulation Fund;
 - 2) Return on placement and investment of Accumulation Fund assets subject to a procedure prescribed by law; and
 - 3) Financial sanctions applied under this Law and other laws against legal entities and individuals for violation of charging, calculation and payment procedures for contributions to the Accumulation Fund and misuse of its assets, as well as administrative sanctions applied under law against officers and individuals for the said violations.
2. Investment return credited to the accumulation pension accounts of insured individuals shall be defined as a difference between the aggregate return on investment of pension assets and the administration costs associated with management of the assets.
3. The aggregate investment return shall be formed from:
 - 1) Return on investment of pension assets in securities;
 - 2) Interest on pension assets placed on bank deposit accounts; and
 - 3) Return on other statutory investments.
4. The State Commission for Securities and Stock Market on negotiation with the State Commission for Regulation of Financial Services Markets of Ukraine and the Ministry of Finances of Ukraine shall define formation and calculation procedures for investment return.

Investment return from operations with pension assets shall not be included in income of the asset management companies.

5. Assets of the Accumulation Fund shall be use for the following purposes:

- 1) To invest for return in favor of insured individuals;
- 2) To buy life annuity contracts or pay lump sums;
- 3) To pay for services of asset management companies;
- 4) To pay for services of the Pension Fund Executive Directorate associated with administration of the Accumulation Fund, including conduct of tenders, according to a procedure and in amounts as established by the Accumulation Fund Board;
- 5) To pay for services of the investment adviser(s);
- 6) To pay for services of the custodian; and
- 7) To pay for auditing services associated with scheduled audit.

Use of Accumulation Fund assets to ensure payment of pensions and provision of social services from the solidarity system and for purposes not specified in this Law shall be prohibited.

6. Insured individuals who paid contributions to the Accumulation Fund shall be the owners of its assets. Every such individual shall own a share of the Accumulation Fund assets as credited to his/her accumulation pension account.

7. Executive bodies of the Pension Fund shall carry out accounting of the Accumulation Fund assets.

ARTICLE 80. PENSION ASSETS OF THE ACCUMULATION FUND

1. Pension Assets shall comprise:

- 1) Cash;
- 2) Securities; and
- 3) Other legal assets.

2. The pension assets in cash shall comprise:

- 1) Insurance contributions transferred to the Accumulation Fund;
- 2) Money placed on bank deposit accounts, as proved by proper registered savings certificates issued by banks to the Accumulation Fund, and interest on such accounts; and
- 3) Return on investment in securities.

3. The pension assets in securities shall comprise:

- 1) Securities whereof redemption and interest are duly guaranteed by the Cabinet of Ministers of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, and city Radas;
- 2) Shares and bonds of Ukrainian issuers duly traded on organized stock markets in Ukraine (except for securities duly offered for subscription) and listed on stock markets or in automated quotation systems duly registered;
- 3) Securities whereof redemption and interest are guaranteed by foreign governments having a debt rating of A or higher according to the rating agencies specified in Point 4 below;
- 4) Bonds of foreign issuers having an investment rating of A or higher according to the rating agencies Standard and Poor's, Moody's or Fitch; and

- 5) Shares of foreign issuers traded on organized stock markets and listed on any of the following stock exchanges: New-York, London, Tokyo and Frankfurt am Main, or in the NASDAQ system. The Cabinet of Ministers of Ukraine may identify foreign stock exchanges and automated quotation systems in addition to those specified herein. Any issuer of such shares shall be required to have been in the business for 10 years or longer, and be a resident of a country having a debt rating of A or higher according to the rating agencies specified in Point 4 above.

The Accumulation Fund may invest in the assets specified in Item 1.3) above, taking into account the profitability and safety of such investments, in case of necessity to provide investment support to the national economy, development of its priority sectors, introduction and development of modern technologies, creation of new jobs, and implementation of investment projects, including those implemented under the auspices of the state. In this case, the Cabinet of Ministers of Ukraine shall envisage measures to protect such investments and ensure repayment, including proper state guaranties.

The Accumulation Fund may invest in the assets specified in Points 4 and 5 of this Item provided that foreign investment of the Accumulation Fund will not have an adverse impact on the balance of payments of Ukraine, its exchange reserves, and the stability of its currency. The Accumulation Fund Board shall decide on possibility of foreign investment of the Accumulation Fund only if there is a positive decision thereon taken by the Council for National Security and Defense of Ukraine.

4. The pension assets in securities may not include:

- 1) Securities issued by the custodian, the asset management companies, the investment adviser, the auditor, and providers of consulting services under contracts with the Pension Fund Executive Directorate, and their affiliated entities;
- 2) Securities not listed on a stock exchange or in an automated quotation system duly registered;
- 3) Securities issued by mutual funds;
- 4) Promissory notes and bills of exchange; and
- 5) Derivatives.

5. The pension assets cannot be made up of funds received on grounds inconsistent with legislation.

6. The pension assets may not be pledged, and shall be only used for the purposes specified in Article 79 herein. The pension assets shall not be subject to recourse under liabilities of any asset management company, the custodian, any insurance organization, and the Pension Fund.

7. The amount of pension assets belonging to an insured individual shall be calculated based on the number of pension asset units recorded on his/her accumulation pension account and the net unit value of pension assets.

In case of buying or selling securities, such calculations shall be based on the net value of pension assets on close as of the date of the transactions.

The custodian together with the Pension Fund Executive Directorate and the asset management company shall calculate the net value of pension assets according to techniques and procedure as defined by the State Commission for Securities and Stock Market on negotiation with the State Commission for Regulation of Financial Services Markets of Ukraine and the National Bank of Ukraine.

The Pension Fund Executive Directorate shall distribute investment return among the accumulation pension accounts of insured individuals and carry out accounting of such return on these accounts according to investment results based on the net value of pension assets calculated.

The custodian shall provide information on the flow of assets on the accumulation pension accounts subject to a procedure approved by the Cabinet of Ministers of Ukraine.

8. Crediting, accounting, investment and management procedures for assets of the Accumulation Fund shall be defined under this Law.

9. No pension assets may be included in an asset management company's or the custodian's estate in case of their bankruptcy.

10. The pension assets shall be subject to neither fine nor confiscation.

ARTICLE 81. THE ACCUMULATION FUND BOARD

1. The Accumulation Fund Board shall be formed to exercise the powers specified in Article 82 herein.

2. The Accumulation Fund Board shall be composed of 14 members proportionally appointed by the President of Ukraine and the Supreme Rada.

The President of Ukraine by way of decree shall appoint seven Accumulation Fund Board members including one representative from the central labor and social policy authority, the central finance authority, the central economy and European integration authority, the State Commission for Regulation of Financial Services Markets of Ukraine, the State Commission for Securities and Stock Market, the Council for National Security and Defense of Ukraine, and the Pension Fund each.

The Supreme Rada by way of resolution shall appoint seven Accumulation Fund Board members including one representative from insured individuals, employers, and the National Bank of Ukraine each.

3. A member of the Accumulation Fund Board shall be an individual with higher education in economics, finances or law who has a service experience in a legislative body, or a managerial experience in central executive authorities, financial institutions or trade unions, or a scientific experience in the fields of finances, economics or law.

4. Accumulation Fund Board members shall exercise their powers on an honorary basis.

Accumulation Fund Board members shall be reimbursed from the Accumulation Fund for actual expenses born due to the exercise of their powers pursuant to the Standing Order of the Accumulation Fund Board within expenditures approved for these purposes.

Accumulation Fund Board members shall be prohibited from disclosure of information considered confidential under this Law and legislation on information.

5. The term of Accumulation Fund Board members shall be six years.

Appointment of a new Board shall take place not later than three months before the term of preceding Board expires.

6. The Accumulation Fund Board at its first meeting shall elect from among its members the Board Chairperson and Deputy Chairperson for the term of their Board membership in open vote by a simple majority of the members present at the meeting. Every Board member shall have one vote.

7. The Chairperson of the Accumulation Fund Board shall:

- Organize and chair Board meetings;
- Convene extraordinary Board meetings on own initiative or a written request of more than one-third of Board members; and
- Exercise other powers pursuant to the Standing Order of the Accumulation Fund Board.

The Deputy Chairperson of the Accumulation Fund Board shall pursuant to the Standing Order of the Accumulation Fund Board act the Chairperson in case of temporary absence of the latter.

The Chairperson or Deputy Chairperson of the Accumulation Fund Board shall be replaced and new Chairperson or Deputy Chairperson shall be elected, subject to the procedure in Item 6 above, in the following cases:

- Expiry of their term;
- Their own will to quit – based on application in writing; and
- Systematic nonperformance or improper performance of their duties.

8. The powers of Accumulation Fund Board members shall expire with expiry of their term.

The powers of any member of the Accumulation Fund Board shall be terminated before expiry of term in the following cases:

- The member has filed resignation;
- Official powers of the member has terminated;
- Termination on an initiative of the President of Ukraine;
- Termination on an initiative of the Supreme Rada;
- The member systematically fails to perform or performs improperly his/her duties;
- The member has been sentenced in final judgment;
- The member has been adjudged not meeting the requirements of Item 3 above;
- The member has missed more than three successive meetings of the Accumulation Fund Board;
- The member has ceased being a Ukrainian citizen or left for permanent residence abroad;
- The member has been duly declared legally incapable, missing or deceased; and
- Death.

9. Accumulation Fund Board members shall be removed by a decree of the President of Ukraine or a resolution of the Supreme Rada, respectively.

10. The Accumulation Fund Board shall operate on the grounds of this Law and the Standing Order of the Accumulation Fund Board.

ARTICLE 82. POWERS OF THE ACCUMULATION FUND BOARD

1. The exclusive powers of the Accumulation Fund Board shall include:

- 1) Appointment, based on tender results, of the asset management companies, custodian and auditor of the Accumulation Fund;
- 2) Approval of tender terms and conditions and Request for Proposals to select the asset management companies, custodian and auditor of the Accumulation Fund;
- 3) Decision on whether and how to contract an investment adviser, and approval of the contract terms and conditions;
- 4) Hearing and approval of annual performance reports of the asset management companies, custodian and investment adviser;
- 5) Approval of the Investment Policies and the Investment Standards for assets of the Accumulation Fund, and approval of amendments thereto;

- 6) Decision on early tenders to select the asset management companies and custodian;
 - 7) Approval of logistics support budget for the Accumulation Fund Board, fee payable to the Pension Fund Executive Directorate for administration of the Accumulation Fund, and percentage of insurance contributions deductible toward administration costs of the Accumulation Fund;
 - 8) Hearing the report of the Pension Fund Executive Directorate on administration of the Accumulation Fund, and making recommendations and proposals to the Pension Fund Board as to improvements in the administration of the Accumulation Fund;
 - 9) Putting a suspensive veto on decisions taken by entities of the accumulation pension insurance system in violation of mandatory state insurance legislation and to the detriment of insured individuals;
 - 10) Approval of the Standing Order of the Accumulation Fund Board; and
 - 11) Approval of pension assets distribution among the asset management companies;
2. The powers of the Accumulation Fund Board shall include:
- 1) Submitting proposals to the Supervisory Council as to improvements in operation of the mandatory state pension insurance system; and
 - 2) Hearing communications of state supervisory and regulatory authorities on results of law compliance audits of state mandatory state pension insurance entities, and auditor's reports.

The Accumulation Fund Board shall exercise other powers vested in it by this Law.

In case of putting a suspensive veto on a decision of an accumulation pension insurance entity, the Accumulation Fund Board shall indicate the violations and set a deadline for their elimination. If the entity fails to eliminate the violations before the deadline, the Accumulation Fund Board shall cancel this decision.

ARTICLE 83. MEETINGS OF THE ACCUMULATION FUND BOARD

1. The Accumulation Fund Board shall hold its regular meetings at least once per quarter. The Chairperson of the Accumulation Fund Board shall appoint the day of meeting.

Extraordinary meetings of the Accumulation Fund Board shall be convened by a decision of the Chairperson or a written request of more than two-thirds of Accumulation Fund Board members.

Invited to Accumulation Fund Board meetings may be the heads of central executive authorities, representatives of accumulation pension insurance system entities, scientists and experts. The Chairperson of the Pension Fund Board and the Director of the Pension Fund Executive Directorate may attend meetings of the Accumulation Fund Board.

2. Meetings of the Accumulation Fund Board shall have a quorum when ten its members are present. Decisions of the Accumulation Fund Board shall be taken by a simple majority of votes. In case of a tie, the Board Chairperson shall have the casting vote.

3. The Chairperson, and in case of his/her absence, the Deputy Chairperson, of the Accumulation Fund Board shall chair its meetings according to a procedure as set by the Standing Order of the Accumulation Fund Board. The Accumulation Fund Board at its meeting shall elect a secretary who will be responsible for taking minutes of the meeting. Recorded in the minutes must be agenda of the meeting, speakers on the agenda, and decisions taken.

4. Decisions taken by the Accumulation Fund Board within its terms of reference shall be binding to the Pension Fund Board, Pension Fund Executive Directorate, asset management companies, custodian, investment adviser, insurers, and insured individuals.

Decisions taken by the Accumulation Fund Board shall be subject to publication according to a procedure as established by the Accumulation Fund Board pursuant to requirements of this Law.

5. Any decision of the Accumulation Fund Board shall be signed by its Chairperson and all its members present at the meeting. A copy of the decision within three days shall be provided to the Supervisory Board for familiarization and to the Pension Fund Executive Directorate, asset management companies, custodian and investment adviser for execution.

6. The Pension Fund Executive Directorate shall be responsible for organizing and logistics support of operation of the Accumulation Fund Board at the expense of the Accumulation Fund within a budget approved by the Accumulation Fund Board for respective year.

ARTICLE 84. INVESTMENT ADVISER

1. The investment adviser may be a legal entity (whether resident or nonresident) specialized in investment, as well as an individual with adequate professional training and experience. Requirements to the investment adviser(s) shall be set and approved by the Accumulation Fund Board.

2. In case the Accumulation Fund Board takes a decision to contract investment adviser(s), the Pension Fund shall enter into a contract with investment adviser(s) based on terms and conditions defined by the Accumulation Fund Board. The contract shall be subject to provisions of Article 95 herein.

3. The investment adviser may be contracted for the purposes as follows:

- 1) To collect and analyze current Ukrainian and foreign market information on the investment and economic conditions that are associated with, or may have an impact on, the Accumulation Fund investment efficiency in order to improve the Accumulation Fund investment profitability;
- 2) To provide consultations and advices to the Pension Fund when it drafts the Investment Policies and the Investment Standards for assets of Accumulation Fund;
- 3) To provide consultations and advices to the Pension Fund when it develops tender conditions to select asset management companies, and provide technical support to such tenders in conjunction with the Pension Fund Executive Directorate;
- 4) To analyze, on a monthly basis, performance of the asset management companies and custodian, and submit written reports on results of such analyses to the Accumulation Fund Board; and
- 5) To provide well-founded proposals to the Accumulation Fund Board as to drafting and amending the Investment Policies and the Investment Standards of the Accumulation Fund.

4. In order to exercise the above powers, the investment adviser shall have right to receiving necessary information from the Pension Fund, asset management companies and custodian, as well as non-confidential statistical information from central executive authorities.

5. The investment adviser may not be a founder (owner) or an affiliated entity of the custodian, asset management company or auditor of the Accumulation Fund and their affiliated entities.

6. The investment adviser's fee shall be stipulated in the contract entered into with the Pension Fund as a fixed amount, and it may not be set as a percentage of insurance contributions to, or pension assets of, the Pension Fund.

ARTICLE 85. ASSET MANAGEMENT COMPANIES

1. The pension assets shall be managed by the asset management companies selected by the Accumulation Fund Board, based on a tender, and contracted by the Pension Fund subject to provisions of Article 95 herein.
2. The asset management companies shall be contracted for five years with a possibility of extension by up to two years by way of annual renewal based on a decision of the Accumulation Fund Board.
3. In case of an asset management company selected through a tender that is a foreign legal entity, such company in order to exercise the powers defined in the tender Request for Proposals shall be bound within two months after the tender to found a legal entity under Ukrainian legislation with an authorized capital completely paid up by the company. The legal entity thus founded shall be bound to get a license from the State Commission for Securities and Stock Market to carry out professional asset management activities for pension assets and comply with all asset management conditions envisaged by legislation. The legal entity within one months of obtaining the license shall be bound to enter into a contract with the foreign legal entity and the Pension Fund, such contract providing for joint responsibility of this legal entity and its founder.
4. The asset management companies shall be selected from among companies meeting the following requirements:
 - 1) Have at least a five-year asset management experience at Ukrainian and/or foreign financial markets whereof list shall be provided in the tender Request for Proposals;
 - 2) Simultaneously managed assets at a total amount as specified in the tender Request for Proposals;
 - 3) Maintain an equity capital, as defined by Ukrainian legislation, at an amount equivalent to €1 million according to the official exchange rate of the National Bank of Ukraine as of the date of application for license; and
 - 4) Meet requirements of the State Commission for Securities and Stock Market for the skill level and experience of the staff immediately performing the functions specified in the tender Request for Proposals.
5. The asset management company may not be a founder (owner) or an affiliated entity of the investment adviser, custodian or auditor of the Accumulation Fund and their affiliated entities.
6. An asset management company that is a foreign legal entity shall only participate in the tender if it was founded and registered in a country whereof legislation provides for state supervision over asset management companies.

ARTICLE 86. POWERS OF THE ASSET MANAGEMENT COMPANY

1. The powers of the asset management company shall include:
 - 1) Management of the pension assets pursuant to the Investment Policies and subject to the Investment Standards of the Accumulation Fund;
 - 2) Reporting to the Accumulation Fund Board, the Pension Fund Board, the State Commission for Regulation of Financial Services Markets of Ukraine and the State Commission for Securities and Stock Market on the composition, structure and liquidity of the pension assets, and on transactions associated with management of these assets.

The State Commission for Regulation of Financial Services Markets of Ukraine on negotiation with the State Commission for Securities and Stock Market and the Pension Fund Board shall establish a form and procedure for such reporting;

- 3) Acting legally on and in behalf of the Accumulation Fund in relation to the exercise of ownership rights to securities under management of the company;
 - 4) Providing well-founded proposals to the Accumulation Fund Board as to amending the Investment Policies and the Investment Standards of the Accumulation Fund; and
 - 5) Investing the Pension Fund future deficit reserve pursuant to respective investment rules as approved, and reporting on such investments in accordance with reporting procedure and form established by the Pension Fund Board on negotiation with the State Commission for Securities and Stock Market and the State Commission for Regulation of Financial Services Markets of Ukraine.
2. The asset management company may not charge for its services in total more than 0.9 percent of the net value of pension assets under the company management during respective year.
3. In case the asset management company achieves an annual rate of investment return higher than the target envisaged in the Investment Policies for that year, the Accumulation Fund Board may decide to pay a bonus to the company at a rate of up to 3 percent of the investment return achieved by this company in that year.
4. In case the auditor or a state supervisory authority conclude that the return on investment of Accumulation Fund assets is unacceptably low (lower by more than 30 percent) as compared to market investment return indexes or the investment return of non-state pension funds, the State Commission for Regulation of Financial Services Markets of Ukraine on negotiation with the State Commission for Securities and Stock Market shall be bound to move the Accumulation Fund Board for replacement of the asset management company.
5. In case the State Commission for Securities and Stock Market cancels the asset management company's asset management license for pension assets, the Commission shall be bound to notify thereof the Accumulation Fund Board in writing on the day of such cancellation.

ARTICLE 87. TERMINATION OF POWERS OF THE ASSET MANAGEMENT COMPANY

1. The Accumulation Fund Board on an initiative of the Pension Fund, custodian or authorities exercising supervision in the sphere of the mandatory state pension insurance shall terminate the powers of the asset management company in the following cases:

- 1) Violation of the contract with the Pension Fund;
- 2) Violation of the Investment Policies and the Investment Standards of the Accumulation Fund;
- 3) Actions or omission of the asset management company that caused a reduction in Accumulation Fund assets at the end of budget year by an amount that exceeds a percentage of total assets of the Accumulation Fund specified in the contract, unless such reduction was due to objective changes at the financial market; and
- 4) Cancellation of the asset management license for pension assets;

Decision to terminate the powers of the asset management company shall be taken by a majority of the Accumulation Fund Board.

The decision of the Accumulation Fund Board to terminate the powers of the asset management company shall entail cancellation of the contract between the company and the Pension Fund. In

such case, the company shall be bound to reimburse the Accumulation Fund for the losses caused through the company's fault in accordance with legislation.

2. The Pension Fund, custodian and authorities exercising supervision in the sphere of the mandatory state pension insurance shall be bound to send a copy of their motion for termination of the powers of the asset management company to the State Commission for Regulation of Financial Services Market of Ukraine. The Commission within one working day of receiving the copy shall order the custodian to suspend fulfilling instructions of the asset management company. Such order shall be binding forthwith.

3. Any motion for, and decision of the Accumulation Fund Board on, termination of the powers of the asset management company shall be judicially appealable.

Losses inflicted by ill-founded termination of the powers of the asset management company shall be indemnified based on decision of the court and subject to procedure prescribed by law.

Civil servants who signed such motion may be brought to account for improper performance of their official duties subject to procedure prescribed by law.

ARTICLE 88. INVESTMENT RESTRICTIONS FOR THE PENSION ASSETS

1. The following shall be prohibited in management of the pension assets:

- 1) To employ leveraging or use any funds that are not money of the Accumulation Fund to form the pension assets;
- 2) To give property guaranties secured by the pension assets or any credits (loans) from the pension assets;
- 3) To carry out any mandatory redemption transactions, whether purchase/sale of barter, with the pension assets;
- 4) To keep in cash on a current account, deposit accounts and in saving certificates of banks more than 50 percent of the total pension assets, and in liabilities of one bank, more than 10 percent of the total pension assets;
- 5) To buy, or invest additionally in, securities of one issuer (except for securities issued by commercial banks whereof redemption and interest are guaranteed by the Cabinet of Ministers of Ukraine and the Council of Ministers of the Autonomous Republic of Crimea) at more than 5 percent of the total pension assets, and to keep more than 10 percent of the total pension assets in securities of one issuer;
- 6) To buy, or invest additionally in, securities whereof redemption and interest are guaranteed by the Cabinet of Ministers of Ukraine and the Council of Ministers of the Autonomous Republic of Crimea at more than 50 percent of the total pension assets;
- 7) To buy, or invest additionally in, municipal bonds at more than 10 percent of the total pension assets;
- 8) To buy, or invest additionally in, corporate bonds issued by residents of Ukraine at more than 20 percent of the total pension assets;
- 9) To buy, or invest additionally in, shares of Ukrainian issuers at more than 40 percent of the total pension assets;
- 10) To buy, or invest additionally in, securities whereof redemption and interest are guaranteed by foreign governments at more than 20 percent of the total pension assets;

- 11) To buy, or invest additionally in, shares and bonds of foreign issuers listed on organized stock markets of foreign countries at more than 20 percent of the total pension assets;
- 12) To buy, or invest additionally in, other assets not prohibited by Ukrainian legislation but not specified herein at more than 5 percent of the total pension assets;
- 13) To buy, or invest additionally in, securities whereof redemption and interest are guaranteed by the government of one foreign state at more than 10 percent of the total pension assets;
- 14) To buy securities issued by affiliated entities of the Accumulation Fund, the asset management company, the custodian and the investment adviser;
- 15) To use own funds of the asset management company in transactions with securities that are the pension assets;
- 16) To alienate the pension assets free of charge;
- 17) To use the pension assets as collateral under liabilities not associated with operation of the Accumulation Fund;
- 18) To alienate property owned by the asset management company for its inclusion in the pension assets; and
- 19) To acquire ownership of real estate and any other assets that constitute the pension assets.

2. Money of the Accumulation Fund placed on deposit accounts with commercial banks may not be placed with less than three commercial banks. Amounts of money thus placed may not vary from account to account by more than 10 percent.

3. Securities shall be bought or sold in compliance with the requirements of this Law and other laws only by way of competitive bidding at the organized securities market of Ukraine, on a stock exchange or through an automated quotation system duly registered.

ARTICLE 89. REQUIREMENTS TO THE INVESTMENT POLICIES AND THE INVESTMENT STANDARDS OF THE ACCUMULATION FUND

1. The Accumulation Fund Board shall annually approve the Investment Policies and the Investment Standards for assets of the Accumulation Fund not later than January 1 of the year for which these will be effective.

The Accumulation Fund Board may review the Investment Policies and the Investment Standards in the course of the year.

Draft Investment Policies and Investment Standards shall be submitted to the Accumulation Fund Board by the Pension Fund Executive Directorate on negotiation with the Ministry of Economy and European Integration of Ukraine, the State Commission for Regulation of Financial Services Markets of Ukraine, the State Commission for Securities and Stock Market, and the National Bank of Ukraine.

2. The draft Investment Policies and Investment Standards shall be submitted to the Accumulation Fund Board not later than October 1 of the year preceding the year for which these will be effective. The Accumulation Fund Board may take a decision to involve the investment adviser(s) and asset management companies in the drafting of the Investment Policies and the Investment Standards.

3. The Investment Policies shall contain main investment guidelines and restrictions as defined by this Law for Accumulation Fund assets, and specify administration costs and expenditures on purchase of life annuity contracts or payment of lump sums, and rates of investment return in respective year. The Investment Policies shall be binding to the Pension Fund, the asset management companies, and the custodian.

4. The Investment Policies shall be subject to publication.

5. The Investment Standards of the Accumulation Fund shall define annual proportions of investments in every type of assets pursuant to requirements of the Investment Policies, and shall contain an investment strategy of the Accumulation Fund and investment selection criteria with regards to ratings of specific investments. The Investment Standards contents may not be inconsistent with provisions of the Investment Policies and this Law.

The Investment Standards of the Accumulation Fund shall be a confidential document. Full text of the Investment Standards shall be kept in the Pension Fund and provided to the custodian. The asset management company shall be provided an excerpt from the Investment Standards dealing with investment requirements for the pension assets under management of the company.

ARTICLE 90. TENDER PROCEDURE FOR SELECTION OF THE ASSET MANAGEMENT COMPANIES, CUSTODIAN AND AUDITOR OF THE ACCUMULATION FUND

1. Tender procedure for selection of the asset management companies, custodian and auditor of the Accumulation Fund shall be defined by the Tender Conditions.

2. The Tender Conditions shall contain:

- 1) Contents and publication procedure for the tender announcement;
- 2) Time and procedure for preparation of, and main requirements to, the Request for Proposals, and information on persons responsible for preparation thereof;
- 3) List of tender documentation, and procedure for its execution, submission, registration and consideration;
- 4) Tender dates and procedure, and information on persons responsible for the tender;
- 5) Requirements to persons eligible for tendering (requirements to bidders);
- 6) Scoring procedure for Tender Proposals;
- 7) Procedure for determination of tender winner;
- 8) Publication procedure for the tender results; and
- 9) Contracting procedure based on the tender results.

The Accumulation Fund Board shall approve the Tender Conditions not later than one calendar month before the tender announcement date. The Tender Conditions shall be subject to publication in accordance with a procedure set by the Accumulation Fund Board, including publication in at least two international financial periodicals.

3. The Accumulation Fund Board shall take decisions on carrying out tenders on the following dates:

- 1) First tender to select the asset management companies and custodian, not later than six months before implementation of insurance contributions to the Accumulation Fund;
- 2) First tender to select the auditor of the Accumulation Fund, on completion of the first year of Accumulation Fund operation;
- 3) Next tenders to select the asset management companies, custodian and auditor, not later than six months before expiry of respective contracts, and in the event such contract is terminated before its expiry in cases specified herein, within one month of termination;

- 4) Tender to select the asset management companies, custodian and auditor if the last tender winner(s) failed to enter into respective contract within one month, within one month of the said deadline;
- 5) Tender to select the asset management companies, custodian and auditor if the last tender had no winner, or the first tender stage had less than three bidders, simultaneously with determining the results of respective tender stage; and
- 6) Tender to select the asset management companies, custodian and auditor in case the tender results were adjudged void, within one months of the effective date of the judgment.

4. Any decision to carry out a tender shall contain:

- 1) Date of the first tender stage, which may not be earlier than two calendar months of the decision date;
- 2) Procedure and deadline for submission of tender documentation, which may not be later than ten days before the tender date;
- 3) Requirements to persons eligible for tendering (bidders) set in compliance with this Law;
- 4) Request for Proposals and a list of tender documentation that the bidders have to submit to take part in the tender;
- 5) Address where the tender documentation will be received;
- 6) Tender venue and time;
- 7) Tendering fee; and
- 8) Tender Conditions, and criteria and procedure for determination of tender winner.

The decision to carry out a tender shall be subject to publication within five working days of the decision date.

The tender date, time and venue specified in the tender announcement may not be changed.

ARTICLE 91. REQUEST FOR PROPOSALS

1. The Accumulation Fund Board shall approve the Request for Proposals in compliance with the Tender Conditions simultaneously with taking the decision to carry out the tender. The Request for Proposals shall contain:

- 1) Detailed requirements to bidders;
- 2) A list and contents of services that the tender winner(s) is/are expected to provide;
- 3) Conditions of provision of the services, a procedure for interaction with the Pension Fund, and requirements to organizing and logistics support of the services;
- 4) Requirements to the contract to be entered into with the tender winner;
- 5) A list of tender documentation that the bidders will have to submit to take part in the tender, and a procedure for execution of the documentation; and
- 6) Other requirements as per the Tender Conditions that are not inconsistent with this Law.

The Pension Fund Executive Directorate shall prepare the Request for Proposals.

2. The Pension Fund Executive Directorate shall be bound to send the Request for Proposals by a messenger (special) mail service to every legal entity that applied for tendering within three days of receipt of the application.

ARTICLE 92. TENDER DOCUMENTATION

1. Persons interested in tendering shall submit to the Accumulation Fund Board, before the deadline specified in the tender announcement, the following documents:

- 1) Application for tendering in a form as approved by the Accumulation Fund Board;
- 2) Duly attested letter of authority in the name of individual(s) who will represent the bidder during the tender;
- 3) Tender Proposal meeting the requirements of this Law;
- 4) Document evidencing payment of the tendering fee; and
- 5) Other documents as per the Tender Conditions and the Request for Proposals in support of information on the bidder and data in the tender proposal.

2. Bidders shall draw their Tender Proposals in compliance with the Tender Conditions and the Request for Proposals. Any Tender Proposal shall contain:

- 1) General information on the bidder;
- 2) Information on compliance with requirements of the Request for Proposals (size of the authorized capital and equity capital, information on affiliated entities, information on respective officers, etc.);
- 3) Information on operation of the bidder (activities, services provided, profitability, experience, etc.);
- 4) Information on financial status of the bidder, as well as on results of audits over last three years, any financial or other sanctions imposed, any ban on respective activity including that by way of suspension or cancellation of the license for any reason;
- 5) Information on possibilities and suggestions of the bidder as to meeting conditions of the Request for Proposals;
- 6) Basic provisions of the contract to be entered into in case the bidder wins the tender; and
- 7) Other information as per the Tender Conditions and the Request for Proposals.

Along with the tender documentation, the bidder may submit questions regarding requirements of the Request for Proposals.

3. The tender documentation shall be sent by registered mail or messenger (special) mail service, or it shall be delivered personally by a representative of the legal entity interested in tendering. The tender documentation shall be drawn in Ukrainian and submitted in sealed envelopes except for the document evidencing payment of the tendering fee.

A person authorized by the Accumulation Fund Board shall receive the envelopes with tender documentation, mark them with the date and time of arrival, and issue a receipt.

The tender documentation that arrives after the submission deadline as per the tender announcement, or such documentation submitted by a bidder who has failed to pay the tendering fee, shall not be considered.

Any bidder shall have right to recall the tender documentation by applying in writing before the submission deadline as per the tender announcement.

4. The tendering fee shall be established by the Tender Conditions in order to cover expenditures associated with the tender.

The tendering fee paid shall not be returned except when the tender documentation is recalled subject to the procedure herein.

5. Where it is not inconsistent with this Law, any bidder may participate in more than one tender.
6. The tender documentation shall be official documents. The Accumulation Fund Board shall verify the information therein. In case of wrong information, the person who provided it shall be brought to account according to law, and shall lose their right to tendering.
7. Information in the tender documentation shall be used in compliance with legislation on information.
8. The Pension Fund shall store the tender documentation for ten years of announcing the tender results, and as for the tender winner, for the duration of the contract with the winner and ten years after expiry or termination of the contract.

ARTICLE 93. TENDER

1. Any tender to select the asset management companies, custodian and auditor of the Accumulation Fund shall be carried out in two stages.

The first tender stage shall have at least three bidders.

2. At the first tender stage, on the day set in the tender announcement, the Accumulation Fund Board shall hold an open meeting where the following shall be done:

- 1) Envelopes with the tender documentation shall be opened in the order of their registration, and the chairperson shall sign and mark with a stamp of the Accumulation Fund Board all sheets of documents found in the envelopes;
- 2) Tender Proposals shall be announced;
- 3) The tender documentation shall be checked for compliance with requirements of this Law, the Tender Conditions, and the Request for Proposals;
- 4) Copies of the tender documentation shall be given to all members of the Accumulation Fund Board;
- 5) One copy of each Tender Proposal submitted shall be sealed up in a control parcel, which shall be signed by all the Accumulation Fund Board members present and committed to a person authorized by the Accumulation Fund Board for storage; and
- 6) The date, time and venue of announcing results of the first tender stage shall be announced.

3. To announce the results of the first tender stage, the Accumulation Fund Board within one calendar month of opening the envelopes with tender documentation shall hold an open meeting where the following shall be done:

- 1) Reasoned conclusions of Accumulation Fund Board members as to their evaluation of the tender documentation shall be heard and discussed;
- 2) Questions of bidders shall be answered, in case the Accumulation Fund Board members deem such questions essential and insufficiently covered in the Request for Proposals.

Both the questions and answers must be made known to all bidders short-listed.

- 3) Based on results of the discussion, a decision shall be taken and announced as to which bidders are short-listed.

Short-listed shall be bidders who best meet requirements of the Tender Conditions, the Request for Proposals and this Law and offered the best service quality at the lowest cost.

Where the tender documentation does not meet the Tender Conditions or the Request for Proposals, or the bidder does not meet the requirements of this Law, the Accumulation Fund Board shall take a decision to deny further participation in the tender;

- 4) Instructions, a scoring system for evaluation of the Tender Proposals and questions to bidders shall be approved for the second tender stage; and
- 5) The date, time and venue of the second tender stage shall be announced.

4. The Accumulation Fund Board shall notify in writing all bidders at the first tender stage of its results within three working days of announcing the results.

The Accumulation Fund Board shall provide bidders with notes of the results of the first tender stage within three working days of announcing the results in accordance with a procedure and in a form as defined in the Tender Conditions.

Within the same period, the short-listed bidders shall be provided with the instructions and questions for the second tender stage.

The short-listed bidders who have received the questions or instructions shall be bound to submit to the Accumulation Fund Board answers to the questions in writing and additional information on their Tender Proposals as per the instructions within ten working days of receiving the instructions and questions. The answers and information provided shall be forwarded to members of the Accumulation Fund Board within three working days of receipt.

5. At the second tender stage, within one calendar month of announcing the results of the first tender stage, the Accumulation Fund Board shall hold an open meeting where the following shall be done:

- 1) Comments of bidders on their Tender Proposals shall be heard;
- 2) Reasoned conclusions of Accumulation Fund Board members as to the Tender Proposals shall be heard;
- 3) The Tender Proposals shall be evaluated using the scoring systems, the winner(s) shall be determined, and the results of the second tender stage shall be announced;
- 4) The basic provisions of the contract with the tender winner shall be approved; and
- 5) In case no winner is determined at the second tender stage, a decision shall be taken to carry out a new tender.

Any short-listed bidder who failed to provide written answers to the questions or additional information envisaged by the instructions approved on announcement of the first tender stage results, or whose representative failed to show up at the second tender stage, shall be considered to drop out from further participation in the tender at own will.

6. The Accumulation Fund Board shall provide bidders at the first and second tender stages with a record kept during the Board meetings within three working days of respective meeting.

7. Within three working days of announcement of the second tender stage results, the Accumulation Fund Board shall provide the second-stage bidders with written information on the results, and shall provide the tender winner with a certificate that is the ground for the contract with the winner.

The results of the second tender stage shall be subject to official publication within ten calendar days of announcing the results.

8. Bidders at the first and second tender stages may appeal judicially against the results of these stages. Any such appeal filed, however, shall not suspend the effect of decisions taken by the

Accumulation Fund Board to carry out the second tender stage or to enter into contract with the tender winner(s).

The Pension Fund Executive Directorate shall provide organizing and logistics support to tenders.

ARTICLE 94. DETERMINATION OF THE TENDER WINNER

1. The tender winner(s) shall be the bidder(s) at the second tender stage whose Tender Proposal gets the highest score based on the following criteria of the scoring system approved by the Accumulation Fund Board:

- 1) Whether the bidder meets requirements of this Law, the Tender Conditions and the Request for Proposals;
- 2) Whether the bidder carries out activities in compliance with legislation and financial and economic standards, and whether there have been respective violations, sanctions for such violations, any claims or lawsuits against the bidder, any unsettled disputes, or any complaints against the bidder concerning the bidder's actions and quality of services provided;
- 3) Financial status of the bidder including the size of equity capital, whether there are payables and receivables, whether the bidder is solvent, able to guaranty with own funds liabilities under the contract and indemnify losses inflicted by violation thereof in case the bidder is called the tender winner, basic financial end economic performance indicators, profitability of the bidder's activities, and the leverage ratio;
- 4) Business standing of the bidder, services provided, experience in provision of these services, service customers, quality of the services, and whether the service provision technologies conform to up-to-date standards;
- 5) Characteristic of the bidder's organizational structure and facilities, possibilities for adequate provision of respective services, and business standing, educational background and experience of the bidder's staff responsible for provision of respective services;
- 6) Capacity of the bidder to ensure required interaction with the Pension Fund and other accumulation pension insurance system entities, which is necessary in the process of service provision, specifically whether such interaction will be prompt and based on adequate hardware and software, including those for exchange of information;
- 7) Chances of risks in service provision by the bidder;
- 8) Whether the best quality services will be provided at lowest cost; and
- 9) Other criteria as per the Tender Conditions and the Request for Proposals.

2. In case of only one bidder at the second tender stage, the Accumulation Fund Board may call such bidder the winner if the Tender Proposal of the bidder got the highest scores for all criteria set by the Tender Conditions and the Request for Proposals.

3. When approving the scoring system for the Tender Proposals, the Accumulation Fund Board shall set a minimum sum of scores and a minimum score for each criterion in the scoring system that allow for calling a bidder the winner.

In case no Tender Proposal reaches the minimum sum of scores or the minimum score for each criterion, there shall be no tender winner.

4. The Pension Fund shall enter into a contract with the tender winner pursuant to requirements of this Law.

ARTICLE 95. REQUIREMENTS TO CONTRACTS

1. Based on the tender results, the Pension Fund within one month of announcing the results shall enter into written contracts with the asset management companies, custodian and auditor of the Accumulation Fund.

2. The essence of such contracts shall include:

- Full name and location (legal address) of the contracting parties;
- General scope of the contract;
- Rights and obligations of the parties;
- Confidentiality clause;
- Reporting and information procedures in compliance with this Law;
- Responsibility of the parties for nonperformance or improper performance of the contract and breach of confidentiality;
- Validity of the contract;
- Fee;
- Contract modification procedure; and
- Termination clause.

By agreement of the parties, the contract may also contain other terms and conditions that are not inconsistent with law.

3. Any contract with the asset management company shall also specify:

- Company obligations as to investment of the pension assets in order to achieve a maximum return at minimum risks in compliance with the Investment Policies and the Investment Standards of the Accumulation Fund; and
- Requirement that accounting and financial reporting be in compliance with the National Accounting Standards,

Attached to the contract as its integral part shall be the Investment Policies, an excerpt from the Investment Standards dealing with investment requirements for the pension assets under management of the company, and a deed of transfer of pension assets formed as of the contract date for the assets that will be placed under management of the company, such deed being attested by the Pension Fund, the custodian and the last asset management company.

4. Any contract with the custodian shall also specify:

- Persons defined by the custodian as responsible for performance of the contract; and
- Volumes of pension assets and conditions of their distribution among the asset management companies.

Attached to the contract as its integral part shall be the Investment Policies and the Investment Standards of the Accumulation Fund, information on the asset management companies, and copies of the Pension Fund contracts with these companies.

ARTICLE 96. PUBLICIZING PROCEDURE FOR INFORMATION ON THE PENSION ASSETS

1. The Pension Fund Executive Directorate shall publicize information on the pension assets by the following ways:

- 1) Obligatory quarterly official publication;
 - 2) Publicizing through the electronic media; and
 - 3) Reporting to the State Commission for Regulation of Financial Services Markets of Ukraine pursuant to this Law.
2. Operation of the Accumulation Fund shall be officially publicized within one month of the end of reporting period.
3. Reporting to the State Commission for Regulation of Financial Services Markets of Ukraine shall be submitted according to a procedure, within a time and in a form as set by the Commission.
4. The information subject to publicizing under this Article shall not be confidential.

ARTICLE 97. INFORMATION ON THE ACCUMULATION FUND SUBJECT TO ANNUAL OFFICIAL PUBLICATION

1. The Pension Fund Executive Directorate shall prepare information on the Accumulation Fund, which is subject to annual official publication, in a form as defined by the State Commission for Regulation of Financial Services Markets of Ukraine. Such information shall contain the following:
- 1) Composition of the Accumulation Fund Board;
 - 2) Investment adviser(s);
 - 3) Asset management companies;
 - 4) Custodian;
 - 5) Auditor;
 - 6) Fees paid to the Pension Fund Executive Directorate, asset management companies, custodian, investment adviser and auditor for services provided to the Accumulation Fund in reporting year;
 - 7) Annual profits and losses associated with investment of the pension assets;
 - 8) Statement of the book value, net value and net unit value of pension assets as of the end of reporting year;
 - 9) Conditions and volumes of placing the pension assets on bank deposit accounts;
 - 10) List of investments that account for 1 percent of the pension assets in securities;
 - 11) List of issuers in which the Accumulation Fund has an interest of more than 5 percent of authorized capital;
 - 12) Volume of Accumulation Fund investments in the assets specified in Article 88.1.11) herein;
 - 13) Results of audits of the Pension Fund as concern administration of the Accumulation Fund, the Asset management companies, the custodian, and the investment adviser;
 - 14) Number of insured individuals who diverted their insurance contributions to non-state pension funds during the year, and the amount transferred to these funds; and
 - 15) Other information on operation of the Accumulation Fund as defined by the State Commission for Regulation of Financial Services Markets of Ukraine.

ARTICLE 98. PROVISION OF INFORMATION ON PENSION ASSETS TO INSURED INDIVIDUALS

1. Information on the status of pension assets on an insured individual's accumulation pension account shall be confidential and not subject to disclosure except as established by law.
2. The Pension Fund Executive Directorate before February 15 of year following the reporting year shall be bound to provide free of charge every insured individual with a written statement of assets on his/her accumulation pension account, specifying the net values of the assets as of the beginning and the end of the year, monthly contributions credited to the account, and the annual investment return.

The Pension Fund Executive Directorate shall also be bound to provide such information at a written request of any insured individual within five days of receipt of the request at a charge set by the Accumulation Fund Board except when such information is provided for conclusion of a life annuity contract.

**SECTION XI.
CUSTODY OF THE PENSION ASSETS OF THE ACCUMULATION FUND**

ARTICLE 99. THE CUSTODIAN

1. Based on the tender results and subject to Article 95 herein, the Pension Fund shall enter into a contract with the custodian for a period of five year. The contract shall be subject to approval by the Accumulation Fund Board and the supervisory council of the custodian.

The Accumulation Fund Board may decide to extend the contract without a tender by up to two years by way of annual renewal. In this case, any contract modification may only be a reduced cost of the services or provision of new services at a reduced or invariable cost under the contract.

2. The Accumulation Fund assets shall be served by only one custodian that must meet the following requirements:

- 1) Be licensed by the National Bank of Ukraine for all kinds of banking, and be licensed by the State Commission for Securities and Stock Market for professional depository activities of a custodian of securities;
- 2) Have a regulatory capital equivalent to not less than €40 million according to the official exchange rate of the National Bank of Ukraine;
- 3) Have officers who directly manage the departments performing in the depository activities of a custodian of securities and have respective education and at least a five-year service experience in banking or finances;
- 4) Be not the asset management company, or an affiliated entity of the asset management company or its affiliated entities;
- 5) Be not a creditor of Pension Fund bodies or asset management companies that contracted the custodian for custody of pension assets; and
- 6) Be not an affiliated entity of the Accumulation Fund auditor and of the auditor's affiliated entities.

3. The custodian shall perform the following functions:

- 1) Subject to procedures prescribed, shall open the account of the Accumulation Fund, carry out clearing and cash operations with money of the Accumulation Fund and operations on its

securities account, and ensure safe custody of Accumulation Fund revenues and securities that constitute the pension assets as well as other documents associated with formation and use of the pension assets;

- 2) Subject to procedures prescribed, shall open an account of the Pension Fund for accumulation of money in its future deficit reserve, carry out clearing and cash operations on this account, and ensure safe custody of this money;
- 3) Shall carry out operations with assets in securities formed from the Pension Fund future deficit reserve;
- 4) Shall place money of the Pension Fund future deficit reserve on deposit accounts at an interest stipulated in respective contract;
- 5) Shall carry out instructions of the Pension Fund Executive Directorate to transfer the amount recorded on an insured individual's accumulation pension account to a non-state pension fund, or to an insurance organization to purchase a life annuity contract or pay a lump sum to the insured individual or his/her heirs under this Law;
- 6) Shall carry out instructions of the Pension Fund Executive Directorate to effect transfers from the Accumulation Fund to pay for costs associated with administration of the Accumulation Fund, and to pay fees to the investment adviser, asset management companies, custodian and auditor of the Accumulation Fund;
- 7) Subject to procedures prescribed, shall submit to the Pension Fund and the Accumulation Fund Board the following:
 - Information on total amount of insurance contributions transferred to the Accumulation Fund;
 - Reporting envisaged by legislation for safe custody and use of the pension assets and the Pension Fund future deficit reserve;
 - Information on the total pension assets, its market value as of the information submission date, and total investment return in respective period; and
 - Information on transactions with the pension assets carried out by the asset management companies. Such information shall be also submitted to the State Commission for Securities and Stock Market.

The custodian shall submit information on the flow of assets on the accumulation pension accounts subject to a procedure approved by the Cabinet of Ministers of Ukraine.

- 8) Shall perform other functions under this Law and the contract with the Pension Fund.
4. The custodian may not buy the Accumulation Fund assets in securities, and may not enter into a securities dealership contract with the asset management company.
 5. The custodian may provide other banking services under legislation on banks and banking, except for services disallowed by this Law.
 6. The custodian shall submit an annual report on its operation to the Pension Fund, the Accumulation Fund Board and the Cabinet of Ministers of Ukraine, such report being subject to approval by the Supervisory Council.

ARTICLE 100. CUSTODY OF THE PENSION ASSETS IN SECURITIES

1. All transaction with the pension assets in securities shall be carried out through the custodian.

2. The custodial functions may not be combined with the functions of management of the pension assets.
3. The custodian shall be bound to ensure separate custody and separate accounting for the Accumulation Fund assets invested by each of the asset management companies and the pension assets in securities under their management.

ARTICLE 101. CUSTODIAL FEE

1. The custodial fee amount and payment procedure shall be as stipulated in the contract with the Pension Fund.
2. The annual custodial fee may not exceed 0.3 percent of total annual insurance contributions transferred to the Accumulation Fund.

ARTICLE 102. RESPONSIBILITY OF THE CUSTODIAN

1. For nonperformance of improper performance of the obligations specified in Article 99 herein, the custodian shall be liable at law and under the contract.
2. The custodian shall respond to the Pension Fund for losses inflicted on the Accumulation Fund and/or insured individuals due to nonperformance of improper performance of the contract, and shall ensure indemnification.
2. The custodian shall not be liable under Pension Fund liabilities to insured individuals and under liabilities of the asset management companies.

**SECTION XII.
STATE REGULATION AND SUPERVISION OF THE MANDATORY STATE
PENSION INSURANCE**

ARTICLE 103. STATE REGULATORY AND SUPERVISORY AUTHORITIES

1. State regulation and supervision of the mandatory state pension insurance shall have the following objectives:
 - 1) To implement a unified and effective state policy in this sphere;
 - 2) To ensure exercise by people of their rights to the mandatory state pension insurance;
 - 3) To establish conditions for efficient operation and the development of the mandatory state pension insurance system;
 - 4) To enforce laws and other normative acts that govern relations in the sphere of the mandatory state pension insurance; and
 - 5) To adapt the mandatory state pension insurance system to the international standards.
2. The following authorities shall carry on the state regulation and supervision in accordance with procedures prescribed by legislation:
 - As for compliance with this Law in granting (recalculating) and paying pensions from the solidarity system, and in interaction of the Pension Fund with other mandatory state pension insurance funds – the central labor and social policy authority;

- As for use of Pension Fund money – the central finance authority, its territorial offices and the Court of Audit;
- As for compliance with this Law of accumulation pension insurance system entities – the State Commission for Regulation of Financial Services Markets of Ukraine;
- As for operation of the asset management companies regarding the pension assets and operation of the investment adviser – the State Commission for Securities and Stock Market; and
- As for operation of the custodian and the authorized bank – the National Bank of Ukraine and the State Commission for Securities and Stock Market.

The central labor and social policy authority together with the Pension Fund shall provide explanations on issues of pension granting, recalculation and payment pursuant to this Law.

3. Any decision of the state regulatory and supervisory authorities shall be binding to the Pension Fund, asset management companies, authorized bank, custodian and insurance organizations if such decision is taken within the terms of reference of these authorities as defined by legislation. Actions of the state regulatory and supervisory authorities shall be judicially appealable.

4. If an entity of the solidarity system or the accumulation pension insurance system takes a decision in violation of mandatory state pension insurance legislation, or does not comply with legislation, the state regulatory and supervisory authorities shall point out the violations and set a deadline for rectification. If the entity fails to eliminate the violations before the deadline, the state regulatory and supervisory authorities shall cancel the unlawful decision, and the entity shall indemnify losses.

5. The state regulatory and supervisory authorities may request convocation of the Pension Fund Board or the Accumulation Fund Board. If this request is not fulfilled, the state regulatory and supervisory authorities may themselves convene and hold a meeting of the Pension Fund Board or the Accumulation Fund Board.

6. Entities of the solidarity system and the accumulation pension insurance system shall be bound to provide officers of the state regulatory and supervisory authorities with all documents and information that they need to perform the state regulatory and supervisory functions.

7. The state regulatory and supervisory authorities may initiate an additional audit of any entity of the solidarity system or the accumulation pension insurance system. The authority that initiated such audit shall bear expenses of the audit.

ARTICLE 104. MAIN TASKS OF THE STATE COMMISSION FOR REGULATION OF FINANCIAL SERVICES MARKETS OF UKRAINE CONCERNING SUPERVISION OF THE ACCUMULATION PENSION INSURANCE SYSTEM

1. To carry out the state regulation and supervision of the accumulation pension insurance system, the State Commission for Regulation of Financial Services Markets of Ukraine shall do the following:

- 1) Shall ensure the development and coordination of a unified state policy regarding operation of the accumulation pension insurance system;
- 2) Shall systematically supervise law compliance within the accumulation pension insurance system and verify information that is provided and publicized by entities of the system;
- 3) Shall ensure protection of rights of insured individuals who pay contributions to the Accumulation Fund by taking enforcement measures within its terms of reference in order to prevent or stop violations in the accumulation pension insurance system;

- 4) Shall generalize law application practices in the accumulation pension insurance system, and shall develop and make proposals on how to improve legislation;
- 5) Shall develop and approve binding normative acts on issues coming within its terms of reference, and shall supervise implementation thereof;
- 6) Shall set disclosure and reporting procedures for financial services market participants who are entities of the accumulation pension insurance system;
- 7) Shall monthly provide the Pension Fund with indexes of insurance organizations' operation, including data used in calculation of life annuities;
- 8) Shall define a form and a volume of information on operation of accumulation pension insurance entities that is subject to official publication, and shall define a periodicity of such publication; and
- 9) Shall perform other functions envisaged by this Law and legislation on financial services and state regulation of financial services markets.

SECTION XIII.

PROCEDURE FOR APPEAL AGAINST ACTIONS OF INSURANTS AND EXECUTIVE BODIES OF THE PENSION FUND

ARTICLE 105. PROCEDURE FOR APPEAL AGAINST ACTIONS OF INSURANTS AND EXECUTIVE BODIES OF THE PENSION FUND

1. Insured individuals and their family members shall have the right of appeal against actions or omission of insurers, executive bodies of the Pension Fund and their officers pursuant to legislation on appeals of citizens, as well as judicially.

Insurers shall have the right of appeal against actions or omission of executive bodies of the Pension Fund and their officers to the higher body or officer in the chain of command, as well as judicially.

2. Actions or omission of insurers or executive bodies of the Pension Fund or their officers shall be appealable where such actions or omission, or a decision taken by a Pension Fund executive body, violate or obstruct rights and lawful interests of insured individuals, or charge an insured individual or a pensioner with duties not envisaged by this Law.

SECTION XIV.

LIABILITY IN THE MANDATORY STATE PENSION INSURANCE

ARTICLE 106. LIABILITY OF INSURANTS, BANKS AND ORGANIZATIONS CARRYING OUT PENSION PAYMENT AND DELIVERY, AND THEIR OFFICERS

1. In case insurers discover that some insurance contributions were not paid in due time, they shall be bound themselves to calculate and pay such contributions including a fine whereof calculation procedure and rate are defined in this Article.

2. Insurance contributions not charged and/or paid in due time as defined by Article 20 herein, including those calculated by territorial offices of the Pension Fund in cases specified in Article

20.3 herein, shall be considered overdue insurance contributions (hereinafter referred to as arrears), and shall be exacted with fines charged and financial sanctions applied.

3. Territorial offices of the Pension Fund shall send a reminder of payment to insurants in arrears in a form and in a time as defined by the Pension Fund Board.

The reminder of payment shall be a document of execution.

Within ten working days of receipt of the reminder, the insurant shall be bound to pay the amount of the arrears and the amount of the financial sanctions.

Insurants who disagree with the calculated amount of the arrears specified in the reminder shall settle the matter in negotiation with Pension Fund bodies according to a procedure as established by the Pension Fund, and in case of a failure to come to agreement, shall have the right of appeal against the reminder judicially.

Any insurant who has appealed against the reminder of payment to the Pension Fund Executive Directorate or a court shall be bound to notify thereof in writing the Pension Fund territorial office that sent the reminder within three working days of appealing.

Settlement on the reminder of payment shall be based on an application submitted by the insurant along with documents that prove incorrectness of the calculated arrears amount specified in the reminder. The territorial office of the Pension Fund shall consider the application within three working days of receipt thereof.

In case the insurant comes to agreement with the Pension Fund territorial office on the reminder of payment, the office within the time set for consideration of the insurant's application shall be bound to send him/her the reminder agreed upon, and the insurant shall be bound to pay the agreed amount of the arrears within ten working days of receipt thereof.

In case of an insurant who received the reminder of payment but has failed to pay the amount of arrears and financial sanctions specified therein within ten working days of receipt thereof, or to agree upon the reminder with respective territorial office of the Pension Fund, or to appeal against the reminder judicially, and in case of an insurant who agreed upon the reminder but has failed to pay the arrears amount agreed upon within ten working days of receipt of the agreed reminder, the territorial office in accordance with a procedure prescribed by law shall apply and submit the reminder to respective body of the State Execution Service. In the said cases, the territorial office shall also have right to file a claim for collection of the arrears with a court of law or a court of arbitration. In case the territorial office files the claim with the court of arbitration, no procedure envisaged by law for pretrial settlement shall be applied.

4. The reminder of payment or court decision on collection of the arrears shall be executed by bodies of the State Execution Service subject to procedure prescribed by law. In case the insurant in addition to the obligation to pay the arrears also has tax and other payments obligations under law, or liabilities to other creditors, including liabilities under other court decisions, the arrears shall be collected first, and the obligation to pay the arrears shall be prior as against all other obligations (except for the obligation to pay wages (income) subject to insurance contributions under this Law and expenses of execution of court decisions on collection of the arrears). The same shall also apply when the arrears are collected from an insurant's property, including such property held in tax pledge according to law, as well as in case of bankruptcy proceedings initiated against the insurant.

5. Amounts coming from an insurant or bodies of the State Execution Service in payment of the arrears shall be used to repay the arrears, fines and financial sanctions in a FIFO order of priority. In case of an insurant having to pay the arrears, fines and financial sanctions who effects payment of current insurance contributions, this amount shall be set off against the arrears, fines and financial sanctions.

3. The arrears shall not be subject to write-off, also in case of an amicable agreement concluded with the insurant under the Law of Ukraine “On Restoring Debtor’s Solvency or Adjudging Him a Bankrupt,” except for a legal entity being wound up or an individual who has died, or has been declared missing or deceased or legally incapable, and there is no other persons liable to paying insurance contributions under this Law.

7. In case of an insurant who was wound up, or lost the legal status of contributor for other reasons, the arrears shall be paid from funds and other property of the insurant. In this case, the persons responsible for payment of the arrears shall include:

- Receiver – for corporate contributors, such as enterprises, institutions, organizations, associations of individuals, trade unions and political parties, that are wound up;
- Enterprises, institutions, organizations, associations of individuals, trade unions, and political parties – for their branches, representative offices and other separate units, that were contributors and are wound up; and
- Jointly members of collective and leased enterprises and agricultural cooperatives that are wound up.

In case the insurer’s funds and other property do not suffice, the persons responsible for payment of the arrears shall include:

- Founders of, or partners in, the enterprise, institution or organization being wound up, if they were established as unlimited or additional liability entities under law;
- Enterprises, institutions, organizations, associations of individuals, trade unions, and political parties – for their branches, representative offices and other separate units, that were contributors and are wound up; and
- Legal successors of the insurant that is wound up.

In case of reorganization of the insurer, the persons responsible for payment of the arrears shall be those to whom the insurer’s rights and obligations are transferred.

Except as provided by law, contributors under the mandatory state pension insurance shall be prohibited from transferring their contributory liabilities to third parties.

8. The arrears shall be subject to a fine at 0.1 percent of the outstanding amount for each day in arrears.

9. Executive bodies of the Pension Fund shall apply the following financial sanctions against insurants:

- 1) For registration evasion or late registration with territorial offices of the Pension Fund, a penalty at 10 percent of the contributions amount due for the period of delay, but at least ten non-taxable minimum incomes of individuals;
- 2) For default or delay in payment (transfer) of contributions, including those additionally charged by insurants or Pension Fund territorial bodies, a penalty depending on the time of delay:
 - 10 percent of the outstanding amount for a delay of 30 calendar days or less;
 - 20 percent of the outstanding amount for a delay of up to 90 calendar days; and
 - 50 percent of the outstanding amount for a delay of more than 90 calendar days.

The overdue amount of contributions and financial sanctions shall be simultaneously subject to a fine at 0.1 percent of the outstanding amount for each day of delay;

- 3) For concealment (understatement) of wages (pays, income) subject to insurance contributions, a penalty at the total amount of the wages (pays, income) concealed (understated), and where such violation is repeated within a year, at triple the total amount of the wages (pays, income) concealed (understated);
 - 4) For contributions not calculated and paid in due time and additionally charged by Pension Fund territorial offices or insurants, a penalty at 5 percent of the contributions amount for each month, whether complete or not, for which the contributions are additionally charged;
 - 5) For default or delay in submission of personified record keeping data and other reporting envisaged by legislation to Pension Fund territorial offices, or for submission thereof in a form not as prescribed, or for submission of wrong data, a penalty at 10 percent of contributions paid or due in respective period for each month of delay, whether complete or not, but at least ten non-taxable minimum incomes of individuals, and where such violation is repeated within a year, at 20 percent of the said contributions, but at least 20 non-taxable minimum incomes of individuals; and
 - 6) For negligence in accounting of wages (pays, income) subject to contributions and for absence of primary documents on calculation and payment of contributions, a penalty at 20 non-taxable minimum incomes of individuals, and where such violation is repeated within a year, at 40 non-taxable minimum incomes of individuals.
 - 7) For default or delay in payment, or underpayment of the advance contribution payments under this Law, a penalty at 50 percent of the amount of such contributions unpaid or delayed.
10. Executive bodies of the Pension Fund shall apply the following financial sanctions against banks:
- 1) For delay in transferring or crediting to Pension Fund and the Accumulation Fund bank accounts insurance contributions, financial sanctions specified in Item 9 above and return on investment of the Accumulation Fund, and for delay in effecting transfers under payment orders of Pension Fund executive bodies and delay in crediting to bank accounts amounts of Pension Fund and Accumulation Fund money used for purposes specified in this Law, a fine at 0.1 percent of the said amounts for each day of delay and a penalty at 10 percent of the said amounts; and
 - 2) For violation of requirements of Article 20.12 herein, a penalty at the amount of contributions due from the insurant.
11. Executive bodies of the Pension Fund shall apply the following financial sanctions against organizations, including banks, carrying out pension payment and delivery:
- For delay in payment and delivery of pension benefits to recipients or delay in crediting these to bank accounts of pensioners, or for delay in returning to bank accounts of Pension Fund executive bodies or the Accumulation Fund amounts unused to pay pension benefits, provided that the pensions were timely and fully financed, a penalty at the amount of such untimely paid, credited or returned pension benefits.
12. Fines envisaged by Items 9 and 10 above shall be charged from the first calendar day following the due date until the date of actual payment (transfer, crediting).
- In case an insurant or bank or organization carrying out pension payment and delivery appeals against the reminder of payment or the decision to impose a penalty, fine shall be suspended from the date of filing the appeal with the Pension Fund body or court.
13. Officers of executive bodies of the Pension Fund shall take decisions on fines and penalties envisaged by Items 9 and 10 above subject to a procedure prescribed by the Pension Fund Board,

and shall send such decisions to insureds, banks or organizations carrying out pension payment and delivery within three working days of taking the decision.

Fines and penalties envisaged by Items 9 and 10 above shall be subject to payment within ten days of receipt of the decision. Within the same period the insured, bank or organization carrying out pension payment and delivery shall have right to appeal against the decision to a higher body of the Pension Fund or judicially, in which case he/she/it shall be bound simultaneously to notify thereof in writing the Pension Fund body whereof officers took the decision.

Appeal against a decision of Pension Fund executive body to charge a fine or impose a penalty shall suspend payment thereof until a higher body of the Pension Fund or court takes a decision in the case. Payment of financial sanctions shall be also suspended until a court decision when the insured appeals against the reminder of payment, if the financial sanctions resulted from the arrears or delay in payment.

14. Any decision taken by a Pension Fund body to charge a fine or impose a penalty envisaged by Items 9 and 10 above shall be a document of execution.

In case of an insured or bank or organization carrying out pension payment and delivery that received such decision but has failed to pay the amount of financial sanctions specified therein within ten working days of receipt thereof, and did not appeal against the decision or did not notify respective executive body of the Pension fund of the appeal within the said period, the decision shall be committed to a body of the State Execution Service and the insured for execution.

The procedure for collections of fines and financial sanctions applied for a violation of the contribution charging, calculation and payment procedures and terms shall be the same as that for collection of the arrears.

Fines and penalties may be included in the reminder of payment if they result from the arrears.

15. The arrears, fines and penalties shall not be subject to limitation.

16. Executive bodies of the Pension Fund shall impose on officers administrative penalties at an amount of eight to 15 non-taxable minimum incomes of individuals for the following violations:

- 1) Concealment (understatement) of wages (pays, income) subject to insurance contributions;
- 2) Violation of prescribed contribution charging and calculation procedures and due dates;
- 3) Registration evasion or late registration with territorial offices of the Pension Fund, and failure to report on circumstances that cause a change in the insured's legal status and contribution payment procedure;
- 4) Violation of prescribed procedures for use of, and operations with, money and other assets of the Pension Fund and Accumulation Fund;
- 5) Default or delay in submission, or submission in a form not as prescribed, of reporting on insurance contributions and Pension Fund and Accumulation Fund money, or submission of wrong data used in the personified record keeping system and other reporting and information envisaged by this Law; and
- 6) Doings that interfere with audits carried out by officers of executive bodies of the Pension Fund.

Any of the above violation committed by an officer already punished administratively during the current year for one of these violations shall entail an administrative penalty at an amount of ten to 20 non-taxable minimum incomes of individuals.

Proceedings in cases of administrative infractions shall follow the procedure established by the Code of Ukraine "On Administrative Infractions."

17. The Director and Deputy Directors of the Pension Fund Executive Directorate, the heads and deputy heads of the Pension Fund Main Departments in the Autonomous Republic of Crimea, oblasts and the Cities of Kyiv and Sevastopol, and the heads of the Pension Fund Departments in cities, raions and city raions, and when they are absent, their deputies, shall have right on behalf of the Pension Fund executive bodies to trying cases of infractions based on documents evidencing the infractions.

18. Officers of entities of the solidarity system and the accumulation pension insurance system guilty in violation of legislation on the state mandatory pension insurance shall be liable disciplinary, administratively, civilly, or criminally.

ARTICLE 107. LIABILITY OF THE PENSION FUND AND ITS BODIES AND OFFICERS FOR VIOLATIONS IN THE MANDATORY STATE PENSION INSURANCE

1. Pension Fund and its bodies and officers shall be liable at law for any damage inflicted on individuals due to untimely or incomplete provision of social services and granting (recalculation) and payment of pensions under this Law, as well as for nonperformance or improper performance of their duties associated with administration of the Accumulation Fund.

2. Any money unduly collected by Pension Fund bodies from legal entities and individuals, plus a fine at 120 percent of annual discount rate of the National Bank of Ukraine applied to respective period, must be returned within three days after an executive body of the Pension Fund or court decides that such collection was ill-founded.

ARTICLE 108. LIABILITY OF THE ASSET MANAGEMENT COMPANY

1. The asset management company shall be liable in accordance with legislation, this Law and the contract with the Pension Fund for nonperformance or improper performance of its duties under this Law and the contract.

2. The asset management company shall respond to the Pension Fund with all the money and property in the company's ownership for losses it has inflicted on the Pension Fund, the Accumulation Fund and/or insured individuals due to nonperformance or improper performance of this Law and the contract, and shall ensure indemnification. Such losses may not be indemnified at the expense of the Pension Fund and the Accumulation Fund.

3. Performance of some duties of the asset management company by third parties on instructions of the company shall not limit liability of the company.

3. The asset management company shall not be liable under liabilities of the Pension Fund and the custodian.

ARTICLE 109. LIABILITY OF THE INVESTMENT ADVISER

1. The investment adviser shall be liable with all the money and property in the adviser's ownership for nonperformance or improper performance of the adviser's duties under legislation and the contract.

2. Any disputes arising from actions of the investment adviser shall be settled in courts of arbitration.

In case of the investment adviser being a foreign legal entity, such disputes shall be settled in the High Court of Arbitration, or other courts at the option of the parties unless it is not inconsistent with Ukrainian legislation or is provided by international agreements ratified by the Supreme Rada.

ARTICLE 110. LIABILITY OF ORGANIZATION THAT CARRIES OUT PENSION PAYMENT AND DELIVERY

1. The organization that carries out pension payment and delivery shall be liable for nonperformance or improper performance of its functions under legislation and the contract.

ARTICLE 111. LIABILITY OF INSURANCE ORGANIZATION

1. Insurance organizations shall be liable for nonperformance or improper performance of life annuity contracts in accordance with legislation.

ARTICLE 112. LIABILITY OF THE AUDITOR

1. The auditor shall be liable under law and the contract with the Pension Fund for nonperformance or improper performance of the auditor's duties envisaged by this Law and the contract.

2. The auditor shall respond to the Pension Fund with all the money and property in the auditor's ownership for losses inflicted on the Pension Fund, the Accumulation Fund and/or insured individuals due to nonperformance or improper performance of this Law and the contract, and shall ensure indemnification subject to a procedure prescribed by law.

3. Should the Pension Fund lack funds in its budget to finance pensions in the solidarity system (i.e. when expenditures exceed revenues even with allowance for the Pension Fund reserve fund) because of a need to pay pensions at the level specified by Article 28 of this Law and channel certain percentage of the contributions to the Accumulation Fund, this deficit shall be covered by the State Budget of Ukraine. (Part 3 of Article 113 as amended by Law # 2291-IV (2291-15) dated December 23, 2004.)

ARTICLE 113. GUARANTIES OF RIGHTS AND LAWFUL INTERESTS OF INSURED INDIVIDUALS

1. The state shall establish conditions for operation of the mandatory state pension insurance system, and shall guaranty law compliance in order to protect property and other rights and lawful interests of individuals as to payment of pension benefits and their pension assets recorded on their accumulation pension accounts.

2. The state shall establish conditions for operation of insurance organizations, and shall guaranty their law compliance in order to protect property and other rights and lawful interests of individuals in receipt of life annuities pursuant to law.

3. In case the Pension Fund lacks money for financing of pensions from the solidarity system (when the expenditures exceed the revenues, and the gap cannot be covered from the Pension Fund reserves) due to provision of pensions in the amount envisaged by Article 28 of the present Law and channeling a part of insurance contributions to the Accumulation Fund, such deficit shall be covered from the State Budget of Ukraine. (Article 113, Part 3 as amended by Law # 2291-IV (2291-15) dated December 23, 2004)

**SECTION XV.
FINAL PROVISIONS**

1. This Law shall come into force on January 1, 2004.

Articles 14.1.2) concerning payment of insurance contributions on behalf of the individuals specified in Articles 11.1.8), 11), 13) and 14) herein shall come into force on January 1, 2005. (Section XV, Item 1, Paragraph 2 as amended by Law # 2505-IV (2505-15) dated March 25, 2005)

Sections X and XI, as well as provisions of this Law concerning the Accumulation Fund, shall come into force on the effective date of a law on implementation of contributions to the Accumulation Fund.

Articles 20.4 and 78.5 of this Law concerning contributions being diverted by insured individuals to non-state pension funds shall come into force in 11 years after the enactment of contributions to the Accumulation Fund.

Article 42.2 of this Law shall come into force on March 1, 2005.

Provisions of Article 58.1, first and second paragraphs, Article 58.2, Article 59, Articles 60.1–8 and 10–13, Articles 61–63, Articles 64.2.1), 2), 5), 7), 14), 15) and 17), Articles 65–70, Articles 71.2 and 3, Article 74.1, third paragraph, Article 75.5, Article 77.3, second paragraph, and Articles 103.3, 4, 5 and 7 herein shall come into force upon transformation of the Pension Fund into a self-governing nonprofit organization.

Periods of service of officers, ensigns, warrant officers, extended service noncommissioned officers, and contract servicemen of the Armed Forces of Ukraine, and the command staff and ranks of the interior bodies of Ukraine and some other military formations established under Ukrainian laws shall be counted in their covered service periods based on state subsidies transferred from respective budgets to the Pension Fund.

2. Pensions to insured individuals who were or are employed underground and in especially harmful and heavy labor conditions as per List No. 1 and employed on other jobs with harmful and heavy labor conditions as per List No. 2 of Enterprises, Jobs, Professions, Positions, and Indicators approved by the Cabinet of Ministers of Ukraine, or employed on positions that based on job certification make employees eligible for a privileged old age pension or a long-service pension, and were eligible for a privileged old age pension or a long-service pension under earlier legislation shall be provided under a separate legislative act from occupational and corporate pension funds.

Before implementation of pensions from occupational and corporate pension funds:

- 1) Pensions to the individuals specified in the first paragraph of this Item shall be granted under this Law on attainment of the retirement age in case they have a length of service envisaged by the Law of Ukraine “On Pensions.”

Such pensions shall be determined pursuant to Article 27 subject to Article 28 herein.

Procedure for financing of payment and delivery of these pensions shall remain the same as it was before entry into force of this Law.

Enterprises and organizations shall make payments to the Pension Fund from their wages funds to cover actual costs of pension payment and delivery to individuals employed full-time underground and in especially harmful and heavy labor conditions as per List No. 1 of Enterprises, Jobs, Professions, Positions, and Indicators approved by the Cabinet of Ministers of Ukraine, except for those employed full-time immediately underground (including personnel of mine rescue units) in production of coal, shale, ore and other mineral resources and construction of mines and pits as per a list of jobs and professions approved by the Cabinet of Ministers of Ukraine. Such payments shall be made from the effective date of this Law at 20 percent of the said actual costs with annual ten-percent increases up to 100-percent coverage, and shall be paid for periods until the said individuals become eligible for an old age pension under this Law.

Pensions to individuals employed full-time immediately underground (including personnel of mine rescue units) in production of coal, shale, ore and other mineral resources and construction of mines and pits under the list of jobs and professions approved by the Cabinet of Ministers of Ukraine (36-2003-п) and to individuals, whose pensions are granted according to Items C through F and H of Article 13 of the Law of Ukraine “On Pension Provision” (1788-12) shall be

paid from the Pension Fund before January 1, 2005, and from the State Budget of Ukraine after January 1, 2005, until the said individuals attain the retirement age specified in Article 26 of the present Law; (Section XV, Item 2, Sub-Item 1, Paragraph 5 as amended by Law # 2613-IV (2613-15) dated May 31, 2005)

- 2) Depending on labor conditions based on job certification, pensions to certain categories of employees may be granted at the expense of enterprises, organizations, budgets and special-purpose funds, but not earlier than five years before the retirement age specified in Article 26 herein subject to a procedure approved by the Cabinet of Ministers of Ukraine.

In this case, the pensions shall be determined pursuant to Article 27 and subject to Article 28 herein.

- 3) Pensions to individuals who were employed in harmful and heavy labor conditions and who are or will be eligible for a pension under Article 100 of the Law of Ukraine "On Pensions" shall be granted in accordance with the provisions of this Law and with respect to the age and length-of-service requirements set under the earlier legislation.

3. Temporarily, before adoption of a separate law to this effect:

- Individuals suffering from pituitary nanism (lilliputians) and disproportionate dwarfs shall be eligible for early retirement, but not earlier than 15 years before the retirement age specified in Article 26.1 herein, provided that they have a covered service period of at least 20 years for men and 15 years for women;
- Group-I invalids who are blind or disabled from childhood shall be eligible for early retirement, but not earlier than 10 years for men and 15 years for women before the retirement age specified in Article 26.1 herein, provided that they have a covered service period of at least 15 years for men and 10 years for women;
- Women who gave birth to five or more children and brought them up to the age of six years, and mothers of invalids from childhood who brought them up to the said age, shall be eligible for early retirement, but not earlier than five years before the retirement age specified in Article 26.1 herein, provided that they have a covered service period of at least 15 years. The invalids from childhood shall also include handicapped children under 16 years of age. (Section XV, Item 3, Paragraph 4 as amended by Law # 2658-IV (2658-15) dated June 16, 2005)

In absence of mother, if five or more children or a handicapped child were brought up by their father, he shall be eligible for early retirement, but not earlier than five years before the retirement age specified in Article 26.1 herein, provided that they have a covered service period of at least 20 years;

- Servicemen, and the command staff and ranks of the interior bodies of Ukraine, who took part in action, as well as those who became invalids as a result of a wound, shell shock or mutilation got in defense of the motherland or in discharge of other duties of military service (official duties), or as a result of a disease associated with serving in a war, as well as the spouses, if not remarried, and parents of servicemen and the command staff and ranks of the interior bodies of Ukraine who died (were killed) during their service (discharge of official duties), or afterward as a result of a wound, shell shock or mutilation got in discharge of duties of military service (official duties), or as a result of a disease associated with serving in a war or participating in elimination of the Chernobyl accident aftermath, shall be eligible for early retirement, but not earlier than five years before the retirement age specified in Article 26.1 herein, provided that they have a covered service period of at least 25 years for men and 20 years for women.

In this case, the pensions shall be determined pursuant to Article 27 subject to Article 28 herein and financed from the State Budget of Ukraine.

4. If recalculation of a pension under this Law results in a decrease in its amount, the pension shall be paid in the amount as calculated earlier.

5. Temporarily, before adoption of a separate law to this effect, any employment period before January 1, 1991, in areas of, or equated to, the Extreme North of the Former Soviet Union, as well as on the island of Spitsbergen, shall be counted in the covered insurance periods according to the procedure and conditions provided by legislation in effect before January 1, 1991.

6. Before adoption of a separate law to this effect, supplements and raises to the pensions under this Law shall be paid under the Law of Ukraine "On Pensions." The said supplements and raises shall be set at their actual amounts as of the effective date of this Law subject to further indexation under legislation on indexation of money incomes of individuals, and shall be paid from the State Budget of Ukraine.

Before respective amendments are made in Ukrainian laws, social pensions under the Law "On Pensions," increases in pensions under the Law "On the Status of Highland Localities" and supplements to pensions under the Law "On Donors of Blood and its Components," as well as supplements to pensions granted under the Law "On Basic Principles of Social Protection of Labor Veterans and Other Elderly in Ukraine" to individuals whose labor contracts were terminated by the owner or a body authorized by the owner as the individual turned out to be unfit for his/her position on medical grounds shall be financed from the State Budget of Ukraine.

7. Early retirement pensions granted under the Law of Ukraine "On Employment" shall not be paid to employed pensioners before attainment of the retirement age specified in Article 26.1 herein.

8. Prior to enacting the Law on channeling a certain percentage of contributions to the Accumulation Fund (except sub-item 5 which will be in effect during the term specified by the Law of Ukraine "On Amending Selected Ukrainian Laws on Taxing Agriculture Enterprises and Maintaining Social Standards of Their Employees" (1878-15) dated June 24, 2004): (Section XV, Item 8, Paragraph 1 as amended by Law # 1878-IV (1878-15) dated June 24, 2004)

- 1) Insurance contributions that are transferred to the solidarity system (except for such contributions transferred by individuals specified in Articles 11.1.3) and 4) and Article 12 herein, as well as contributions paid on behalf of individuals specified in Articles 11.1.8), 13) and 14) herein) shall be paid by insured individuals subject to the conditions and procedures prescribed by this Law at the rate set by the Law of Ukraine "On Contribution under Mandatory State Pension Insurance" for respective contributors. The contributors specified in Articles 1.5–1.10 of the Law "On Contribution under Mandatory State Pension Insurance" shall pay contributions in accordance with the procedure and at the rate specified in the said law;
- 2) The individuals specified in Articles 11.1.3) and 4) and Article 12 herein and the Fund of Social Insurance against Industrial Accidents and Occupational Diseases of Ukraine shall pay for the individuals specified in Article 11.1.11) herein insurance contributions that shall be transferred to the solidarity system subject to the conditions and procedure prescribed by this Law at the rates set for contributors (legal entities and individuals) under the Law of Ukraine "On Contribution under Mandatory State Pension Insurance," but not less than at an amount of the minimum insurance contribution;
- 3) Insurance contributions on behalf of the individuals specified in Articles 11.1.8), 13) and 14) herein that are transferred to the solidarity system shall be paid by respective budgets subject to the conditions and procedure prescribed by this Law at a rate of 10 percent of the minimum insurance contribution to be increased annually by 10 percent up to 100 percent of the minimum insurance contribution;

Periods of contributions paid at the rate specified in the first paragraph above shall be counted in the covered service period as periods for which the minimum insurance contributions were

paid. In this case, the minimum wage shall be taken into account in calculation of the wage (income) coefficient;

- 4) As long as the special tax treatment legislation is effective, individual business entities who have opted for a special tax treatment (fixed tax, single tax, or special trade license) and their family members who participate in their business activities shall pay insurance contributions at a flat rate subject to the procedure prescribed by this Law;
- 5) Payers of the fixed agriculture tax will pay contributions to the solidarity system on behalf of their employees at a special rate defined by the Law of Ukraine "On Contributions to the Mandatory State Pension Insurance System" (400/97-VR). (Item 8 of Section XV is supplemented by Sub-Item 5 following Law # 1878-IV (1878-15) dated June 24, 2004; as amended by Law # 2287-IV (22878-15) dated December 23, 2004).

9. Insurance contributions to the Accumulation Fund shall be paid by insured individuals who on the date of implementation of such contributions were younger than 40 years for men and 35 years for women.

Insured individuals aged between 40 and 50 years for men and between 35 and 45 years for women may decide that their contributions be transferred to the Accumulations Fund within one year of implementation of such contributions. Failure to take such decision within the time specified makes such individuals ineligible for having their contributions transferred to the Accumulation Fund.

Men aged 50 and women aged 45 years or older on the date of implementation of insurance contributions to the Accumulation Fund shall have neither right nor obligation to pay such contributions.

Maximum rate of contributions channeled to the Accumulation Fund may not exceed 7 percent of wage (income) as defined by Article 19.1 herein.

Insured individuals who do not pay contributions to the Accumulation Fund shall pay contributions to the Pension Fund at a rate set annually by the Supreme Rada.

A law on implementation of contributions to the Accumulation Fund shall only be adopted provided that there has been a growth in the national economy for last two years, specifically if in each of these years the gross domestic product grew at least by 2 percent as against preceding year.

Contributions to the Accumulation Fund shall begin in case of a simultaneous increase in wage of insured individuals and only after the following conditions are met:

- It is ensured that pensions from the solidarity system are paid in amounts as provided for by Article 46(3) of the Constitution of Ukraine;
- The Pension Fund budget is balanced to international accounting standards;
- There are institutional components in place for operation of the accumulation pension insurance system, including:
 - the fully implemented personified record keeping system and an automated reporting system for the accumulation pension accounts of insured individuals taking into account the status of their pension assets; and
 - a complex of software and hardware for collection of contributions to the Accumulation Fund, which is compatible with the electronic bank transfer system;
- Legislative acts necessary for operation of the accumulation pension insurance system are adopted;
- All members of the Accumulation Fund Board are appointed;

- Tenders are carried out and the asset management companies, the custodian and the auditor of the Accumulation Fund are contracted; and
- There is an experience in operation of the non-state pension system;
- It is ensured that the state budget will compensate for the part of insurance money lost by the solidarity system, as a part of insurance contributions will be transferred to the Accumulation Fund.

The initial net unit value of pension assets as of the date of implementation of contributions to the Accumulation Fund shall be equal to 10 hryvnyas.

10. Members of the Pension Fund Board and the Accumulation Fund Board shall be appointed or elected (delegated) two months before expiry of the period specified in the second paragraph of Item 12 below.

The following terms shall be set for the first Pension Fund Board: for three members from each party, six years, and for two members from each party, three years.

The following terms shall be set for the first Accumulation Fund Board: for the first member from each party, two years, for the second member from each party, three years, for the third member from each party, four years, for the fourth member from each party, five years, and for the fifth member from each party, six years.

11. The Pension Fund shall convene the first meeting of the Accumulation Fund Board not later than one year before the date on which a part of insurance contributions will be transferred to the Accumulation Fund.

12. The Pension Fund shall be legal successor of the Pension Fund of Ukraine.

For five years after entry into force of this Law, the functions of the Pension Fund Executive Directorate and its territorial offices shall be performed by the Pension Fund of Ukraine and the Main Departments of the Pension Fund of Ukraine in the Autonomous Republic of Crimea, oblasts and the Cities of Kyiv and Sevastopol, as well as the Departments of the Pension Fund of Ukraine in cities, raions and city raions, respectively.

Until the Pension Fund of Ukraine is transformed into a nonprofit self-governing organization, it will operate as a central executive authority based on provisions of this Law (except for the provisions specified in Item 1, sixth paragraph, above) and the Regulations on the Pension Fund of Ukraine approved by the President of Ukraine. The budget of the Pension Fund of Ukraine during this time shall be approved by the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine within three months of entry into force of this Law shall be bound:

- To include at least three representatives from trade unions and employers' associations each in the Board of the Pension Fund of Ukraine based on proposals from respective parties; and
- Determine the authorized bank.

13. In case of an individual eligible for a pension under Laws of Ukraine "On Civil Service," "On the National Bank of Ukraine," "On Diplomatic Service," "On Service in Local Governments," "On Prosecutor's Office," "On the Status of People's Deputy of Ukraine," "On Forensic Examination," "On the Status and Social Protection of Individuals who Suffered from the Chernobyl Accident" and "On State Support of the Media and Social Protection of Journalists," the Customs Code of Ukraine and the Regulations on Assistant-Consultant to People's Deputy of Ukraine and a pension this Law, one pension shall be granted at the option of the individual. In this case, any difference between the pension for which the individual is eligible under any of the aforesaid acts and the

pension from the solidarity system he/she is eligible for under this Law shall be financed from the State Budget of Ukraine.

In case of an individual eligible for a pension under Law of Ukraine “On Scientific and Technological Activities” and this Law, one pension shall be granted at the option of the individual. In this case, any difference between the pension for which the individual is eligible under the former Law and the pension from the solidarity system under this Law shall be financed from the sources defined by the Law “On Scientific and Technological Activities.”

It shall be laid down that, from the effective date of this Law, when granting the pensions under the acts specified in the first and second paragraphs above, the wage for pension calculation will be taken into account within the maximum amount of actual costs of labor remuneration of employees, taxable income (profit) and aggregate taxable income (wage (income) ceiling) subject to insurance contributions to social funds effective on the date of receipt of such earnings.

In case the amount of pension and that of monthly life-time cash allowance (taking into account supplements, raises, additional pensions, earmarked cash allowance and pensions for distinguished service to Ukraine and other pension supplements established by law) granted under the legislative acts stipulated in Paragraph 1 and 2 of this Item exceeds 90% of maximum amount of actual costs of labor remuneration of employees, taxable income (profit) and aggregate taxable income (wage (income) ceiling) subject to insurance contributions to social funds effective on the date of receipt of such earnings, pension or monthly life-time cash allowance shall be paid in the amount, which does not exceed the indicated amount. (Item 13 of Section XV is supplemented by Paragraph following Law # 2505-IV (2505-15) dated March 25, 2005)

Pensions (taking into account supplements, raises, additional pensions, earmarked cash allowance and pensions for distinguished service to Ukraine and other pension supplements established by law) granted under the present Law and stipulated in Paragraphs 1 and 2 of the legislative acts of this Item before the effective date of Paragraph 4 of this Item, which exceed the amount stipulated in Paragraph 4 of this Item shall be paid without indexation and application of the provisions of Parts 2 and 3 of Article 42 of the present Law and Part 13 of Article 24 of the Law of Ukraine “On Scientific and Technological Activities” (1977-12) till the time when the pension amount (taking into account supplements, raises, additional pensions, earmarked cash allowance and pensions for distinguished service to Ukraine and other pension supplements established by law) corresponds the amount stipulated in Paragraph 4 of this Item. (Item 13 of Section XV is supplemented by Paragraph following Law # 2505-IV (2505-15) dated March 25, 2005)

14. The Cabinet of Ministers of Ukraine shall be bound:

- 1) Within three months, to draft and submit to the Supreme Rada amendments to laws of Ukraine to bring them into line with this Law;
- 2) Within three months of publication of this Law, to draft and submit to the Supreme Rada proposals on a tax treatment that will favor implementation of the accumulation pension insurance system, and amendments to Ukrainian laws to the effect as follows:
 - to exempt from taxation the part of insurance contributions that will be channeled to the Accumulation Fund;
 - to exempt from profit tax the return on investment of the pension assets;
 - to include pension benefits from the Accumulation Fund in the tax base of individuals; and
 - to exempt from VAT services of pension assets management and custody;

- 3) Within six months, in conjunction with the General Prosecutor's Office of Ukraine and the Supreme Court of Ukraine, to draft and submit to the Supreme Rada a bill on criminal liability for disclosure of information defined confidential by the law;
 - 4) Within six months, to bring its normative acts into line with this Law and ensure that ministries and other central executive authorities bring their normative acts into line with this Law;
 - 5) Within one year of entry into force of the law on non-state pensions, to draft and submit to the Supreme Rada a bill on mandatory contributions to corporate and occupational pension funds to be paid by employers of the insured individuals specified in the first paragraph of Item 2 of this Section; and
 - 6) When the conditions specified in Item 9 of this Section are met, submit to the Supreme Rada a bill on implementation of contributions to the Accumulation Fund, rate of such contributions and payment procedure;
 - 7) When submitting the Draft Law of Ukraine "On the State Budget of Ukraine for 2004" to the Supreme Rada, to make proposals as to payment of flat-rate contributions by individual business entities who have opted for a special tax treatment (fixed tax, single tax, or special trade license) and their family members who participate in their business activities, as well as proposals as to striking from the simplified taxation legislation of provisions that deal with channeling of money to the Pension Fund of Ukraine;
 - 8) To earmark each year in the Draft Law of Ukraine "On the State Budget of Ukraine" for respective year funds to compensate Pension Fund losses from using a special rate by payers of the fixed agriculture tax. The amount of the transfer (compensation) shall be equal to the difference between the total special rate tax revenues and the total revenues that would be received if the tax is paid at the rate defined by Article 4, Item 1, Paragraph 2 of the Law of Ukraine "On Contributions to the Mandatory State Pension Insurance System" (400/97-VR). In order to determine the total amount of this transfer and calculate the accrual rate of an insured individual, the contribution shall be calculated with both conventional and special rates which must be shown on mandatory reports and be paid at the special rate; (Section XV, Item 14, Sub-Item 8 as amended by Laws # 1878-IV (1878-15) dated June 24, 2004, # 2287-IV (2287-15) dated December 23, 2004);
 - 9) To provide annually in the Draft Law of Ukraine "On the State Budget of Ukraine" for respective year for an amount payable to the Pension Fund to cover unpaid contributions under the mandatory state pension insurance for respective years of service of individuals who have not (will not) become eligible for a long-service pension under the Law of Ukraine "On Pension Provision to Servicemen, the Command Staff and Ranks of Interior Bodies, and Some Other Individuals;"
 - 10) Within six months, to approve a regulation on calculation and payment procedures for unpaid contributions under the mandatory state pension insurance for respective years of service of individuals who have not (will not) become eligible for a long-service pension under the Law of Ukraine "On Pension Provision to Servicemen, the Command Staff and Ranks of Interior Bodies, and Some Other Individuals;"
15. Before Ukrainian legislation is brought into line with this Law, Ukrainian laws and other normative acts shall be applied inasmuch as they are not inconsistent with this Law.

The Chairperson of the Supreme Rada of Ukraine