XII. THE STRUCTURE AND FUNCTIONS OF THE SUPERVISORY REGIME OF RETIREMENT INCOME PROVISION IN THE REPUBLIC OF BULGARIA

by
Bozhidar Parvanov

1. Overview of the Bulgarian pension system: *Institutional Framework and Market Structure*

The old pay-as-you-go (PAYG) system based on the use of social insurance contributions of the workforce to finance the pension payments for pensioners proved to be unsustainable and has been replaced by a new system whose main objective is to insure a sustainable social insurance for people born after 1959. These reforms were needed in a country where approximately 1/3 of the total population is pensioners.

The reform of the system has been introduced by the Law on Supplementary Voluntary Pension Insurance (LSPI) and the Mandatory Social Insurance Code (MSIC) adopted in December 1999. The objective of this law is to protect pension scheme members by minimizing the risk of insolvency. The new legislation improves the old PAYG system and introduces supplementary mandatory and voluntary systems. The law provides for the following three elements or "pillars" of social insurance:

Pillar I: Public Scheme for Mandatory Pension Insurance

Pension insurance under this pillar is universal. That means the conditions and the formula for defining pensions are the same for all participants and there are no privileged groups of people. Only under this first pillar the state still keeps its priority role. Pensions received under the first pillar cover the basic needs of pensioners. Its amount is average 40% of the size of the income received from the employees before retirement. (replacement rate)

Public social insurance provides assistance, benefits, and pensions in the event of the following social risks – temporary working capacity, temporary reduced working capacity, disability, maternity, old age, death, and unemployment.

The insured persons are all economically active individuals, including employees, self-employed, single entrepreneurs, farmers, regardless of whether they are working under labor contract or without labor relation.

The insurer is any individual or legal entity as well as organization, which according to the law has to pay insurance contribution on behalf of other persons.

What is new in the public social insurance is that the benefits are set in correspondence to the contribution of the insured, which motivates active participation by the insured in the system.

The funds for pensions are segregated from the funds for all other insurance risks in separate funds: (i) Pension Fund; (ii) Work Injury and Occupational Sickness Fund; (iv) General Sickness and Maternity Fund; and (v) Unemployment Fund.

The amount of insurance contribution as well as their distribution between insurer and insured is determined on an annual basis by the State Social Security Budget Act. For the year 2002 the contribution rate is 36,70% for all insurance events and the contributions are distributed in a ratio of 75 to 25 between insurer and insured.

The contribution of 36.7% for all insurance events includes:

– 29% for Pension Fund for persons, born before January 1st, 1960

– 27% for Pension Fund for persons, born after January 1st, 1960

– 0,7% for Work Injury and Occupational Sickness and Maternity Fund

– 4% for Unemployment Fund

As a result of their participation in the mandatory social insurance the insured can receive:

– cash benefits for temporary incapacity or reduced working capacity due to general sickness, work injury or occupational sickness, pregnancy and birth and child care;

– assistance benefits for disability and occupational rehabilitation;

– old age pensions, disability and survivor pensions.

Entitlement conditions:

Old age pensions:

- reaching a certain minimum age, which increases with 6 month every year up to 2009, when the minimum retirement age for men will be 63 years and for women 60 years, for 2002 the age for men is 61,6 years and for women 56,6 years;
- the sum of the age and the length of participation should equal or exceed a certain points. Not less than 98 points for men and 88 points for women, as of December 31, 2000, the sum of the years of participation and age shall be increased by one until 100 points is reached for men and 94 for women.

Disability pensions: a person becomes entitled to disability pension in case of loss of working capacity – entirely or partly, forever or for a long period. Entitlement is granted upon verification by a territorial advisory medical board.

Survivor pensions: old age and disability pensions can be transformed into survivor pensions. The children and the survived spouse as well as the parents of the deceased person are entitled to survivor's pension, if they do not receive individual pension.

Pillar II: Mandatory supplementary pension insurance

The mandatory supplementary pension insurance is fully funded. A leading principle is that contributions done by individuals are defined and the amount of the pension depends on the accumulated sum of the contributions, together with the investment income (or additional gains from investment). The legal separation of assets of the pension fund and the pension insurance company managing the pension savings of the individuals secures them against bankruptcy.

There are two kinds of mandatory pension insurance funds – universal and occupational. Universal fund covers all working persons, born after January, 1st 1960 and Occupational fund covers those, working under labor category I and II – people, working under hazardous condition. Insurance at occupational pension funds started from January, 1st 2000, and at universal funds – from January 1st, 2002. The replacement rate, from the second pillar, is expected to be 20 to 30% of the salary prior to retirement.

The contributions for universal pension funds are determined on an annual basis by the Public Social Security Budged Law and are at the expense of the employer. For 2002 the contributions for occupational pension funds are 12% for those, working under labor category I and 7% for those, working under labor category II. The contributions are made additionally and separately from the contributions for the first pillar.

Entitlement to early retirement pension benefits from an occupational pension fund can be received by every person who has:

- Not less than 10 years of service under labor category I and age lower by 8 years compared to the age for old age pension under I pillar;

- Not less than 15 years of service under labor category II and age 3 years lower than the age for old age pension under I pillar.

The early retirement pension is a limited-period and it is received up to the date of eligibility for the old age pension from the first pillar. The amount of the early retirement occupational pension benefit is determined by the period of its receipt and the funds collected in the individual account of the insured - a sum of the contributions and the investment return minus the management expenses of the fund.

In case the insured does not use the right of early retirement, there is an opportunity to transfer the collected funds in the universal pension fund, thus increasing the supplementary individual pension.

Additional **rights –** the insurance in occupational pension fund gives the right to lump sum or limited period payment of the amount accrued in the individual account upon decision of the territorial board of health experts for reduced working capacity; lump sum or limited period payment of the amount accrued in the individual account to the inheritors of a deceased member fund or pensioner.

Everyone born after 1960 that is insured in a universal pension fund may receive individual supplementary pension. This pension is for life and is received together with the old age pension, granted under the first pillar. The amount of the benefit is determined on the basis of the accrued funds in the individual account and the income from their investment reduced by the legal fees and deductions, as well as on anticipated life expectancy after retirement, determined in the mortality tables.

The contributions for universal pension funds are determined on an annual basis by the Public Social Security Budged Law and are at the expense of the employer. For 2002 the contributions for universal pension funds is 2%.

Additional rights –the insurance in universal pension fund gives the right for:

- pension for life for age after acquiring right to pension for insured practice and age;
- one time payment of up to 50 percent of the resources accumulated in the individual account for disability for life over 70,99 percent;
- one time or deferred payment of sums to the heirs of a deceased insured person and of a pensioner under the conditions of this division.

Pillar III: Supplementary voluntary pension insurance

The target of the introduction of the third pillar is the creation of more opportunities for a better standard of living in retirement age. It will provide supplementary income to retirees in addition to the first and second pillar. The objective for the three pillars is to secure for the Bulgarian employees a cumulative replacement rate of approximately 60% of their last salary.

Employees can make voluntary contributions in private pension funds. Pension insurance companies will manage the funds accumulated in the individual accounts. Pension savings are going to be invested according to the investment limits and the instruments authorized by law. The goal is to obtain the maximum investment income with the minimum risk.

All persons who are 18 years can insure themselves voluntarily under the third pillar. In addition to the contribution of the employees, insurance contributions can be made by their employers or others

The type of pension benefits available to the insured under the third pillar are: an individual benefit for old age and disability, and a survivor benefit in case of death of the insured person. The individual old age pension can be for life or for a limited period of time. The insured person makes the choice between the two Entitlements to this benefit occurs upon reaching the age required for the old age pension from the first pillar. Early entitlement is possible up to five years earlier that the standard retirement age.

The amount of the pension benefit is determined on the basis of the accrued funds in the individual account and the income from their investment, reduced by the legal fees and deductions. Not less than 90% of the investment return of the voluntary pension fund for insurance through cash contributions is allocated among the individual accounts.

The insured person has the right to transfer the accrued individual contributions or a part of them to a spouse, to relatives in direct line on condition that their purpose is kept the same. The insured person has the right to transfer the amount in its individual account to other voluntary pension fund once a year. The amount accumulated from employer contributions can be withdrawn by the insured only at the occurrence of an insurance event. The insured person can withdraw the accumulated sum in the individual account from individual contributions, at any moment.

An important change introduced in the reform of the pay-as-you go system concerns the gradual redistribution of the proportion of contributions employers and employees in the. In 2001 the employer and the employee pay the contributions for the Mandatory State Social Security in an 80:20 proportion respectively. As of 2002, the proportion will be modified, in yearly steps of 5 annual percentage points, until the contribution of both parties reaches 50:50 in 2007. Payments to the universal pension fund of the second pillar are also divided between the employer and the employee in the same ratio as contributions for the mandatory scheme.

Pension funds belonging to the second and third pillar are administered by the private pension insurance companies licensed by the State, and operate on a capital accumulation principle. The size of the supplementary voluntary pensions included in the second and third pillars is a function of the contributions made by the insured person.

The size of the pension income from the three pillars is expected to reach between 65% and 80% of the net salary prior to retirement.

The pension system has undergone significant structural changes brought about by the entry into force of the Law on Supplementary Voluntary Pension Insurance (LSPI) of 1 January 2000. Before then, the voluntary pension funds that appeared in Bulgaria since the economic reforms of 1991 were operating without any specific legal basis as legislation on supplementary insurance had not as yet been enacted. By the end of 1998 there were 30 such registered pension funds (all private) in Bulgaria, but only 12 were in operation.

Following the implementation of the pension reforms and the establishment of the State Insurance Supervision Agency (SISA) that started operations in March 2000, government licenses were granted to the following 9 companies, 7 of which were already operating in the country: Allianz-Bulgaria, Berlinische Leben, Bulgarian Pension Insurance company, Doverie, Lukoil Garant-Bulgaria, Newton-Sila, Rodina, Saglasie and Solidarnost. Currently the number of companies is 8 following the voluntary liquidation of Berlinische Leben, merger between the Bulgarian Pension Insurance Company and Doverie – May 2003 and licenses of DZI Company – November 2003. Each of the 8 licensed pension funds listed above has registered one voluntary (Pillar III) pension fund, and one universal and one professional (Pillar II) fund.

Foreign participation in pension funds is very strong. At end of December 2002 it accounted for 54.8% of the equity capital of such companies.

The total number of persons with transferred contributions as of 19th March 2003 is 1,222,633 or 78.58% of the number of accepted applications. In comparison with the previous years, the number of contributors has increased significantly. From January 2003 the increase was 2.6%.[1]

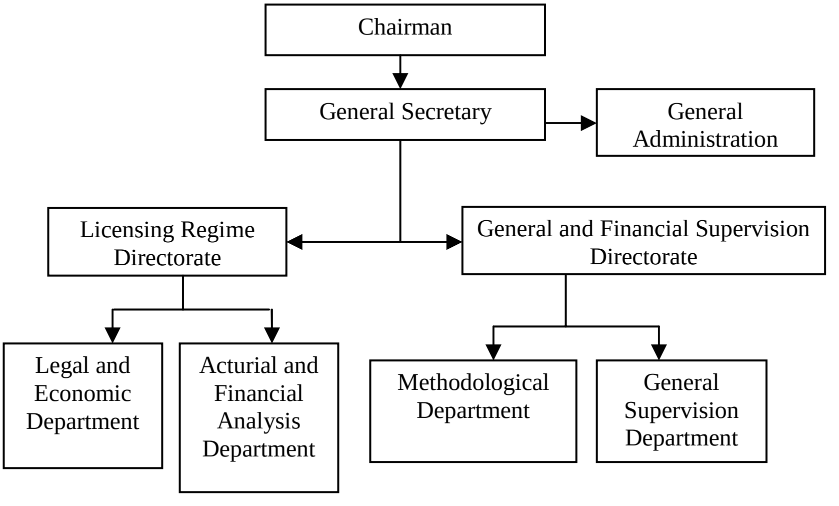
The total number of applications accepted for occupational pension funds is 167,796. The total number of contributors for 2000 is 120,812 or 72% of the total number of accepted applications, and for 2001 it is 130,596 or 77.83% of the total number of accepted applications and for 2002 – 116,963 contributors or 69.71%.[2]

The insurance contributions of the insured are deducted from the taxable income and those of the employer, amounting up to 40 leva, per month, per employee, are recognized as deductible expense. The investment income of the funds of the pension fund allocated among individual account is non-taxable. Taxes are imposed upon exit of the system (benefits are taxable upon withdrawal). The pension benefits received or lump sums are subject to taxation. Early withdrawals from individual accounts in the third pillar are punished with additional 20% tax.

There is a guaranty concerning results from pension assets investments. The legislation requires a minimum rate of return that pension plans in pillar two should achieve as a result of pension assets management. Results from this type of guaranty are debated, especially the bench marks that should be used for measurement.

2. The organization and scope of authority of the Supervisory Agency

The two main instruments for the implementation of the reforms of the Pension Fund System are the Law on Supplementary Voluntary Pension Insurance (LSPI), in force since 1 January 2000 and the Mandatory Social Insurance Code (MSIC), approved by the Bulgarian National Assembly in December 1999. The law aims at protecting pension scheme members by minimizing the risk of insolvency. State Insurance Supervision Agency (SISA), independent government body that started operations in March 2000.



As of March 1st, 2003 the Law on the Financial Supervision Commission came into force. This Law establishes the Financial Supervision Commission (FSC) and terminates the activities of SISA and transforms it into a specialized division of FSC. The FSC is a specialized state body for regulation and supervision over the activities of:

– the regulated securities markets, the Central Depositary, investment intermediaries, investment and management companies, natural persons who directly execute transactions in securities and provide investment advice, public companies and other securities issuers pursuant to the Law on Public Offering of Securities;

– the operation of the insurers, insurance brokers and insurance agents under the Law on Insurance;

- the operation of the companies carrying out activities concerning the supplementary social insurance, including the pension, and for unemployment and professional qualification, as well as of the managed by them funds under the Mandatory Social Insurance Code, the Supplementary Voluntary Pension Insurance Act, the Health Assurance Act and the Unemployment Protection and Employment Promotion Act.

The FSC, in the fulfillment of its powers, is independent of the executive power and reports on its activities under this Law to the Parliament. Three main departments have been set up in the FSC – “Investment Supervision”, “Insurance Supervision” and “Social Insurance Supervision”, each being directly led by a deputy chairman of the Commission.

The Commission in the execution of the functions and powers entrusted to it under this Law is guided by the following goals:

- **Protection of the interests of investors, the insured and socially insured persons;**

- **Securing integrity, transparency and confidence in the financial markets.**

These goals are achieved though the control exercised by the FSC over all participants in the non-banking financial sector, as well as by providing information about their operation to the general public. It is not very clear why one of the commission’s goals is not to maximize the total surplus on the market.

The FSC’s powers are described in Chapter three of the FSC Act: “The Commission, in exercising its powers, shall be independent from the executive power, and shall report its activities under this Act to the National Assembly” art.2. The Commission consists of seven members: a chairman, three deputy-chairmen (in charge of the three main divisions in the Commission) and another three members. They are elected by the National Assembly, and the other officials are appointed by the Chairman. The members of the Commission may be only persons with higher education, having the appropriate professional qualification and experience in economy and finance. Each member of the Commission is appointed for a term of six years. The first members of the Commission have been elected with a term of respectively six, five and four years. The appointment member of the Commission is terminated by the National Assembly where the preconditions explicitly stated in the Financial Supervision Commission Act exist. The other directors are discharged from office by the Commission's Chairman. The Commission may sit if more than half of its members are present.

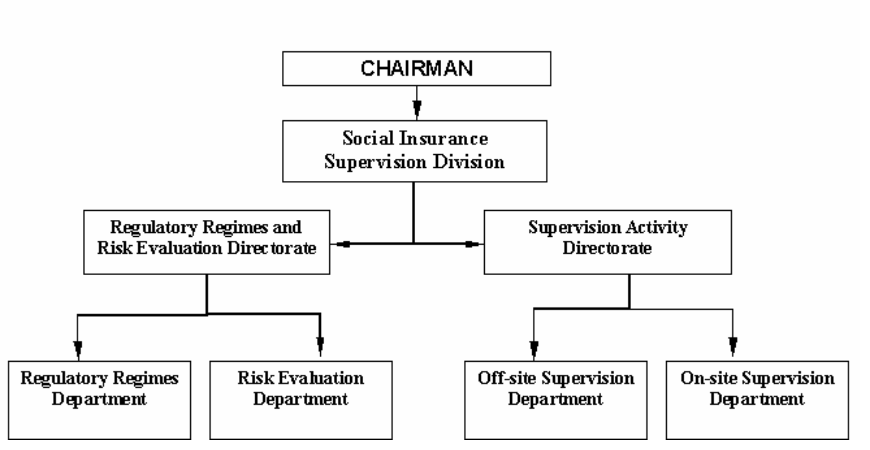
The decisions of the Commission are adopted by majority of not less than four votes. No abstention is allowed in voting. The FSC exercises all supervisory powers in relation to the pension insurance companies, managing funds for supplementary pension insurance, independently. The decisions of the Commission are not subject to approval by a superior authority.

> The commission is a very powerful regulator, it is a budget-supported legal entity that has a mandate to adopt rules and practices. Most importantly, some of the commission's decisions "shall not be subject to appeal through court" as follows:
>
> - **Refusals to issue a permit (license) for engaging in the activities of an insurer, health insurance company, investment company, management company, investment intermediary, or a supplementary social insurance company;**
> - **Decisions to withdraw a permit (license);**
> - **Refusals to issue permission for the transformation.**

The individual administrative decisions of the Commission should be justified and subject to appeal before the Supreme Administrative Court, with the exception of the above decisions. On the basis of the above-mentioned we can conclude that the rules for entering and operating on the pension insurance market are very strict, but some subjective factors exist.

FSC is a budget supported legal person, reports its activities to the National Assembly, and on its budget spending – to the National Audit Office. The National Assembly adopts the Commission's budget, which is an independent part of the Republican Budget of the Republic of Bulgaria. FSC charges fees for the issuing of licenses, permits, exercising of overall financial supervision and for other activities, explicitly laid down in the Financial Supervision Commission Act, that are received as revenues of the Commission's budget. The total number of the Commission's staff on the pay-roll is 197, allocated in divisions.

Structure of department "Public insurance supervision" of the Commission for financial supervision"



The total number of employees in the Social Insurance Supervision Department is 29.

- **On-site Supervision Department – 7;**
- **Off-site Supervision Department – 7;**
- **Regulatory Regimes and Risk Evaluation Directorate – 6;**
- **Actuaries – 5;**
- **and Lawyers – 5.**

The establishment of a unified regulatory authority has facilitated the exchange of information with the other government bodies and the communication among the individual sectors of the financial market. In relation to the effective performance of its functions, the FSC works in close cooperation with the Ministry of Finance, Ministry of Economy, Ministry of Labor and Social Policy, the Bulgarian National Bank, Bulgarian Stock Exchange-Sofia, The Central Depository, Ministry of the Internal Affairs, the judiciary authorities, etc.

The FSC is a member of the Advisory Council for Financial Stability together with the Minister of Finance and the Bulgarian National Bank. The Advisory Council aims at contributing to the safety, integrity and development of the financial markets in Bulgaria.

The FSC performs the regulation of the funds for supplementary pension insurance mainly by issuing licenses and approvals, as mandated by law. One of the FSC's powers is to adopt sub-statutory acts (ordinances and instructions), where that has been envisaged by law, gives written guidelines with regard to the application and interpretation of the laws, as well as of the sub-statutory acts.

The FSC gathers financial information and other types of information, on quarterly and annul basis. The FSC publishes a bulletin about the conditions for the supplementary pension insurance in Bulgaria. The FSC does not produce any research but some statistics can be found on the FSC website www.fsc.bg.

3. Entry requirements

The pension insurance companies are a joint-stock company licensed by the order of CSI[3] and registered according to the Commercial Law. In order to obtain registration as a joint-stock company, the pension company is required to have as main activity only additional pension insurance. The minimum required capital for a pension insurance company is 5 million lv. at the moment when the license is issued. This capital requirement comprises the composite and structure of the equity capital (capital base) of the pension insurance company and to the minimum liquid funds of the company and the supplementary pension funds under its administration[4]. CSI establishes specific requirements for the members of the managing and control bodies and the actuary (Issued termless license from FSC[5]), Art.121e. These requirements apply to their education and professional background.

In accordance to IMF's country report (No. 02/188, august 2002)[6] concerning Pension Funds "The legislation does not establish an adequate fit and proper test for shareholders, members of the board of directors or investment managers.". Part of the problems has been solved by new Code of Social Insurance (2003) art.121e "Requirements to Members of Managing and Controlling Bodies". The problem is that there is not Professional Standards according to work of: actuaries, financial managers, and pension management in general. With regards to auditing and actuarial practices and the suitable entities carrying out these operations, Bulgaria still has not developed NGOs that can establish good practices in financial governance.

In order to carry out its activity on additional pension insurance, the joint-stock company must obtain a pension licence from the Commission. The pension licence shall give the right to carry out activity on additional pension insurance upon obtaining a permit for managing a fund for additional pension insurance by the deputy chairman of the Commission. The permit shall be issued for each fund individually.[7] The issued pension licence shall be termless. Art. 122f of CSI sets the circumstances when an issued pension licence issued to a pension insurance company[8] can be withdrawn, which are the following:

- Does not begin the activity for which it has been licensed within 6 months from obtaining the licence;
- Carries out another trade activity, except the one directly related to the additional pension insurance;
- Is transformed through separation, incorporation or merger with another pension insurance company;
- Is dissolved by a decision of the general assembly of the stock-holders;
- Is insolvent;
- Has withdrawn permits for management of all funds established by it for additional pension insurance;
- Has presented documents which have served as grounds for issuance of the licence, containing untrue data.

In addition to the cases mentioned above, the deputy chairman of the commission may extend a proposal for withdrawal of the issued pension licence when the pension insurance company[9]:

- Violates the requirements for the members of the managing and control bodies and requirements for the stock-holders;
- obstructs the supervision and/or does not fulfil the imposed compulsory administrative measures;
- Does not fulfil its obligations to the insured persons in the funds managed by it and commits systematic violations of not submitting required information;
- Does not observe the voluntary principle in choosing a fund for additional pension insurance;
- Concludes transactions affecting the financial stability of the managed funds for additional pension insurance, thus threatening the interests of the insured persons;
- Systematically violates the provisions of this code and the acts for its implementation.

4. On-going Supervision

Information sources and monitoring

The "Reporting to supervisors and off-site monitoring" is governed by Chapter fifteen "Accounting and Reporting" of CSI. The reports, required from FSC, are standardized and submitted regularly - every month, information about pension companies and funds activities. The Bulgarian Supervision Commission with the assistance of the USAID-Labour Market Project developed a methodology for off-site control[10] (October 2000) and regulatory ratios that should be observed on a regular basis. There are two types of indicators: control indicators – required quantity by law, and pointer indicators – that characterize financial condition and possible future situation of companies. "Pension Insurance Companies and Pension Funds Supervisory Ratios and Tests on Quantitative Risks" is a ratio based methodology. Information is gathered monthly, quarterly and on a yearly basis both electronically, and on paper. The Pension department prepares reports to the members of the commission for each fund and company.

Concerning investment risk and rules for using derivatives to hedge the risk, the regulations are very simple. Pension funds can use derivatives of securities, like for example put options of indexes and bonds, traded on regulated security markets only for the purposes of reducing the investment risk. Currently the Bulgarian capital market doesn't trade derivatives, and pension funds do not use them in theirs portfolios. The Investment portfolio structure is defined by law and there are strong requirements relating to investment limits, CSI art. 251.

By law CSI, art 120b, the supervisory authority has wide-ranging powers for conducting on-site inspections and gathering information deemed necessary for the performance of its duties. Also, according to section five of CSI "Transformation, Termination and Bankruptcy of Supplementary Social Insurance Companies and Funds", the Commission has available, and makes use of adequate instruments to enable timely preventive and corrective measures. There are special rules about Procedures of Issuance of Permit for Transformation.

Part of FSC's functions is preventive. New lines of business, licensing of products, and all corrections in contract and policy should be pre approved by the Commission. The Commission has the power to take the following actions, should any serious problems arise with the entities it supervises:

- to adopt the Rules guidelines for its activities, regulations and instructions, give written guidelines, to issue or refuse issuance of the respective permits (licenses), permit or refuse permission, for a merger, take-over, spin-off, or split;
- to initiate bankruptcy proceedings for the supervised person; appoint conservators;
- to issue written orders for the dismissal of one or more persons authorised to manage and represent the supervised person; make decisions on concluding co-operation and information exchange agreements with the Bulgarian National Bank or other domestic and overseas authorities exercising supervisory functions over financial market operations.

An important part of the FSC's information policy is the regular meetings and discussions with the managers of the funds on key business issues. One of the FSC's priorities is the enhancement of the financial awareness of the general public. In this relation the Commission has initiated various events, targeted at deepening the interest and the knowledge of different public groups in respect to the financial markets.

Intervention – On-site Inspections

Examination is a basic form of current control using by FSC, there are two types of examinations:

- Depending on scope – full, regular, and partial; and
- Depending on frequency – planned and extraordinary.

Investigation and findings, data analysis, assessment and compliance with the laws are major ways for company's observation.

Periodic financial and accounting reports are used for defining the controlled level indexes and some main ratios and tests for the pension companies and funds.

Pension companies have to report the following information: compliance with capital adequacy requirements, general reserves and liquidity; investment of company's own assets; calculated investment returns; fees and deductions; pension reserves for each pension fund; profitability of capital; income/expenses per insured person; income/expenses for company operation; PIC operation expenses/pension fund assets.

Pension funds have to report: controlled level indexes, ratios and test, structure and return of the investment portfolio; liquidity of voluntary pension fund assets; obligations of the pension fund; distribution of return; prompt investment of contributions; investment expenses.

For each on-site inspection, the division chairman appoints an inspection group. On the base of available information, the group prepares an action plan that includes: examination of available information; reasons for selection and additional information; an examination plan and issues an examination orders. During the examination process, the group: reviews documentation; discusses with the PIC; reports on the results of the examination by drafting a protocol of findings; imposes administrative and penal proceedings as mandated by FSC.

In the period March – June, 2003 the FSC's supervisory activity in the field of the social insurance supervision, over the operation of the pension insurance companies and the pension funds managed by them, supplementary pension insurance, is fulfilled through an off-site control and on-site inspections. The non-licensed commercial companies are also object of the control activity - voluntary pension insurance, subject to termination by liquidation under the procedure of § 5 of the Transitional and Final Provisions of the Supplementary Voluntary Pension Insurance Act (SVPIA). During the reviewed period, 3 inspections were conducted and a fourth full inspection that started simultaneously in two companies will be completed next quarter. Three coercive administrative measures were imposed by which 12 mandatory instructions, 15 acts of administrative violations have been drawn up and 10 penal warrants have been issued. With reference to the complaints, claims and signals received in the FSC, inspections against documents have been carried out. In some cases, additional information has been required from the complainants or written explanations by the pension insurance companies. In other cases, the supervisor carried out on-site inspections in the companies targeted by the complaints.

The custodian bank, at the end of each working day, sends to the deputy Chairperson of the Commission information concerning the cash received, the transactions conducted, and the value of the assets of the supplementary pension fund. The custodian bank informs, in due time, the deputy Chairperson of the Commission of any established violation of the CSI by of the pension company[11].

5. Compliance enforcement and sanctions

As mentioned above, the Commission is a very powerful[12] regulator and some of the commission's decisions are not subject to appeal through court. The

Commission has the authority to apply unmilitary sanctions without negotiation with pension companies with corrective, remedial, punitive goals.

The deputy chairman, managing department "Public insurance supervision", has the right to[13]:

- give, refuse, or withdraw permits for managing a fund for additional social insurance;
- issue permissions in the cases, provided in the normative acts for additional social insurance;
- approve changes and supplements in the regulations of the funds for additional social insurance and issue other documents;
- approve methodical guides, contracts, lists, models and other documents, related to the activity for additional social insurance;
- determine the kind, the form and the content of the accounts, which are presented to the commission by the companies for additional social insurance; exchange information;
- organize the operational control for lawful exercising of the activity for additional social insurance;
- order together with the Bulgarian National Bank the implementing of checks of the banks about their activity as bank-trustees;
- determine the officials, who are to be present at the sessions of the management bodies of the companies for additional social insurance in the cases, provided in the normative acts for additional social insurance;
- determine the officials, who have the right to compile acts for established breaches of the normative acts for additional social insurance;
- apply the compulsory administrative measures, stipulated by the Code of social insurance;
- issue punitive decrees for imposing of fines and proprietary sanctions in the cases, provided in the normative acts for additional social insurance;
- exercise supervision over the companies for additional social insurance in a proceedings on transformation, liquidation or insolvency;

– notify the prosecutor's office at the existence of grounded doubt about implemented crime;
– organise and manage the activity of department "Public insurance supervision";
– Take decisions on other issues, connected with the activity for additional social insurance, which are not within the explicit competence of the commission.

6. Conclusions

There is not yet a fully functioning information system for conducting effective off-site monitoring that can identify potential problems. Generally speaking more efforts should be put into developing a good **methodology and information system** likes Insurance Regulatory Information System (IRIS) and Financial Analysis Solvency Tools (FAST) used by National Association of Insurance Commissioners (NAIC) as a system for testing, early detection and prompting corrective action to pension insurance companies.

The Bulgarian legislation, concerning pension funds, still does not have very clear rules about **risk management** of pension funds. There are lots of rules regarding investment limits, reserves, internal control etc. (see CSI) but, generally speaking, the risk management monitors and control system are not clearly recognized as an aggregate system. FSC doesn't require using stress testing methods for recognizing eventual risks in company's activities.

Concerning derivatives, legislation is still inexistent, probably because Bulgarian capital market doesn't trade derivatives, and pension funds do not use them in their portfolios.

NOTES

1 Bulgarian National Social Security Institute

2 Bulgarian National Social Security Institute.

3 Code of Social Insurance (title amend., sg 67/29 Jull 2003)

4 REGULATION № 10 of November 26th 2003

5 REGULATION for issuing license to actuary of pension insurance company

6 International Monetary Fund
http://www.imf.org/external/pubs/ft/scr/2002/cr02188.pdf

7 Art. 122., Pension licence (amend., SG 67/03)

8 Art. 122f. (new, SG 67/03) (1)

9 Art. 122f. (new, SG 67/03) (2)

10 Bulgaria - Examination Manual.doc

11 Custodian Bank Art.123a. (new – SG 67/2003)

12 Authorities of the commission LKFN Art. 13. (1)

13 Authorities of the deputy chairman, managing department "Public insurance supervision" LKFN, Art. 17.

REFERENCES:

Republic of Bulgaria, title amends. SG/67 of 2003, *Social Insurance Code*, http://www.fsc.bg/.

International Association of Insurance Supervisors, October 2003, *Insurance core principles and methodology*, http://www.iaisweb.org.

International Monetary Fund, August 2002, *Financial System Stability Paper on Bulgaria*, http://www.imf.org/external/pubs/ft/scr/2002/cr02188.pdf

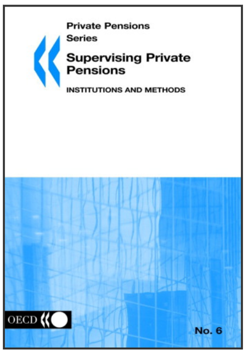
Swiss Re, 2001, *Sigma #1*, http://www.swissre.com

USAID Labor Market Project – Bulgaria, March 2004, *Manual for on-site examination of pension insurance companies and pension funds*, http://pension.bg/pension1/en.

European Commission, Combating money laundering, BG/IB/2001-JH-03, http://europa.eu.int/comm/enlargement/pas/phare/programmes/national/bulgaria/2001/bg0103-07-money%20laundering.pdf

Republic of Bulgaria, Law on Measures against Money Laundering (LMML) (State Gazette issue 85 of 24 July 1998, amended State Gazette issue 1 of 2 January 2001).

TABLE OF CONTENTS



From:
Supervising Private Pensions: Institutions and Methods

Access the complete publication at:
https://doi.org/10.1787/9789264016989-en

Please cite this chapter as:

Parvanov, Bozhidar (2005), "The Structure and Functions of the Supervisory Regime of Retirement Income Provision in the Republic of Bulgaria", in OECD, *Supervising Private Pensions: Institutions and Methods*, OECD Publishing, Paris.

DOI: https://doi.org/10.1787/9789264016989-13-en