

BOSNIA AND HERZEGOVINA
FEDERATION OF BOSNIA AND HERZEGOVINA
SECURITIES COMMISSION OF THE FEDERATION
OF BOSNIA AND HERZEGOVINA

Pursuant to the provisions of Article 111, paragraph (3), and Article 112, paragraph (3) of the Law on Voluntary Pension Funds (Official Gazette of FBiH, 104/16), and Article 12 of the Law on Securities Commission (Official Gazette of FBiH, 39/98, 36/99, 33/04, 92/13 and 6/17), the Securities Commission of the Federation of Bosnia and Herzegovina, at its 545th session held on November 23, 2017, adopted the following

**Rulebook
on the Method of Performing Control of the Voluntary Pension Fund Management
Company**

General provisions

Article 1
(Scope)

This Rulebook regulates the method of performing control of a voluntary pension fund management company (hereinafter: the management company), the procedure of imposing sanctions, as well as other authority of the Securities Commission of the Federation of Bosnia and Herzegovina (hereinafter: the Commission), and other activities to be carried out by the management company pursuant to an order to remove irregularities.

Article 2
(Activities of the Commission)

While performing the control, the Commission shall apply the provisions of the Law on Administrative Procedure (Official Gazette of FBiH, 2/98 and 48/99), this Rulebook and the Rulebook on the Method of Performing Control in the Securities Market (Official Gazette of FBiH, 23/05), unless stipulated otherwise herein.

Article 3
(Experts)

- (1) The control by the Commission shall be carried out by experts, employees of the Commission (hereinafter: authorized officials).
- (2) Notwithstanding paragraph (1) hereof, a company, institution or other person may be authorized to carry out expert tasks in relation to the control (expertise, examination, etc.), if special knowledge or application of scientific methods is required.

Control methods

Article 4
(Types of control)

- (1) The Commission shall perform the control referred to in Article 1 hereof as direct or indirect control.
- (2) The indirect control referred to in paragraph (1) hereof shall be carried out by collecting, monitoring, verifying and analysing reports and other documents submitted to the Commission by the company, pursuant to the Law on Voluntary Pension Funds (Official Gazette of FBiH, 104/16 – hereinafter: the Law) and the regulations of the Commission, continuous monitoring of other information on business operations of

management companies and voluntary pension funds (hereinafter: the fund) available to the Commission, and by organizing meetings with the management of the management company, other responsible persons of the management company, external and internal auditors, and with other employees of the management companies as necessary.

- (3) The direct control referred to in paragraph (1) hereof shall be carried out in the business premises of the management company, by accessing business records, ancillary records and statements, reports drawn up by the management company, internal decisions, rulebooks and documents related to business policies and other documents relating to business operations, printed or in an electronic form, and by taking statements of responsible persons and other employees of the management company.

Article 5

(Control authorization)

- (1) The direct control shall be carried out by authorized officials, employees of the Commission, with a written authorization by the president of the Commission.
- (2) The authorization referred to in paragraph (1) hereof shall state the entity which is subject to direct control, the scope of control and time of performing control; the authorization may be amended during the control.

Article 6

(Minutes)

- (1) Minutes shall be made of the direct control performed, and the management company shall have the right to make a complaint against the minutes within eight days from being served the minutes, which shall be assessed during the remainder of the procedure.
- (2) The minutes shall contain elements as set out by the law governing the administrative procedure, and especially the date of drawing up the minutes, the scope of control and material information relating to the case, the findings in relation to facts found and a signature of the person drawing up the minutes.

Article 7

(Obligations of the company)

- (1) The management company which is subject to direct control shall provide for unimpeded performance of the control by the authorized officials and cooperate with them.
- (2) For the purpose of the direct control, the management company shall provide to the authorized officials access to general bylaws, business records, account statements and other records as requested by the authorized officials, in written or in electronic form, and provide access, for the purpose of performing control of the information system, to detailed technical documents and provide appropriate access to databases, software used by the management company and other information system resources.

Article 8

(Authority)

- (1) When performing direct control, authorized officials may:
 - a) Request that they be provided a separate office for the purpose of performing control;

- b) Access all organisation units and premises of the management company, while adhering to security procedures;
 - c) Request to be provided copies of documents related to the scope of the control;
 - d) Communicate directly with members of the management and employees of the management company to obtain necessary explanations and statements.
- (2) The management company shall provide to authorized officials, at their request, technical support in controlling records and documents kept in an electronic form.
- (3) The authorized officials shall perform direct control during working hours. The direct control may also be performed at other times when necessary due to the scope and nature of the control, in which case the management company shall provide for all conditions for performing the control.

Article 9

(Preventing the control)

The management company shall be deemed to have prevented the control if it fails to act pursuant to Article 8 hereof, as in the following events:

- a) If it has not provided, within the specified deadline, all the requested information or evidence, and especially the information it is obliged to possess pursuant to the law and other regulation or professional rules;
- b) If it intentionally or due to gross negligence submits inaccurate data;
- c) If it fails to provide to authorized officials the necessary conditions for performing control, or fails to ensure that they are undisturbed during the control by employees of the management company or other persons;
- d) If it fails to submit two consecutive reports which it is required to submit periodically pursuant to the law or other regulation, and if it fails to submit within the specified deadline the requested reports or information at the repeated request of the Commission, or if it repeatedly submits inaccurate or incomplete data in the reports.

Article 10

(Completing the procedure)

The Commission shall complete the procedure if it finds no irregularities or if the irregularities found are such that no measures within its authority are necessary.

Measures

Article 11

(Imposing measures)

If the management company does not file a complaint to the minutes within the specified deadline, or if the complaint is ungrounded, and irregularities have been found during the control, the Commission shall impose on the company one of the measures as set out in Article 122, paragraph (1) of the Law.

Article 12

(Written warning)

- (1) A written warning shall be issued to the management company due to major irregularities in its business operations, or irregularities which do not affect significantly or directly the business operations of the management company or the fund managed by the company.

- (2) If the written warning referred to in paragraph (1) hereof contains an order and a deadline within which the management company is required to notify the Commission of the activities undertaken to remove the irregularities, the notification shall contain a report on irregularities removed with a proof enclosed.
- (3) The Commission shall terminate the control procedure of the management company to which it issued a written warning when it determines that the irregularities found have been removed within the deadline set, or have been removed to a large extent, and if they have not been removed, the Commission shall impose appropriate new sanctions on the management company.

Article 13

(Order to remove irregularities)

- (1) In addition to cases as set out by Law, the Commission shall order the management company to carry out one or more activities within a deadline set, or to undertake or terminate other activities depending on the irregularities found, or illegalities or failure to comply with the rules of risk management in the operation of the management company, such as the activities of:
 - a) Increasing the capital assets;
 - b) Decrease the risk exposure levels for fund assets;
 - c) Hire an independent expert to analyse and propose improvement of business operations in the area in which irregularities have been found;
 - d) Publish a corrigendum of the advertisement;
 - e) Publish a corrigendum in the calculation of fees, investment units, fund asset value or return;
 - f) Determine the decrease of fund asset value due to unconscientious behaviour of the management company, and cover the decrease from its own assets;
 - g) Increase the control of operations and activities with which it has entrusted another person pursuant to the Law;
 - h) Participate in the activities of the general assemblies of shareholders of joint stock companies, issuers of shares held as fund assets.
- (2) If the management company, before the expiry of the deadline as set out in the order, files a request for the extension of the deadline, the Commission may grant the extension if it finds that there are justified reasons to do so.
- (3) After the expiry of the deadline as set out in the order, the management company shall submit to the Commission a report on irregularities removed and enclose a proof.
- (4) If the Commission determines that the management company has complied with the order or that the irregularities due to which the sanction was imposed have been removed to such extent that only less important irregularities remain, the control procedure of the management company shall be terminated; otherwise, the Commission shall impose a new sanction on the management company.

Article 14

(New control)

- (1) The Commission may perform a new control of the management company or impose new sanction as appropriate if, based on new information on business operations of the management company available to the Commission, it finds that the previously sanctioned management company has performed new irregularities or illegalities or has not complied with the risk management rules, or failed to comply with sanctions imposed.

- (2) If the Commission decides to perform new control of the management company pursuant to paragraph (1) hereof, it shall terminate the current control simultaneously with initiating the new control procedure or simultaneously with imposing the sanction, based on the findings of the new control.

Article 15

(Termination of approval of appointment)

The Commission shall impose the sanction of terminating the approval of a management company management member appointment in case of severe violations of the Law and regulations of the Commission.

Article 16

(Terminating the operating license and fund management license)

The Commission shall terminate the operating license and fund management license of the management company in case of the most severe violations of the Law and regulations of the Commission.

Transitional and final provisions

Article 17

(Depositary bank and other legal persons)

- (1) The Commission performs the control of the depositary bank, or of the operations performed by the bank pursuant to the Law and regulations of the Commission, in the manner as defined by the Law and this Rulebook.
- (2) When performing control, the Commission may access business records and other documentation of legal persons related to the management company subject to the control – by management, capital assets or otherwise, to achieve common goals, so that the business operations or business results of one person may have a major effect on business operations or business results of another person (shareholders of the management company, persons which the management company has entrusted with carrying out specific operations, intermediaries of the management company, and persons otherwise related to the management company pursuant to the Law), in which case the Commission shall act pursuant to the Law and this Rulebook.

Article 18

(coming into force)

This Rulebook shall come into force on the eighth day from the day of its publication in the Official Gazette of the Federation of Bosnia and Herzegovina.

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In Sarajevo, November 23, 2017

President
of the Securities Commission
of the Federation of Bosnia and Herzegovina

Hasan Čelam, MSc

