

Rule No. 3/2013
on the marketing activity of the privately managed pension fund

In force as of 22 March 2013

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Last amendment was made on 27 June 2014

Having regard to the provisions of Art. 118 of Law No. 411/2004 on privately managed pension funds, republished, as subsequently amended and supplemented,

Based on the provisions of Arts. 16, 21, 21¹, 22 and Art. 23 Letter f) of Government Emergency Ordinance No. 50/2005 on the establishment, organisation and operation of the Private Pension System Supervisory Commission, approved as amended and supplemented by Law No. 313/2005, as subsequently amended and supplemented,

the Private Pension System Supervisory Commission, hereinafter referred to as the Commission, hereby issues this rule.

CHAPTER I
General provisions

Art. 1. – (1) This rule lays down the marketing activity of the privately managed pension fund and the procedure for the authorisation/licence of marketing agents and licence of the specialised legal person.

(2) The provisions of this rule shall apply to privately managed pension funds' managers, hereinafter referred to as managers, marketing agents and specialised legal persons.

Art. 2. – (1) The terms and expressions used herein below shall have the meanings set out in Art. 2 of Law No. 411/2004 on privately managed pension funds, republished, as subsequently amended and supplemented.

(2) In addition, for the purpose of this rule, the terms and expressions herein below shall have the following meanings:

a) legal person marketing agent means:

(i) the trading company authorised by the Commission to carry out the marketing activity of the privately managed pension fund, hereinafter referred to as private pension broker;

(ii) the trading company, established and authorised in accordance with special laws by the National Bank of Romania, Insurance Supervisory Commission or by the National Securities Commission, that received the approval of the supervisory authority which issued also the operation authorisation, and that was licensed by the Commission to carry out the marketing activity of the privately managed pension fund, hereinafter referred to as private pension intermediary;

b) natural person marketing agent – the natural person licensed by the Commission to carry out the marketing activity of the privately managed pension fund;

c) trainer – the natural person carrying theoretical and practical training activities of the persons involved in the marketing activity of the privately managed pension fund within the vocational training programme organised by the manager, by the legal person marketing agent or by the specialised legal person;

- d) marketing of the privately managed pension fund – the activity carried out by the manager to attract participants in the privately managed pension fund through marketing agents authorised/licensed by the Commission;
- e) eligible person – any person under 35 years of age at the time such person is recorded by the record-keeping institution in the social security system on the basis of the insurance document, and any person who has not reached the age of 45 years at the time of signing the individual enrolment act in a privately managed pension fund, who is an insured person of the public pension system and whose identity does not constitute a classified information;
- f) specialised legal person – the trading company that, in accordance with the applicable legislative acts, carries out vocational training activities and it is licensed by the Commission to carry out vocational training courses for natural person marketing agents;
- g) technical documentation Portal – the IT application accessed on <https://w3.csspp.ro/itbox/>, comprising technical instructions so that the entities of the private pension system fill out and send the data and information in the form of reports, in electronic form, to the Commission;
- h) marketing agents’ registry, hereinafter referred to as Registry – the section of the Registry of private pension funds and managers comprising information on the marketing agents which were authorised/licensed by the Commission;
- i) reporting IT system – the IT system through which the Commission collects the primary indicators from the reporting entities, hereinafter referred to as SIR;
- j) XML (eXtensible Markup Language) – the standard format used by SIR for the transfer of data.

CHAPTER II

The marketing activity of the privately managed pension fund

Art. 3. – (1) The private pension broker may carry out the marketing activity of the privately managed pension fund if it meets all of the following requirements:

- a) to have at least one contract concluded with a manager to carry out the marketing activity of the privately managed pension fund;
- b) to be authorised by the Commission and registered in the Registry.

(2) The private pension intermediary may carry out the marketing activity of the privately managed pension fund if it meets all of the following requirements:

- a) to obtain the consent of the supervisory authority which issued also the operation authorisation to carry out the marketing activity of the privately managed pension fund;
- b) to have at least one contract concluded with a manager to carry out the marketing activity of the privately managed pension fund;
- c) to be licensed by the Commission and registered in the Registry.

(3) The natural person marketing agent may carry out the marketing activity of the privately managed pension fund if he meets all of the following requirements:

- a) to have a contract to carry out the marketing activity of the privately managed pension fund or an employment contract concluded with one manager or with one legal person marketing agent, where appropriate;
- b) to be licensed by the Commission and registered in the Registry.

Art. 4. – The private pension broker and the private pension intermediary may carry out the marketing activity of the privately managed pension fund for all of the managers authorised by the Commission.

Art. 5. – (1) The natural person marketing agents shall carry out the marketing activity of the privately managed pension fund only for one manager or for one legal person marketing agent, where appropriate.

(2) The natural person marketing agents of a private pension broker or the natural person marketing agents of a private pension intermediary shall carry out the marketing activity only for the managers with which the private pension broker or the private pension intermediary concluded contracts.

Art. 6. – The marketing activity of the privately managed pension fund shall consist in:

- a) informing the eligible person of the conditions of the private pension scheme, private pension scheme prospectus, rights and obligations of the parties involved, and also of the nature of the risks attached to the private pension scheme;
- b) making available to the eligible person the simplified prospectus of the private pension scheme, free of charge, and the detailed prospectus, upon request;
- c) informing the eligible person of the modality to join a privately managed pension fund;
- d) obtaining the eligible person's consent to join the privately managed pension fund through the execution of the individual enrolment act.

Art. 7. – The manager shall carry out the marketing activity of the privately managed pension fund only through the legal person marketing agent and/or natural person marketing agent, authorised/licensed by the Commission.

CHAPTER III

Training of the natural person marketing agents

Art. 8. – (1) The managers, legal person marketing agents and/or specialised legal persons shall be in charge with training natural persons to obtain the licence required to carry out the marketing activity of the privately managed pension fund.

(2) The theoretical and practical training activities of the persons involved in the marketing activity within the vocational training programme organised by the manager, legal person marketing agent or specialised legal person shall be conducted only by the trainers who meet all of the following requirements:

- a) they graduated from a higher education institution;
- b) they graduated from a programme for trainers;
- c) they have at least one year of experience in the private pension field;
- d) there is no mention in the criminal record certificate regarding the perpetration of offences against property, forgery offences or offences against the regime established for certain economic activities;
- e) there is no mention in the tax offence record certificate.

(3) By way of exception from the provisions of Para (2), the theoretical and practical training of the persons involved in the marketing activity within the vocational training programme organised by the manager may also be organised through electronic platforms, in compliance with the requirements of the applicable legislative acts.

(4) The manager, legal person marketing agent or specialised legal person shall keep records of the trainers organising classes for natural person marketing agents, together with the following documents:

- a) copy of the identity card, whose conformity with its original is certified by its holder by holograph signature, affixed on the same page on which the image is reproduced through copy;
- b) curriculum vitae prepared in accordance with Annexe No. 4;
- c) copy of the document proving that such person graduated from a higher education institution;
- d) copy of the graduation certificate of a trainer programme, as appropriate;
- e) original criminal record certificate and the original tax offence record certificate.

Art. 9. – (1) The course for natural person marketing agents and the graduation examination thereof shall be organised based on the subjects approved by the Commission.

(2) For the purpose of obtaining the approval on the subjects of the course for natural person marketing agents, the manager, the legal person marketing agent and the specialised legal person shall include the minimum content published on the Internet page of the Commission.

(3) The list of subjects referred to in Para (1) shall be signed by the undertaking's legal representative.

Art. 10. – (1) The manager, the legal person marketing agent and the specialised legal person shall update their own list of subjects when the course for natural person marketing agents is held, in accordance with the applicable legislative acts, and shall send the Commission a notification in this respect.

(2) The notification referred to in Para (1) shall comprise, as annexe, the updated list of subjects.

(3) The Commission shall send, within 15 working days from the date of registration of the notification, remarks on the modifications made thereto, if applicable.

Art. 11. – (1) For each person enrolled in a course, the manager, the legal person marketing agent or the specialised legal person shall prepare a file consisting at least of the following documents:

a) copy of the identity card, whose conformity with its original is certified by its holder by holograph signature, affixed on the same page on which the image is reproduced through copy;

b) statement under own responsibility of the person enrolled in the course for natural person marketing agents revealing that there are no mentions in the criminal record certificate regarding the perpetration of offences against property, forgery offences or offences against the regime established for certain economic activities and/or in the tax offence record certificate;

c) statement under own responsibility of the person enrolled in the course revealing that such person was not punished by the Romanian or foreign authorities by the temporary or final prohibition on carrying out activities in the financial–banking system.

(2) The manager, the legal person marketing agent and the specialised legal person shall verify that the natural persons enrolled in the course for natural person marketing agents meet the requirements referred to in Art. 24, Letters a) and b).

Art. 12. – (1) The graduation exam of the course for natural person marketing agents shall be organised as a written examination and shall be taken within 30 calendar days of the finalisation of the course.

(2) Within 30 calendar days after passing the examination, the manager, the legal person marketing agent and the specialised legal person shall confer the graduation certificate of the course in the form set out in Annexe No. 1.

Art. 13. – (1) The specialised legal person shall organise courses for natural person marketing agents based on a contract concluded either with a natural person, meeting the requirements set out in Art. 24 Letters a) and b), with a manager, or with a legal person marketing agent.

(2) The contract referred to in Para (1) concluded with a natural person shall include the information on the period during which the course is organised and the date on which the exam is taken.

CHAPTER IV
Procedure for the authorisation/licence of marketing agents

SECTION 1
Authorisation of the private pension broker

Art. 14. – (1) The Commission shall authorise as private pension broker a newly-established trading company and any other trading company that must meet all of the following requirements:

- a) the name shall not mislead the eligible persons, participants or other persons, and must contain the wording “*broker de pensii private* [private pension broker]”;
- b) the share capital fully subscribed and paid-in in cash shall be minimum 25,000 lei;
- c) the undertaking’s object of activity shall have as main activity the activities auxiliary to pension funds, supplemented, as appropriate, only with the activities provided in the “Financial Intermediaries and Insurance” Section of the Classification of the Activities of National Economy;
- d) the headquarters intended to be used for the activity for which the authorisation is requested shall be properly equipped, where the correspondence from the Commission is sent and received, and where an employee of the private pension broker shall be present throughout the working hours;
- e) shall not have any debts to the State budget, social security budget, local budgets and budgets of the special funds, as appropriate;
- f) shall not be subject to judicial reorganisation and/or bankruptcy proceedings, as appropriate;
- g) the natural person shareholders/associates shall meet the following requirements:
 - (i) shall have no mentions in the criminal and tax offence record certificate regarding the perpetration of offences against property, forgery offences or offences against the regime established for certain economic activities;
 - (ii) shall not have directly or indirectly contributed to the bankruptcy of legal persons, or involved in any financial scandals.
- h) the legal person shareholders/associates shall meet the following requirements:
 - (i) shall not be subject of judicial reorganisation and/or bankruptcy proceedings;
 - (ii) shall not have any debts to the State budget, social security budget, local budgets and budgets of the special funds;
 - (iii) shall have no mention in the tax offence record certificate.
- i) the members of the board of directors, of the supervisory board, of the executive board, directors or managers, as appropriate, shall meet the following requirements:
 - (i) shall have the training, professional experience and integrity required by the position to be
 - (ii) shall be graduates from a higher education institution;
 - (iii) shall not have been punished by Romanian or foreign authorities of the financial – banking system with the temporary or final prohibition on carrying out activities in the system in which they operated;
 - (iv) shall have no mentions in the criminal and tax offence record certificate regarding the perpetration of offences against property, forgery offences or offences against the regime established for certain economic activities;
 - (v) shall not be members of the board of directors, of the supervisory board, of the executive board or persons directing the business of a management undertaking of the private pension system or of a credit institution holding the position of depositary of the private pension funds’ assets;

- (vi) shall not be members of the board of directors of the financial investment services undertaking which has a contract concluded with the manager for which the marketing activity is carried out;
- (vii) shall not be employees and shall not have any contractual relation with another manager of the private pension system;
- j) shall have at least one contract concluded with a manager for which the marketing activity of the privately managed pension fund shall be carried out and which shall contain the provision according to which the contract shall enter into force on the date of communication of the decision on authorisation as private pension broker by the Commission;
- k) shall appoint, within the company, a person in charge with the marketing activity;
- l) shall pay the fee for the authorisation and registration in the Registry, in accordance with the applicable legislative acts.

Art. 15. – The application for the authorisation as private pension broker, prepared in accordance with Annexe No. 2, shall be submitted to the Commission together with the following documents:

- a) for the newly-established trading company:
 - (i) original instruments of incorporation which shall contain the name of the private pension broker, as per the reservation of name issued by the office of the trade registry;
 - (ii) original resolution of the competent statutory body on the instruments of incorporation, as appropriate, which shall indicate that it shall produce effects only after obtaining the authorisation as broker to carry out the marketing activity of the privately managed pension fund;
 - (iii) copy of the documents proving the full payment in cash of the share capital;
- b) for the trading company registered with the office of the trade registry at the time of submission of the application:
 - (i) original revised instruments of incorporation which shall contain the name of the private pension broker, as per the reservation of name issued by the office of the trade registry;
 - (ii) original resolution of the competent statutory body on the amendment of the company's instruments of incorporation which shall indicate that it shall produce effects only after obtaining the authorisation as broker to carry out the marketing activity of the privately managed pension fund;
 - (iii) copy of the certificate of incorporation issued by the office of the trade registry;
 - (iv) original company details certificate issued by the office of the trade registry;
 - (v) original fiscal certificate;
 - (vi) original tax offence record certificate;
 - (vii) original statement under own responsibility of the undertaking's representative attesting that the provisions of Art. 14, Letter f), are complied with, as appropriate;
- c) copy of the legal document based on which the undertaking uses the premises intended to be used as registered headquarters and secondary headquarters, as appropriate, specifying the headquarters that meets the condition referred to in Art. 14 Letter d);
- d) for natural person associates/shareholders:
 - (i) copy of the identity card, whose conformity with its original is certified by its holder by holograph signature, affixed on the same page on which the image is reproduced through copy;
 - (ii) original criminal and tax offence record certificate;
 - (iii) original statement under own responsibility attesting that the provisions of Art. 14 Letter g), Point (ii) are complied with;
- e) for legal person associates/shareholders:
 - (i) original company details certificate issued by the office of the trade registry;
 - (ii) original tax offence record certificate;

- (iii) original fiscal certificate;
- (iv) original statement under own responsibility of the undertaking's representative attesting that the provisions of Art. 14 Letter h), Point (i) are complied with, as appropriate;
- f) for the members of the board of directors, of the supervisory board, of the executive board, directors, managers, as appropriate:
 - (i) copy of the identity card, whose conformity with its original is certified by its holder by holograph signature, affixed on the same page on which the image is reproduced through copy;
 - (ii) original curriculum vitae drafted in accordance with Annexe No. 4;
 - (iii) copy of the document attesting that they graduated from a higher education institution;
 - (iv) the signature specimens in accordance with Annexe No. 5;
 - (v) original criminal and tax offence record certificate;
 - (vi) original statement under own responsibility attesting that they are not in any of the situations provided at Art. 14 Letter i), Points (iii), (v) and (vii);
- g) original contract/contracts concluded between the undertaking and the manager/managers for which the marketing activity shall be carried out and which shall contain the provision according to which it shall come into force on the date of communication of the authorisation decision as private pension broker by the Commission;
- h) original internal document appointing the person in charge with the marketing activity, together with such person's identification and contact data;
- i) copy of the proof of payment of the fee for authorisation and registration in the Registry, in accordance with the applicable legislative acts.

Art. 16. – For the purpose of carrying out also the marketing activity of voluntary pension funds, the private pension broker authorised by the Commission for the marketing of the privately managed pension funds shall submit to the Commission an application for authorisation to carry out the marketing activity of the voluntary pension funds and registration in the Registry, prepared in accordance with the provisions of the applicable legislative acts, together with:

- a) the documents submitted to obtain the authorisation for the performance of the marketing activity of the privately managed pension funds amended after the date of the initial authorisation. The documents which were not amended shall no longer be submitted to the Commission and the company's legal representative shall submit a statement under own responsibility in this respect;
- b) the original contract/contracts concluded between the private pension broker and the manager/managers for which the marketing activity of a voluntary pension fund shall be carried out and which shall contain the provision according to which it shall come into force on the date of communication of the authorisation decision for the performance of the marketing activity of the voluntary pension funds by the Commission;
- c) the original resolution of the competent statutory body deciding upon the performance of the marketing activity of the voluntary pension funds, which shall contain the mention that it shall produce effects only after obtaining the authorisation as broker for the performance of the marketing activity of the voluntary pension funds;
- d) the copy of the proof of payment of the fee for authorisation and registration in the Registry, in accordance with the applicable legislative acts.

Art. 17. – For the purpose of carrying out also the marketing activity of the privately managed pension funds, the private pension broker authorised by the Commission for the marketing of the voluntary pension funds shall submit to the Commission an application for authorisation to carry out the marketing activity of the privately managed pension funds and registration in the Registry, drafted in accordance with Annexe No. 2, together with the following documents:

a) the documents submitted to obtain the authorisation for the performance of the marketing activity of the voluntary pension funds amended after the date of the initial authorisation. The documents which were not amended shall no longer be submitted to the Commission and the undertaking's legal representative shall submit a statement under own responsibility in this respect;

b) the original contract/contracts concluded between the private pension broker and the manager/managers for which the marketing activity of a privately managed pension fund shall be carried out and which shall contain the provision according to which it shall come into force on the date of communication of the authorisation decision for the performance of the marketing activity of the privately managed pension funds by the Commission;

c) the original resolution of the competent statutory body deciding upon the performance of the marketing activity of the privately managed pension fund, which shall indicate that it shall produce effects only after obtaining the authorisation as broker for the performance of the marketing activity of the privately managed pension funds;

d) the copy of the proof of payment of the fee for authorisation and registration in the Registry, in accordance with the applicable legislative acts.

Art. 18. – The private pension broker shall pay the Commission, from the date the authorisation is obtained, and throughout its validity, an operation fee in accordance with the applicable legislative acts.

SECTION 2

Licence of the private pension intermediary

Art. 19. – The Commission shall licence as private pension intermediary the trading company defined at Art. (2)(2) Letter a) Point (ii) cumulatively meeting the following requirements:

a) the object of activity shall comprise “activities auxiliary to pension funds”, in accordance with the Classification of the Activities of National Economy;

b) shall be authorised under the legislation applicable to their field of activity;

c) shall obtain the consent of the supervisory authority which issued also the operation authorisation for the purpose of carrying out the marketing activity of the privately managed pension funds;

d) shall have no mentions in the tax offence record certificate;

e) shall have a contract concluded with the manager for which the marketing activity shall be carried out, which shall contain the provision according to which the contract shall enter into force on the date of communication of the licence for the performance of the marketing activity by the Commission;

f) shall not be subject to judicial reorganisation and/or bankruptcy proceedings;

g) shall appoint, within the undertaking, a person in charge with the marketing activity;

h) shall pay the fee for licence and registration in the Registry, in accordance with the applicable legislative acts.

Art. 20. – The application for the licence as private pension intermediary, drafted in accordance with Annexe No. 3, shall be submitted to the Commission together with the following documents:

a) copy of the incorporation certificate issued by the office of the trade registry;

b) original company details certificate issued by the office of the trade registry;

c) copy of the operation authorisation issued by the supervisory authority;

d) original document proving that the consent for the performance of the marketing activity for privately managed pension funds was obtained;

- e) original revised instruments of incorporation whose object of activity shall comprise the activities auxiliary to pension funds in accordance with the Classification of the Activities of National Economy;
- f) original resolution of the competent statutory body on the amendment of the instruments of incorporation, which shall indicate that it shall produce effects only after obtaining the authorisation as intermediary for the performance of the marketing activity of the privately managed pension funds;
- g) original contract/contracts concluded with the manager/managers for which the marketing activity of a privately managed pension fund shall be carried out and which shall contain the provision according to which it shall come into force on the date of communication of the licence for the performance of the marketing activity of the privately managed pension funds by the Commission;
- h) original internal document appointing the person in charge with the marketing activity, together with such person's identification and contact data;
- i) original tax offence record certificate;
- j) original statement under own responsibility of the undertaking's legal representative attesting that the provisions of Art. 19 Letter f) are complied with;
- k) copy of the proof of payment of the fee for licence and registration in the Registry, in accordance with the applicable legislative acts.

Art. 21. – By way of exception from the provisions of Art. 20, the private pension intermediary that received a licence from the Commission to carry out the marketing activity of the privately managed pension funds shall submit, together with the application for licence for the performance of the marketing activity of the voluntary pension funds, drafted in accordance with the applicable legislative acts, the documents provided at Art. 20 Letters b), d), g), i) and k), and the documents amended since the date of the initial licence. The documents which were not amended shall no longer be submitted to the Commission and the undertaking's legal representative shall file with the Commission a statement under own responsibility in this respect.

Art. 22. – By way of exception from the provisions of Art. 20, the private pension intermediary that received a licence from the Commission to carry out the marketing activity of the voluntary pension funds shall submit, together with the application for licence for the performance of the marketing activity of the privately managed pension funds, drafted in accordance with Annexe No. 3, the documents provided at Art. 20 Letters b), d), g), i) and k), and the documents amended since the date of the initial licence. The documents which were not amended shall no longer be submitted to the Commission and the undertaking's legal representative shall file with the Commission a statement under own responsibility in this respect.

Art. 23. – The private pension intermediaries shall pay the Commission, from the date the licence is obtained, and throughout its validity, an operation fee in accordance with the applicable legislative acts.

SECTION 3

Licence of natural person marketing agents

Art. 24. – The Commission shall licence as marketing agent any natural person cumulatively meeting the following requirements:

- a) was not punished by Romanian or foreign authorities of the financial – banking system with the temporary or final prohibition on carrying out activities in the system in which it operated;

- b) has no mentions in the criminal and tax offence record certificate regarding the perpetration of offences against property, forgery offences or offences against the regime established for certain economic activities;
- c) has obtained a graduation certificate for natural person marketing agents, subject to the conditions provided at Arts. 11 and 12;
- d) shall have a contract for the performance of the marketing activity concluded with only one manager or with one legal person marketing agent, as appropriate, which shall contain the provision that it shall enter into force after the date of communication of the licence of the natural person marketing agent by the Commission;
- e) the job description shall comprise the duties of marketing agent, if such person has concluded an employment contract;
- f) has paid the fee for licence and registration in the Registry, in accordance with the applicable legislative acts.

Art. 25. – (1) The manager or the legal person marketing agent, as appropriate, shall send the Commission the application for the licence of its agents, drafted in accordance with Annexe No. 6, as scanned image, together with the following documents, in electronic form, with the extended electronic signature of the legal representative or of the person in charge with the marketing activity:

- a) the nominal table of the natural persons for which the licence is requested;
- b) statement under own responsibility of the manager's legal representative or of the legal person marketing agent, attesting that for each natural person for which the licence as marketing agent is requested has prepared the file provided at Art. 11(1), supplemented by the following documents:
 - (i) original graduation certificate of the course for natural person marketing agents;
 - (ii) original contract for the performance of the marketing activity complying with the provisions of Art. 24 Letter d);
 - (iii) copy of the employment contract, as appropriate, together with the job description complying with the provisions of Art. 24 Letter e);
- c) the proof of payment of the fee for the licence and registration in the Registry, for each natural person marketing agent, in accordance with the applicable legislative acts.

(2) The nominal table of natural persons for whom the licence is requested shall contain at least the following information:

- a) the natural persons' last name and first name;
- b) the personal number code;
- c) the series and number of the identity card;
- d) the citizenship;
- e) the telephone number and email address;
- f) the domicile address;
- g) the residence address;
- h) the data of graduation from the course for natural person marketing agents, consistent with the date in the graduation certificate.

(3) The documents referred to in Para (1) shall be prepared and sent in accordance with the instructions of the technical documentation Portal of the Commission.

(4) The manager or the legal person marketing agent, as appropriate, having obtained the licence for its agents, shall keep in its own archives the documents referred to in Para. (1), in original, hard copy, and shall present them to the Commission whenever requested by the Commission.

SECTION 4

Granting the authorisation or licence to legal person marketing agents

Art. 26. – The Commission shall analyse the application and the documents submitted to obtain the authorisation/licence to carry out the marketing activity of the privately managed pension fund and, within 30 calendar days of the registration of the applicant's complete file, and it shall approve or reject such application.

Art. 27. – (1) Any request of the Commission for any further information or amendment of the documents initially submitted shall interrupt the term set out in Art. 26, and another term shall start running from the date of submission of such information or amendments. The submission may not exceed 30 calendar days as of the date of request by the Commission, on penalty of rejection of the application.

(2) If the documents submitted are incomplete, illegible or not properly submitted, and if certain documents are missing, the Commission shall request the replacement or supplementation thereof.

(3) Failure to meet any of the requirements regarding the authorisation or licence shall entail the rejection of the application submitted by the applicant.

Art. 28. – The authorisation decision or licence shall be communicated to the applicant within 5 working days as of the adoption date and shall also contain the marketing agent's registration code in the Registry.

Art. 29. – (1) Any amendment of the private pension broker's instruments of incorporation shall be submitted to the office of the trade registry only accompanied by the Commission's licence.

(2) For the approval of the amendment of the instruments of incorporation, the private pension broker shall submit to the Commission an application in this respect, executed by the undertaking's legal representative, together with the following documents:

- a) original revised instruments of incorporation;
- b) original resolution of the competent statutory body on the amendment of the instruments of incorporation, which shall indicate that it shall produce effects only after obtaining the approval for the amendment of the instruments of incorporation;
- c) copy of the proof of payment of the fee for the approval of the amendments, in accordance with the legal provisions.

(3) For the purpose of approving or rejecting the application for approval of the amendment of the instruments of incorporation, the provisions of Arts. 26 – 28 or 35 and 36 shall apply accordingly.

(4) The private pension brokers shall inform the Commission of the amendment of the documents or conditions based on which the authorisation was granted, within 5 working days of the date of the amendments.

(5) The private pension intermediary shall inform the Commission of the amendment of the documents or of the conditions based on which the approval was granted, within 5 working days of the date of the amendments.

(6) The notifications referred to in Paras (4) and (5), which were sent to the Commission, shall include, as attachment, copies of the amended documents.

SECTION 5

The procedure for the approval of the temporary interruption of the activity of the legal person marketing agent

- Art. 30. – (1) After obtaining the authorisation/licence to carry out the marketing activity of the privately managed pension fund, the legal person marketing agent may request the Commission to temporarily interrupt its activity.
- (2) The legal person marketing agent may interrupt its activity for a certain period of time, without exceeding 3 years.
- (3) For the purpose of obtaining the approval for the temporary interruption of the activity, the legal person marketing agent shall submit the following documents to the Commission:
- a) application for the temporary interruption of the undertaking's activity and for its registration in the Registry, Section – Entities whose activity is temporarily interrupted – Pillar II;
 - b) original resolution of the competent statutory body on the approval of the temporary interruption of the undertaking's activity for which it was authorised/licensed by the Commission, which shall indicate that it shall produce effects only after obtaining the approval for the temporary interruption of the activity;
 - c) application for the withdrawal of the licence of all natural person marketing agents, drafted and sent in accordance with the provisions of Art. 51;
 - d) copy of the proof of informing the managers of the temporary interruption of the activity.
- (4) The approval for the temporary interruption of the activity shall be communicated to the applicant within 5 working days as of the date it was granted.
- (5) The legal person marketing agent shall inform, within 5 working days as of the receipt of the approval, the fiscal bodies and register the temporary interruption of the activity with the office of the trade registry.
- (6) Upon expiry of the period of the temporary interruption of the activity, the legal person marketing agent shall inform, within 5 working days as of the date such period ended, the Commission of the resumption of the activity or of the renunciation of the activity for which it was authorised/licensed.
- (7) For the purpose of obtaining the approval for the resumption of the activity, the legal person marketing agent shall submit the following documents to the Commission:
- a) application for the approval for the resumption of activity;
 - b) original resolution of the competent statutory body on the approval of the resumption of the undertaking's activity, which shall indicate that it shall produce effects only after obtaining the approval for the resumption of the activity;
 - c) original company details certificate issued by the office of the trade registry;
- (8) If the Commission is not informed within the term referred to in Para (6), it shall proceed to the withdrawal of the authorisation/licence of the legal person marketing agent.
- (9) The decision to withdraw the authorisation/licence of the legal person marketing agent shall be communicated within 5 working days as of the adoption.
- (10) The Commission shall inform in writing the managers with which contracts for the performance of the marketing activity are concluded of the withdrawal of the authorisation/licence of the legal person marketing agent.
- (11) The decision to withdraw the authorisation/licence of the legal person marketing agent may be challenged within 30 calendar days of the date of communication thereof, in accordance with the provisions of Law No. 554/2004 on administrative disputes, as subsequently amended and supplemented.

SECTION 6

Granting the licence to natural person marketing agents

Art. 31. – The Commission shall analyse and decide with regard to granting the licence to the natural person marketing agent, within 30 calendar days of the registration of the complete file in accordance with Art. 25, and shall approve or reject the application.

Art. 32. – (1) Any request of the Commission for any further information or amendment of the documents initially submitted shall interrupt the term set out in Art. 31, and another term shall start running as of the submission date of such information or amendments. The submission may not exceed 30 calendar days as of the date of request by the Commission, on penalty of rejection of the application.

(2) If the documents submitted are incomplete, illegible or not properly submitted, and if certain documents are missing, the Commission shall request the replacement or supplementation thereof.

(3) Failure to meet any of the requirements regarding the licence shall entail the rejection of the application submitted by the applicant.

Art. 33. – The licence shall be communicated to the manager/legal person marketing agent within 5 working days as of the date such it was granted.

Art. 34. – (1) After obtaining the licence as natural person marketing agent, any amendment of the documents of the file for licence set out in Art. 25(1) or of the conditions based on which the same was granted shall be notified to the Commission by the manager or by the legal person marketing agent, as appropriate, within 5 working days of the date it became aware of the same.

(2) The amendments of the contract for the performance of the marketing activity shall be exempt from the provisions of Para (1).

(3) The natural person marketing agent shall inform the manager or legal person marketing agent, as appropriate, of any amendment of the conditions or documents initially submitted for the licence as marketing agent, within 30 calendar days as of the date of the amendments, and shall send them copies of the amended documents.

(4) For any amendment of the information comprised in the nominal table with regard to natural person agents, the manager or the legal person marketing agent shall send the Commission, within the term referred to in Para (1), the revised nominal table, in electronic form, with the extended electronic signature of the legal representative or of the person in charge with the marketing activity.

(5) The revised nominal table shall comprise only that information set out in Art. 25(2) which was amended, and also the code of the marketing agent in the Registry, number and date of the licence granted by the Commission.

SECTION 7

Rejection of the application for authorisation or licence as marketing agent

Art. 35. – (1) Failure to meet any of the requirements provided herein shall entail the rejection of the application for the authorisation or licence as marketing agent.

(2) The rejection decision of the application for the authorisation or licence as marketing agent, written and reasoned, shall be communicated to the applicant within 5 working days as of the adoption.

(3) The rejection decision of the application for the authorisation or licence as marketing agent may be challenged within 30 calendar days as of the date of communication thereof, in accordance with the provisions of Law No. 554/2004, as subsequently amended and supplemented.

Art. 36. – Another application for the authorisation or licence as marketing agent may be submitted to the Commission provided that the inconsistencies which led to the rejection of the initial application were addressed.

CHAPTER V

The procedure for granting the licence to the specialised legal person

SECTION 1

Licence of the specialised legal person

Art. 37. – The Commission shall licence as specialised legal person for the performance of the vocational training activity of natural person marketing agents any trading company meeting the following requirements:

- a) the main activity shall consist of “Other education n.e.c.” of the Classification of the Activities of National Economy;
- b) shall have a headquarters intended for the performance of the vocational training activity, properly equipped, where the correspondence from the Commission is sent and received;
- c) shall not have any debts to the State budget, social security budget, local budgets and budgets of the special funds;
- d) shall not be subject to judicial reorganisation and/or bankruptcy proceedings;
- e) shall have a syllabus which shall include at least the subjects approved by the Commission;
- f) the natural person shareholders/associates shall have no mentions in the criminal and tax offence record certificate regarding the perpetration of offences against property, forgery offences or offences against the regime established for certain economic activities;
- g) the legal person shareholders/associates shall meet the following requirements:
 - (i) shall not be subject to judicial reorganisation and/or bankruptcy proceedings;
 - (ii) shall have no mentions in the tax offence record certificate;
- h) shall pay the fee for the licence and registration in the Registry, in accordance with the applicable legislative acts.

Art. 38. – The application for licence as specialised legal person, drafted in accordance with Annexe No. 7, shall be submitted to the Commission, together with the following documents:

- a) original instruments of incorporation whose main activity is “Other education n.e.c.” of the Classification of the Activities of National Economy;
- b) original resolution of the competent statutory body on the amendment of the instruments of incorporation, which shall indicate that it shall produce effects only after obtaining the licence as specialised legal person;
- c) copy of the registration certificate issued by the office of the trade registry;
- d) original company details certificate issued by the office of the trade registry;
- e) original tax offence record certificate and the fiscal certificate;
- f) statement under own responsibility of the undertaking’s legal representative attesting that the undertaking is not in the situation provided at Art. 37 Letter d);
- g) original documents regarding the natural person associates/shareholders: the criminal record certificate and the tax offence record certificate;
- h) documents regarding the legal person associates/shareholders:
 - (i) original tax offence record certificate;
 - (ii) original company details certificate issued by the office of the trade registry;
- i) original internal regulation for the organisation of the graduation exam for the natural person marketing agents course, executed by the undertaking’s legal representative;
- j) original training syllabus comprising at least the subjects approved by the Commission, executed by the undertaking’s legal representative;

k) copy of the proof of payment of the fee for authorisation and registration in the Registry, in accordance with the legislation in force.

SECTION 2

Granting the licence to the specialised legal person

Art. 39. – The Commission shall analyse the application and the documents submitted to obtain the licence of the specialised legal person and, within 30 calendar days as of the date of registration of the applicant's complete file, shall approve or reject the application.

Art. 40. – (1) Any request of the Commission for any further information or amendment of the documents initially submitted shall interrupt the term set out in Art. 39, and another term shall start running as of the submission date of such information or amendments. The submission may not exceed 30 calendar days as of the date of the request by the Commission, on penalty of rejection of the application.

(2) If the documents submitted are incomplete, illegible or not properly submitted, and if certain documents are missing, the Commission shall request the replacement or supplementation thereof.

(3) Failure to meet any of the requirements regarding the licence shall entail the rejection of the application submitted by the applicant.

Art. 41. – (1) The licence shall be communicated to the applicant within 5 working days as of the adoption date and shall also contain the registration code in the Registry.

(2) Any amendment of the documents or requirements based on which the licence was granted to the specialised legal person shall be notified to the Commission.

(3) Notifications shall be sent to the Commission within 5 working days as of the date of the amendments, or, of the registration thereof, as appropriate, with the office of the trade registry, together with copies of the amended documents.

SECTION 3

The procedure for the approval of the temporary interruption of the specialised legal person's activity

Art. 42. – (1) After obtaining the licence to carry out the vocational training activity within the private pension field, the specialised legal person may request the Commission the temporary interruption of the activity.

(2) The specialised legal person may interrupt the activity for a certain period of time, without exceeding 3 years.

(3) For the purpose of obtaining the approval for the temporary interruption of the activity, the specialised legal person shall submit to the Commission the following documents:

a) application for the temporary interruption of the undertaking's activity and for its registration in the Registry, Section – Entities whose activity is temporarily interrupted – Pillar II;

b) original resolution of the competent statutory body on the approval of the temporary interruption of the undertaking's activity, which shall indicate that it shall produce effects only after obtaining the approval for the temporary interruption of the undertaking's activity;

c) copy of the proof of informing the managers and the legal person marketing agent for which they carry out the vocational training activity of the temporary interruption of the activity.

(4) The approval shall be communicated to the applicant within 5 working days as of the date it was granted.

- (5) The specialised legal person shall inform, within 5 working days as of the receipt of the approval, the fiscal bodies thereof and register the temporary interruption of the activity with the office of the trade registry.
- (6) Upon expiry of the period of the temporary interruption of the activity, the specialised legal person shall inform the Commission, within 5 working days as of the date such period expired, of the resumption of the activity or of the renunciation of the activity for which it was licensed.
- (7) For the purpose of obtaining the approval for the resumption of the activity, the specialised legal person shall submit the following documents to the Commission:
- a) application for the approval for the resumption of activity;
 - b) original resolution of the competent statutory body on the approval of the resumption of the undertaking's activity, which shall indicate that it shall produce effects only after obtaining the approval for the resumption of the activity;
 - c) original company details certificate issued by the office of the trade registry.
- (8) Where the Commission is not informed within the term referred to in Para (6), it shall proceed to the withdrawal of the licence of the specialised legal person.
- (9) The decision to withdraw the licence of the specialised legal person shall be communicated within 5 working days as of the adoption.
- (10) The decision to withdraw the licence of the specialised legal person may be challenged within 30 calendar days of the date of communication thereof, in accordance with the provisions of Law No. 554/2004, as subsequently amended and supplemented.

SECTION 4

Rejection of the application for the licence as specialised legal person

- Art. 43. – (1) Failure to meet any of the requirements provided herein shall entail the rejection of the application for licence as specialised legal person.
- (2) The rejection decision of the application for licence as specialised legal person, written and reasoned, shall be communicated to the applicant within 5 working days as of the adoption.
- (3) The rejection decision of the application for licence as specialised legal person may be challenged within 30 calendar days as of the date of communication thereof, in accordance with the legislation in force on administrative disputes.
- (4) Another application for licence as specialised legal person may be submitted to the Commission provided that the inconsistencies which led to the rejection of the initial application were addressed.

CHAPTER VI

Withdrawal of the authorisation/licence of the marketing agents and of the licence of the specialised legal person

SECTION 1

Withdrawal of the authorisation/licence of legal person marketing agents

- Art. 44. – (1) The Commission may withdraw the authorisation or licence of the legal person marketing agent:
- a) if the authorisation or licence was obtained based on false or misleading information or documents;
 - b) if any of the requirements considered when the authorisation/licence was granted, is no longer met;

- c) if the provisions of the applicable legislative acts are breached;
- d) if the activity for which it was authorised/licensed was not started within 12 months as of the date of the authorisation/licence or if it did not carry out, for more than 6 months, the activity for which it was authorised/licensed;
- e) if the bankruptcy proceedings were initiated against the legal person marketing agent. The legal person marketing agent shall notify the Commission and managers of the initiation of the bankruptcy proceedings within 5 working days as of the issuance date of the decision initiating the bankruptcy proceedings;
- f) at the request of the legal person marketing agent.

(2) The provisions of Para (1) Letter d) shall not apply if the undertaking obtained the approval for the temporary interruption of the activity issued by the Commission.

Art. 45. – (1) To withdraw the authorisation/licence of the legal person marketing agent, upon request, the legal person marketing agent shall submit to the Commission the following documents:

- a) application for the withdrawal of the licences of all natural person marketing agents, drafted and sent in accordance with the provisions of Art. 51;
- b) original resolution of the competent statutory body on the cessation of the activity or modification of the object of activity, which shall indicate that it shall produce effects only after obtaining the approval for the withdrawal of the authorisation/licence of the legal person marketing agent;
- c) original revised instruments of incorporation;
- d) copy of the proof of informing the managers of the termination of the contracts concluded for the performance of the marketing activity of the privately managed pension fund.

(2) The Commission shall analyse and decide with regard to the approval of the application within 30 calendar days as of the registration of the applicant's complete file.

(3) The decision to withdraw the authorisation/licence of the legal person marketing agent shall be communicated to the applicant within 5 working days of the adoption.

Art. 46 – (1) The decision to withdraw the authorisation/licence of the legal person marketing agent, written and reasoned, shall be communicated to it within 5 working days of the adoption.

(2) The decision to withdraw the authorisation/licence of the legal person marketing agent may be challenged within 30 calendar days of the communication date thereof, in accordance with the provisions of Law No. 554/2004, as subsequently amended and supplemented.

(3) Within 5 working days of the date of receipt of the withdrawal decision, the legal person marketing agent shall submit the documents regarding the withdrawal of the authorisation/licence by the Commission to the office of the trade registry.

(4) Within 5 working days of the date of receipt of the documents attesting to the registration with the trade registry of the documents referred to in Para (3), the legal person marketing agent shall submit a copy of such documents to the Commission.

Art. 47. – The validity of the contracts concluded for the performance of the marketing activity of the privately managed pension fund shall cease as of right when the decision to withdraw the authorisation/licence of the legal person marketing agent is communicated to the legal person marketing agent.

SECTION 2

Withdrawal of the licence of natural person marketing agents

Art. 48. – (1) The Commission may withdraw the licence of the natural person marketing agent:

- a) if the licence was obtained based on false or misleading information or documents;

- b) if any of the requirements considered when the licence was granted is no longer met;
- c) if the requirement referred to in Art. 56(1) is not met;
- d) in any of the situations in which the authorisation of the manager or the authorisation/licence of the legal person marketing agent is withdrawn, the licences of all natural person marketing agents which were licensed to carry out the marketing activity within the private pension system in the name of such entities are withdrawn;
- e) if the provisions of the applicable legislative acts are breached.

(2) In the case of the death of the natural person marketing agent, the Commission shall withdraw the licence and enter the deregistration in the Registry within 5 working days of the date it became aware of the situation, as a result of the information received from the manager, from the legal person marketing agent or from the legal heirs of such natural person marketing agent.

(3) The Commission shall withdraw the licence of the natural person marketing agent in the situations set out in Art. 49(1), Art. 50 and Art. 51(1).

Art. 49. – (1) If a natural person marketing agent requests the manager/legal person marketing agent to terminate the contractual relations based on which it was licensed by the Commission, then, within 5 working days as of the date of termination of the contractual relations, the manager/legal person marketing agent shall submit to the Commission an application for the withdrawal of the licence of the natural person marketing agent.

(2) The natural person marketing agent shall, together with the application referred to in Para (1), send all of the documents related to the performance of the marketing activity of the privately managed pension fund to the manager/legal person marketing agent.

(3) The manager/legal person marketing agent shall submit the application for the withdrawal of the licences of the natural person marketing agents only after the requirements referred to in Para (2) and/or (4) are met.

(4) If the natural person marketing agent is no longer in the possession of the documents related to the performance of the marketing activity, then it shall send the manager or legal person marketing agent a statement under own responsibility mentioning that such documents are missing and shall justify each situation.

Art. 50. – If the contract for the performance of the marketing activity/employment contract was terminated, the manager or the legal person marketing agent, as appropriate, shall, within 5 working days as of the date of termination thereof, submit to the Commission an application for withdrawal of the licence of the natural person marketing agent.

Art. 51. – (1) For the withdrawal of the licence of natural person marketing agents at the initiative of the manager/legal person marketing agent, it shall send the Commission an application for the withdrawal of the licence as scanned image, together with the nominal table of the natural person marketing agents, in electronic form, with extended electronic signature, and with the notifications regarding the cessation of the contractual relations sent to natural person marketing agents.

(2) The nominal table of the natural person marketing agents whose licences are withdrawn shall contain the following information:

- a) last name and first name;
- b) personal number code;
- c) code of the marketing agent of the Registry;
- d) legal grounds based on which the licence of the marketing agent was withdrawn;
- e) document based on which the contractual relations were terminated.

(3) The documents referred to in Para (1) shall be prepared and sent in accordance with the instructions of the Commission's technical documentation Portal.

Art. 52. – (1) In the situations referred to in Art. 48(1), the decision to withdraw the licence of the natural person marketing agent, written and reasoned, shall be communicated to it by the Commission within 5 working days of the adoption thereof.

(2) The withdrawal decision of the natural person marketing agent may be challenged within 30 calendar days of the communication date thereof, in accordance with the provisions of Law No. 554/2004, as subsequently amended and supplemented.

(3) The Commission shall notify the manager or the legal person marketing agent, as appropriate, of the withdrawal of the licence of the natural person marketing agent.

(4) In the situations referred to in Art. 49(1), Art. 50 and Art. 51(1), the manager or the legal person marketing agent shall notify, in writing, the natural person marketing agents of the withdrawal of their licence, within 5 working days as of the communication of the decision to withdraw the licence by the Commission.

SECTION 3

Withdrawal of the licence of the specialised legal person

Art. 53. – (1) The Commission may withdraw the licence of the specialised legal person:

a) if the licence was obtained based on false or misleading information or documents;

b) if any of the requirements considered when the licence was granted is no longer met;

c) if the bankruptcy proceedings were initiated against the specialised legal person. The specialised legal person marketing agent shall notify the Commission, the managers and the legal person marketing agents for which it organised training classes of the natural person marketing agents of the initiation of bankruptcy proceedings within 5 working days as of the issuance date of the decision initiating bankruptcy proceedings;

d)) if the provisions of the applicable legislative acts are breached;

e) if the specialised legal person did not start the activity for which it was licensed within 12 months as of the date of licence or if it did not carry out for more than 18 consecutive months the activity for which it was licensed;

f) at the request of the manager or legal person marketing agent;

g) at the request of the specialised legal person.

(2) The provisions of Para (1) Letter e) shall not apply if the undertaking obtained the approval for the temporary cessation of the activity issued by the Commission.

Art. 54. – To withdraw the licence upon request, the specialised legal person shall submit the following documents to the Commission:

a) application for withdrawal of the licence, executed by the legal representative;

b) original resolution of the competent statutory body of the legal specialised body on the cessation of the vocational training activity in the privately managed pension funds marketing field, which shall indicate that it shall produce effects only after the withdrawal of the licence.

Art. 55. – (1) The decision to withdraw the specialised legal person's licence, written and reasoned, shall be communicated to it within 5 working days of the adoption.

(2) The withdrawal decision of the specialised legal person's licence may be challenged within 30 calendar days as of the communication date thereof, in accordance with the provisions of Law No. 554/2004, as subsequently amended and supplemented.

(3) Within 5 working days of the receipt of the withdrawal decision, the specialised legal person shall submit the documents regarding the withdrawal of the licence by the Commission to the office of the trade registry.

(4) Within 5 working days of the receipt of the documents attesting to the registration of the withdrawal with the office of the trade registry, the specialised legal person shall submit a copy of such documents to the Commission.

CHAPTER VII

Re-licensing the natural person marketing agents

Art. 56. – (1) Natural person marketing agents shall be re-licensed at a maximum interval of 4 years, counted as of the date when the previous licence was obtained.

(2) To update the knowledge in the private pension field, each natural person marketing agent, licensed by the Commission, shall participate in another training course and obtain another graduation certificate, at a maximum interval of 4 years as of the graduation date of the previous course.

(3) The manager and the legal person marketing agent shall be responsible for updating the knowledge of natural person marketing agents in the private pension field and for requesting that the same be re-licensed, in compliance with the terms referred to in Paras (1) and (2).

(4) The validity of the licence is mentioned in the Registry of marketing agents, at: <http://www.csspp.ro>, secțiunea "Registru/Pilonul II/Agenți Marketing/Persoane Fizice.

(5) The manager and the legal person marketing agent shall keep records, verify and calculate the periods of time referred to in Paras (1) and (2) and update the documents in the agents' files.

Art. 57. – (1) For the purpose of re-licensing the natural person marketing agents, the manager or the legal person marketing agent shall send the Commission the application for re-licence set out in Annexe No. 6, as scanned image, together with the nominal table of the natural person marketing agents and the proof of payment of the fee for re-licence provided in the applicable legislative acts, in electronic form, with the extended electronic signature. The nominal table shall comprise the following information:

a) last name and first name;

b) personal number code;

c) code of the natural person marketing agent of the Registry;

d) date of graduation of the refresher course for natural person marketing agents, consistent with the date mentioned in the graduation certificate, and also the graduation date of the previous course.

(2) The documents referred to in Para (1) shall be prepared and sent in accordance with the instructions of the technical documentation Portal.

(3) The graduation certificates of the refresher course for natural person marketing agents shall be kept by the manager or by the legal person marketing agents, as appropriate, in the natural person marketing agent's file.

(4) The application for re-licence of natural person marketing agents, together with the documents referred to in Para (1), shall be sent to the Commission no later than 30 calendar days prior to the expiry of the term set out in Art. 56(1).

Art. 58. – (1) The Commission shall analyse the application for re-licence of natural person marketing agents in compliance with the provisions of Chapter IV Section 3 and Section 6 or Section 7.

(2) For the natural person marketing agents meeting the requirements set out in Art. 56 and for which the manager or the legal person marketing agent failed to submit the application for re-licence in accordance with the provisions of Art. 57, the Commission shall withdraw the licence of the natural person marketing agents and shall deregister them from the Registry.

Art. 59. – (1) If the contractual relations between the natural person marketing agent and the manager or the legal person marketing agent, as appropriate, cease, and another contract is concluded by the natural person marketing agent with a different manager or legal person marketing agent, as appropriate, the natural person marketing agent shall be licensed by the Commission.

(2) The natural person marketing agent in the situation referred to in Para (1) shall not have the obligation to re-take the course for natural person marketing agents if the period within the 4-year interval did not expire, as set out in Art. 56(2), unless expressly requested by the new manager/legal person marketing agent.

CHAPTER VIII Liabilities, obligations and interdictions

SECTION 1 Liabilities

Art. 60. – The manager and legal person marketing agent shall be liable for recruiting and training natural person marketing agents, so that they have a proper professional education in the private pension field, and also for monitoring and verifying the proper fulfilment of the legal and contractual duties incumbent upon them.

Art. 61. – (1) The manager and legal person marketing agent, as appropriate, shall be directly liable for all of the deeds, facts and omissions regarding the marketing activity carried out by the natural person marketing agents with whom they concluded contracts.

(2) The manager shall be directly liable for all of the deeds, facts and omissions regarding the marketing activity carried out by the legal person marketing agents with which they concluded contracts.

Art. 62. – (1) The manager shall be liable for the preparation of the working procedures for its own natural person marketing agents and for the legal person marketing agents with which it concluded contracts for the performance of the marketing activity of the privately managed pension fund, and also for the compliance with the same.

(2) The legal person marketing agent shall be liable for the preparation of the working procedures for the natural person marketing agents licensed at its request and also for the compliance with the same.

SECTION 2 Obligations

Art. 63. – The natural person marketing agent shall have the following obligations:

- a) to correctly and completely present to the eligible person the private pension scheme, and also the modality to join a privately managed pension fund;
- b) to request a copy of the identity card, whose conformity with its original is certified by its holder by holograph signature, affixed on the same page on which the image is reproduced through copy;
- c) to verify the validity period of the eligible person's identity card;
- d) to fill out the individual enrolment act or to verify whether the eligible person filled it out correctly and completely;
- e) to check the data in the original identity card against those of its copy, and also the data mentioned in the individual enrolment act;
- f) to deliver, free of charge, to the eligible person, a copy of the simplified prospectus of the private pension scheme valid upon the execution of the individual adhesion act and, at such person's request, a copy of the detailed prospectus;
- g) to deliver to the eligible person a copy of the enrolment act correctly filled out and executed, original.

Art. 64. – (1) The manager and legal person marketing agent shall keep records of each natural or legal person marketing agent, as appropriate, with which it concluded contracts for

the performance of the marketing activity of the privately managed pension fund, which shall comprise at least the following information:

- a) their identification data;
- b) individual enrolment acts made available to the natural or legal person marketing agents, as appropriate, to obtain the eligible persons' enrolment consent;
- c) individual enrolment acts executed by the eligible persons;
- d) individual enrolment acts filled out erroneously and/or not executed by the eligible person, the individual enrolment acts not filled out and which no longer meet the integrity requirements and the individual enrolment acts which are no longer in force, since the form and content thereof were changed in accordance with the legislative acts in force;
- e) payments made to each marketing agent;
- f) measures ordered against the marketing agents as a result of their failure to comply with the contractual and legal provisions.

(2) The legal person marketing agent shall send to the manager monthly records of the documents referred to in Para (1) Letter d).

Art. 65. – The manager or legal person marketing agent shall update its own records of natural person marketing agents.

Art. 66. – (1) The legal person marketing agent shall send to the manager the original individual enrolment acts executed by the eligible persons, and also copies of the eligible persons' identity cards, within 5 calendar days of the execution date thereof.

(2) The legal person marketing agent may send the documents referred to in Para. (1), in electronic form, as scanned images, with extended electronic signature, having the obligation to deliver the same in original to the manager within 30 calendar days of the execution thereof.

(3) The manager and legal person marketing agent shall draft and keep, in hard copy or in electronic form, the documents attesting to the delivery–receipt of the individual enrolment acts made available to the marketing agents from the legal and natural person marketing agents, as appropriate,.

Art. 67. – The manager and legal person marketing agent shall verify whether the individual enrolment acts contain the original signatures of the natural person marketing agent and of the person who joined the fund, and also the existence of the holograph signature affixed on the copy of the identity card of the person who joined the fund.

Art. 68. – (1) The managers shall notify the Commission of the contracts concluded with the legal person marketing agents to carry out the marketing activity of the privately managed pension fund in progress, and also the termination thereof.

(2) The information, with the extended electronic signature of the legal representative or of the person responsible for the marketing activity, shall be sent electronically prior to the 24th day of each month, in the SIR application, in the XML standard reporting format, in accordance with the instructions of the Commission's technical documentation Portal.

Art. 69. – (1) The natural person marketing agent who concluded a contract with a manager shall send to the latter the individual enrolment acts correctly filled out and executed by the eligible persons, and also copies of their identity cards, within 5 calendar days as of the execution date thereof.

(2) The natural person marketing agent may send the documents referred to in Para (1), in electronic form, as scanned images, having the obligation to deliver the same in original to the manager within 30 calendar days of the execution thereof.

Art. 70. – If the licences for the performance of the marketing activity are withdrawn at the request of the manager/legal person marketing agent, it shall verify that the natural person marketing agents delivered all of the documents related to the performance of the marketing activity.

SECTION 3 Interdictions

Art. 71. – (1) Any natural or legal person not authorised or licensed by the Commission shall be prohibited from carrying out the marketing activity of the privately managed pension fund or from using the name of marketing agent in connection with an activity carried out in the private pension system.

(2) Any marketing agent shall be prohibited from providing to any participant, in order to obtain such participant's enrolment consent to a privately managed pension fund, information on the manager and/or privately managed pension fund which do not correspond to reality.

(3) The legal person marketing agent shall be prohibited from carrying out the marketing activity of the privately managed pension fund for a different legal person marketing agent.

(4) Any natural person marketing agent shall be prohibited from concluding a contract regarding the performance of the marketing activity in the private pension system with a natural person marketing agent, and also with a manager/legal person marketing agent other than that having requested the licence of the same as agent.

(5) Natural and legal person marketing agents shall be prohibited from getting involved in the transfer operations of the participants from a privately managed pension fund to another privately managed pension fund.

(6) The delegation, authorisation or representation of the eligible person in its relation with any natural person marketing agent shall be prohibited.

(7) Legal person marketing agents shall be prohibited from using, during the performance of the marketing activity within the private pension system, advertising materials other than those approved by the person directing the internal control structure within the manager.

The paragraph was amended by Rule 14/2014 on 27/06/2014

CHAPTER IX Measures, minor offences, sanctions

Art. 72. – (1) If the provisions of the applicable legislative acts are breached, the manager and the legal person marketing agent shall immediately take all necessary administrative and/or legal measures to comply with the legal provisions.

(2) In the case referred to in Para (1), the manager and/or the legal person marketing agent shall notify the Commission, within 15 working days of the date they became aware of the breach of the provisions of the applicable legislative acts, of the measures taken against the natural/legal person marketing agent and by reference to the eligible person or participant.

Art. 73. – (1) The following deeds shall be deemed minor offences:

a) performance of the marketing activity of the privately managed pension fund by the managers through persons other than the legal and/or natural marketing agents authorised/licensed by the Commission;

b) performance of the marketing activity of the privately managed pension fund by the legal person marketing agents without contracts concluded in this respect with the managers authorised/licensed by the Commission;

c) natural person marketing agents' failure to comply with the provisions of Art. 5 on the performance of the marketing activity;

d) managers' failure to comply with the provisions of Art. 7 on the performance of the marketing activity;

e) failure by the managers, legal person marketing agents and specialised legal person to comply with Art. 8(4) on the obligation to keep records of the trainers carrying out the classes for natural person marketing agents;

- f) failure by the manager, legal person marketing agent and specialised legal person to comply with the provisions of Art. 9(1) and Art. 10(1) and (2) on the list of subjects related to the classes for natural person marketing agents;
- g) failure by the manager, legal person marketing agent and specialised legal person to fulfil the obligation set out in Art. 11(2) for the purpose of granting the certificate attesting to the graduation from the courses for natural person marketing agents;
- h) failure by the private pension broker and private pension intermediary to fulfil the obligations set out in Art. 29(4) and (5) on the notification of the Commission regarding the amendment of the documents or requirements based on which the authorisation/licence was granted within the legal term;
- i) legal person marketing agents' failure to fulfil the obligation to register the temporary cessation of the activity with the office of the trade registry within the deadline set out in Art. 30(5);
- j) failure by the manager or legal person marketing agent to fulfil the obligation to notify the Commission of the amendments of the documents based on which the natural person marketing agents were licensed, within the deadline set out in Art. 34(1) and in the form laid down in Art. 34(4) and (5);
- k) natural person marketing agents' failure to fulfil the obligation to notify the manager or legal person marketing agent of any amendments of the documents initially submitted for the licence as marketing agent, within the deadline set out in Art. 34(3);
- l) specialised legal person's failure to comply with the provisions of Art. 41(2) and (3) on the obligation to notify the Commission of the amendment of the documents or requirements based on which the licence was granted within the legal deadline;
- m) specialised legal person's failure to fulfil the obligation to register the temporary cessation of the activity with the office of the trade registry within the deadline set out in Art. 42(5);
- n) failure by the manager or legal person marketing agent to fulfil the obligation to submit to the Commission the application regarding the withdrawal of the natural person marketing agent's licence within the deadline set out in Art. 50;
- o) failure by the manager or legal person marketing agent to fulfil the obligation to notify, in writing, the natural person marketing agents of the withdrawal of their licence, within the deadline set out in Art. 52(6);
- p) performance of the marketing activity of the privately managed pension fund by the manager and legal person marketing agent through natural person marketing agents who were not re-licensed within the deadline set out in Art. 56(1);
- q) failure by the manager and legal person marketing agent to fulfil the obligation to keep records, verify and calculate the periods set out in Art. 56(5) and to update the documents in the natural person marketing agents' files;
- r) failure by the manager and legal person marketing agent to fulfil the obligations set out in Art. 64 on keeping records for each natural or legal marketing agent, as appropriate, with which they concluded contracts;
- s) legal person marketing agent's failure to fulfil the obligation to send the manager the original individual enrolment acts executed by the eligible persons, and copies of the identity cards of such eligible persons, within the deadline set out in Art. 66(1) and (2);
- ş) failure by the manager and legal person marketing agents to fulfil the obligation set out in Art. 66(3) regarding the obligation to prepare and keep the documents proving the receipt of the individual enrolment acts;
- t) natural person marketing agent's failure to comply with the provisions of Art. 69(1) on the obligation to send the manager the individual enrolment acts filled out correctly and executed by the eligible persons, and copies of their identity cards, within the legal deadline;
- ţ) breach of the interdictions and the failure to fulfil the other obligations provided herein.

(2) The perpetration by the manager, by the legal person marketing agent, or by the natural person marketing agent of any of the deeds referred to in Para (1) shall be sanctioned in accordance with the provisions of the legislation in force and Art. 16, Art. 81(1) Letter c), Art. 140(1), Art. 141(1) Letter g), Art. 141(2)-(11), Arts. 142 and 143 of Law No. 411/2004, republished, as subsequently amended and supplemented.

CHAPTER X Transitional and final provisions

Art. 74. – The legal person marketing agents shall inform the Commission within 6 months of the date of entry into force hereof, of the amendments made, to comply with the requirements set out in Art. 14 or Art. 19.

Art. 75 - (1) The legal person marketing agents which, on the date of entry into force of this rule, are recorded in the Registry under the heading “private pension consultant” have the possibility to request, within 6 months of the entry into force of this rule, the authorisation/licensing subject to Art. 14 or 19.

(2) After the expiry of such deadline, the Commission shall withdraw the licence and deregister from the Registry the legal persons referred to in Para (1) that failed to file the request for authorisation/licensing.

Art. 76. – The natural person marketing agent for whom, on the date of entry into force of this rule, more than 4 calendar years have passed since the date of the last licensing as marketing agent for the performance of the marketing activity of privately managed pension funds must be re-licensed by the Commission within 12 months of the date of entry into force of this rule, in accordance with the provisions of Art. 57.

Art. 77. – The specialised legal persons shall inform the Commission, within 6 months of the date of entry into force hereof, of the amendments made, to comply with the requirements set out in Art. 37.

Art. 78. – Annexes Nos. 1 to 7 are an integral part of this rule.

Art. 79 – This rule shall enter into force on the date of publication in the Official Journal of Romania, Part I.

Art. 80. – Rule No. 25/2007 on the marketing of the privately managed pension fund, approved by Resolution No. 56/2007 of the Private Pension System Supervisory Commission, published in the Official Journal of Romania, Part I, No. 567 of 17 August 2011, as subsequently amended and supplemented, and any other provisions contrary to this rule shall be repealed with effect from the entry into force of this rule.

ANNEXE No. 1*)
to the rule

*) Annexe No. 1 is reproduced as facsimile

LETTERHEAD OF THE MANAGER/LEGAL PERSON MARKETING AGENT/SPECIALISED LEGAL PERSON GRADUATION CERTIFICATE No. /date. This is to certify that Mr./Ms., domiciled in, Str. No., identified by ID/IC Series. No., Personal Number Code, graduated the course for natural person marketing agents in order to conduct marketing activities for the privately managed pension funds, organised by, with a duration of days, in the period., trainer: (last name, first name, identification data; graduation certificate for the position of trainer, series, number and issuance date) Mr. Ms. acquired the theoretical knowledge required to conduct the marketing activity for the privately managed pension funds. Graduation date Grade obtained at the exam. Manager/Legal person Marketing Agent/Specialised legal person, (name and registered headquarters)

(last name, first name, position, contact details)

hereby requests the authorisation as private pension broker in order to carry out marketing activities for the privately managed pension funds.

The secondary headquarters designated for the marketing activity, as applicable

Identification data:

.....
.....
.....
,,

(locality) (street and number)

.....
.....
.....
,,

(county) (postal code)

.....
.....
.....
,

(contact person: last name, first name, position, telephone, fax, email)

If there are several such secondary headquarters, the authorisation application shall be accompanied by a nominal table containing the following information: address– locality, street, number, county, postal code and contact person with his/her identification data.

This application is accompanied by. documents, having a total of. pages.

Signature of the legal representative of the company:
.....

Date
.....

Stamp of the applicant

**FALSE STATEMENTS OR INTENTIONAL OMISSIONS TO
DECLARE CERTAIN FACTS MAY CONSTITUTE
BREACHES OF THE CRIMINAL LAW.**

.....
.....
.....
,,
(county) (postal code)
.....
.....
.....
(contact person: name, surname, position, telephone, fax, email)
If there are several such secondary headquarters, the authorisation application shall be accompanied by a nominal table containing the following information: address – locality, street, number, county, postal code and contact person with his/her identification data.
This application is accompanied by. documents, having a total of. pages.
Signature of the legal representative of the company:
.....
Date
Stamp of the applicant

ANY FALSE STATEMENTS OR INTENTIONAL OMISSIONS TO DECLARE CERTAIN FACTS MAY CONSTITUTE BREACHES OF THE CRIMINAL LAW.

ANNEXE No. 4
to the rule

*) Annexe No. 4 is reproduced as facsimile

CURRICULUM VITAE	
Personal information	
Last name and first name	
Address	Building number, street name, postal code, locality, country
Telephone	Landline: Mobile:
Fax	
Email	
Citizenship	
Date of birth	
Sex	
Professional experience	

Period	Specify, one by one, each relevant professional experience, starting from the most recent one.			
Function or position held				
The main activities and responsibilities				
Name and address of the employer				
Type of activity or industry branch				
Education and training				
Period	Specify, one by one, each form of education and vocational training programme graduated, starting from the most recent one.			
Qualification/degree obtained				
Main subject areas studied/competencies acquired				
Name and type of the education institution				
Classification level of the education type				
Personal skills and competencies				
Mother tongue	Specify mother tongue.			
Known foreign language(s)				
Self evaluation				
		Understanding	Writing	Speaking
Language				
Language				
Computer use competencies and knowledge	Describe the competencies and indicate the context in which they were acquired.			
Other competencies and skills	Describe the competencies and indicate the context in which they were acquired.			
Additional information	Indicate other useful information that was not previously mentioned, such as: contact persons, references, etc.			
Date:				
Signature				

ANNEXE No. 5
to the rule

*) Annexe No. 5 is reproduced as facsimile

Signature specimen for the members of the board of directors, of the supervisory board, of the executive board, directors, managers, as appropriate *)

The company

.....

.....

.....

.....

.....,

(name of the legal person marketing agent requesting the authorisation)

registered with the office of the trade registry under No.

....., holding fiscal registration code with the office of the trade registry.

.....

*) This annexe shall be filled out before the Private Pension System Supervisory Commission's representative. If any of the members of the board of directors, of the supervisory board, of the executive board, directors, managers cannot sign under these circumstances, a notarised statement regarding the signature specimen shall be submitted.

No.	Last name and first name	Capacity	Signature

<p>The undersigned,, in full awareness of the provisions of the Criminal Code regarding false statements, I hereby declare on my own liability, on penalty of law, that all answers are complete and true and that there are no other relevant facts of which the Commission should be informed.</p> <p>Signature of the legal representative of the company.</p> <p>Date:</p> <p>Stamp of the applicant</p> <p>ANY FALSE STATEMENTS OR INTENTIONAL OMISSIONS TO DECLARE CERTAIN FACTS MAY CONSTITUTE BREACHES OF THE CRIMINAL LAW.</p>

ANNEXE No. 7
to the rule

*) Annexe No. 7 is reproduced as facsimile

<p>APPLICATION for licensing as specialised legal person</p> <p>IDENTIFICATION DATA: The company.</p> <p>....., with its headquarters in.</p> <p>....., (locality) (street and number)</p> <p>....., (county) (postal code)</p> <p>....., (contact details: telephone, fax, email, web page)</p>
--

having: registration number with the office of the trade registry. . .

....., fiscal registration code with the office of the trade registry

....., duly represented by.

.....,

(last name, first name, position, contact details)

hereby requests to be licensed as specialised legal person to conduct vocational training activities of natural person marketing agents with regard to the privately managed pension fund marketing activity. The secondary headquarters designated for the vocational training activity of natural person marketing agents, as applicable.

Identification data:

.....
.....
.....,

(locality) (street and number)

.....
.....
.....,

(county) (postal code)

.....
.....
.....
..,

(contact person: name, surname, position, telephone, fax, email)

If there are several such secondary headquarters, the authorisation application shall be accompanied by a nominal table containing the following information: address– locality, street, number, county, postal code and contact person with his/her identification data.

This application is accompanied by. documents, having a total of. pages.

Signature of the legal representative of the company:

.....

Date.

Stamp of the applicant

ANY FALSE STATEMENTS OR INTENTIONAL OMISSIONS TO DECLARE CERTAIN FACTS MAY CONSTITUTE BREACHES OF THE CRIMINAL LAW.