

Financial Supervisory Authority

Rule No. 1/2015 on participants' joining privately managed pension funds and recording-keeping

in force as of 01.04.2015

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Having regard to the provisions of Letters a), c), d) and e) of Art. 41 of Law No. 411/2004 on privately managed pension funds, republished, as subsequently amended and supplemented, Arts. 4 and 6 of Law No. 263/2010 on the unitary public pension system, as subsequently amended and supplemented, and Arts. II and III of Government Emergency Ordinance No. 98/2011 amending Law No. 411/2004 on privately managed pension funds, and laying down measures in the field of privately managed pensions, approved by Law No. 108/2012,

based on the provisions of Letters c) and d) of Art. 2 (1), Letter b) of Art. 3 (1), Letter c) of Art. 5, Art. 6 (1) and (2) and Art. 7 (2) of Government Emergency Ordinance No. 93/2012 on the establishment, organisation and operation of the Financial Supervisory Authority, approved as amended and supplemented by Law No. 113/2013, as subsequently amended and supplemented,

pursuant to the provisions of Letter f) of Art. 23 and Letters c) and o) of Art. 24 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,

further to the deliberations of the Financial Supervisory Authority's Board held in the meeting of 10 December 2014,

the Financial Supervisory Authority hereby issues this rule.

CHAPTER I General Provisions

Art. 1. – This rule regulates:

- a) the acquisition and cessation of the capacity of participant in a privately managed pension fund;
- b) the content of the framework individual joining act to a privately managed pension fund and the procedure for the amendment thereof;
- c) the enrolment into a privately managed fund;
- d) the validation of the information contained in the individual joining acts and the random distribution of participants in privately managed pension funds;
- e) the record-keeping of participants in privately managed pension funds;
- f) the updating by the record-keeping institution of the information regarding participants, included in the Registry of Participants.

Art. 2. - (1) The terms and expressions used herein shall have the meanings provided by Art. 2 of Law No. 411/2004 on privately managed pension funds, republished, as subsequently amended and supplemented, hereinafter referred to as the Law, and by Law No. 263/2010 on the unitary public

pension system, as subsequently amended and supplemented, hereinafter referred to as the Public Pension Law.

(2) Also, the terms herein below shall have the following meanings:

- a) joining/enrolment – means the expression of will of an eligible person for the purpose of becoming a participant in a privately managed pension fund, by signing an individual joining act;
- b) managers' database – means the information recorded chronologically and systematically regarding participants and their accounts, contributions, as well the changes to such data, managed in a record-keeping system, so that it reflects comprehensively, accurately and consistently all the operations related to the privately managed pension fund;
- c) insurance document – means the social insurance contract, individual insurance declaration or nominal insurance declaration;
- d) informative list – means the document sent to managers by the record-keeping institutions whereby any inconsistencies regarding the information on the participants in a privately managed pension fund are communicated;
- e) eligible person – means the person under the age of 35 on the date they are registered by the record-keeping institution in the social security system, based on the insurance document, and persons under the age of 45 on the signing date of the individual joining act to a privately managed fund, who are insured in the public pension system and whose identity is not classified information in accordance with law;
- f) random distribution – means the process by which the record-keeping institution distributes an eligible person aged under 35 who did not join at their own initiative a privately managed pension fund within the term established by the Law and by this rule and who signed more individual joining acts, and the information included therein was reported to the record-keeping institution in the same reporting period;
- g) validation – means the process subsequent to the joining or the random distribution, consisting in the registration by the record-keeping institution in the Registry of Participants of an eligible person as participant in a privately managed pension fund based on the information included in the individual joining act, sent by managers and/or in the insurance document.

CHAPTER II

Acquisition and Cessation of the Capacity of Participant in a Privately Managed Pension Fund

SECTION 1

Acquisition of the Capacity of Participant

Art. 3. – Eligible persons shall acquire the capacity of participant in a privately managed pension fund in the following cases:

- a) they joined a privately managed pension fund by signing an individual joining act subsequently validated by the record-keeping institution;
- b) they were randomly distributed by the record-keeping institution and validated with a privately managed pension fund.

SECTION 2

Cessation of the Capacity of Participant

Art. 4. – The capacity of participant in a privately managed pension fund shall cease when the participant is deregistered by the record-keeping institution from the Registry of Participants, in the following cases:

- a) by the start of the acquisition of entitlement to private pension;
- b) by the participant's death;
- c) by disability retirement for total loss of the working capacity, in accordance with the legal provisions applicable in the public pension system or in accordance with the applicable legal provisions in the legislation on special laws, as applicable;
- d) by decision issued by the manager if it is found that no transfers were made in the collector account of the privately managed pension fund corresponding to the participant for a period of 36 consecutive months from the date of registration in the Registry of Participants;
- e) by final court decision whereby the individual joining act for the participant concerned is terminated;
- f) by decision of the manager to terminate the individual joining act after finding, as a result of the participant's complaint, that Letter b) of Art. 116 (2) of the Law was breached;
- g) in other cases provided by the rules of the Financial Supervisory Authority, hereinafter referred as the Authority.

Art. 5. - (1) Managers shall notify the record-keeping institution of:

- a) the applications received from participants in receipt of first or second degree disability pensions for disabilities which irreversibly impair such participant's ability to work, in accordance with the Public Pension Law, after completing the payment of the net assets, communicating "date of status":
 - (i) the date when the disability pension rights were awarded, provided in the administrative decision for awarding the disability pension issued by the territorial pension houses or district pension houses, as applicable, for participants retired for disability reasons who are no longer subject to medical re-examination as of the date the disability pension rights were awarded;
 - (ii) the date from which pensioners for disability reasons are no longer subject to medical re-examination, provided in the medical decision on the working capacity, for participants retired for disability reasons who are no longer subject to medical re-examination after the initial registration for the disability pension;
- b) the applications received from the beneficiary(ies) of the deceased participant, whereby they request the counter value of the rights they are entitled to, after paying the entire net assets due to the beneficiary(ies), communicating the date of death as "date of status";
- c) the applications received from persons who meet the conditions for the single payment of the personal net assets, given that they fulfil the conditions for old-age retirement in the public pension system provided by law, after completing the payment of the net assets, communicating the date when the old-age pension was awarded, provided in the retirement decision, as "date of status".

(2) The notification referred to in Para (1) shall be sent by managers on the same date and along with the monthly report referred to in Letter d) of Art. 17 (1), mentioning the dates of the applications referred to in Para (1) and the mention:

- a) "with disability", for participants in receipt of first or second degree disability pension who are no longer subject to medical re-examination;

b) “deceased”, in case of participants’ death;

c) “retired”, for participants to whom the provisions of Letter c) of Para (1) are applicable.

(3) The record-keeping institution shall send managers, after the expiry of the 12-month term from the 1st day of the month following the month communicated as “date of status”, a separate report with the following information, for the participants concerned:

a) “0” for the total amount transferred/withheld in the month;

b) “0” for the sole identification code of the employer.

(4) In the report referred to in Para (3), the record-keeping institution shall mention that the information referred to in Letters a) and b) represents the latest information regarding the transfers of the contributions for the participants concerned and that no change regarding the contributions may be made after such date.

(5) In the cases referred to in Letter a) of Para (1), the manager shall keep copies of the administrative decision whereby the disability pension is granted and of the medical decision regarding the working capacity.

(6) By exception, if the date of any of the applications referred to in Para (1), whereby the participant/beneficiary requests the payment of the rights they are entitled to, falls after the 12-month term from the “date of status”, then the record-keeping institution shall send to the manager the report referred to in Para (3), within maximum 30 calendar days from receipt of the notification referred to in Para (1).

Art. 6. - (1) The payment of the counter value of the personal net assets of the participant retired for disability reasons shall be made in accordance with Rule No. 19/2008 on the use of the personal net assets of the participant in the privately managed pension fund, in respect of disability and death, approved by Resolution No. 35/2008 of the Private Pension System Supervisory Commission, as subsequently amended and supplemented, hereinafter referred to as Rule No. 19/2008.

(2) The account of the participant retired for disability reasons shall remain active for a period of 12 months from the start of the entitlement to disability pension.

(3) In the period referred to in Para (2), contributions may be received and settlements may be made.

(4) After the end of the period referred to in Para (2), within 10 working days from the receipt of the report referred to in Art. 5 (3), managers shall request the participant to reconfirm the details regarding the payment references considered when processing the payments of the amounts resulting from the net assets.

(5) Within 10 working days from receipt of the information referred to in Para (4), the manager shall pay the counter value of the personal net assets accumulated as of the payment date, in accordance with Rule No. 19/2008, until the current date and shall close the participant’s account.

(6) If the manager does not receive information after sending the request to reconfirm the details on the payment references, then the amounts received in accordance with Para (3) shall become the fund’s income from the first working day after the expiry of the general 3-year limitation period elapsing from the date of receipt of the report referred to in Art. 5 (3).

Art. 7. - (1) The counter value of the personal net assets of the deceased participant shall be transferred to its beneficiary(ies) in accordance with the provisions of Rule No. 19/2008.

(2) The deceased participant’s account shall remain active for a period of 12 months from the time of death.

(3) In the period referred to in Para (2), contributions may be received and settlements may be made.

(4) After the end of the period referred to in Para (2), within 10 working days from receipt of the report referred to in Art. 5 (3), managers shall request the beneficiary(ies) of the deceased participant to reconfirm the details regarding the payment references considered when processing the payments of the amounts resulting from the net assets and shall verify whether the beneficiary(ies) became participant(s) in a privately managed pension fund.

(5) Within 10 working days from receipt of the information referred to in Para (4), the manager shall transfer or pay, as applicable, the counter value of the personal net assets accumulated as of the payment date, in accordance with Rule No. 19/2008, until the current date and shall close the deceased participant's account.

(6) If the manager does not receive information after sending the request to reconfirm the details on the payment references, then the amounts received in accordance with Para (3) shall become the fund's income from the first working day after the expiry of the general 3-year limitation period elapsing from the date of receipt of the report referred to in Art. 5 (3).

Art. 8. - (1) Until the adoption of the law on the organisation and operation of the private pension payment system, the counter value of the personal net assets of retired participants shall be paid in accordance with Rule No. 19/2008.

(2) The account of retired participants shall remain active for a period of 12 months from the date of the retirement decision granting the old-age pension in the public pension system.

(3) In the period referred to in Para (2), contributions may be received and settlements may be made.

(4) After the end of the period referred to in Para (2), within 10 working days from receipt of the report from the record-keeping institution referred to in Art. 5 (3), managers shall request the participant to reconfirm the details regarding the payment references considered when processing the payments of the amounts resulting from the net assets.

(5) Within 10 working days from receipt of the information referred to in Para (4), the manager shall pay the counter value of the personal net assets accumulated as of the payment date, in accordance with Rule No. 19/2008, until the current date and shall close the retired participant's account.

(6) If the manager does not receive information after sending the request to reconfirm the details on the payment references, then the amounts received in accordance with Para (3) shall become the fund's income from the first working day after the expiry of the general 3-year limitation period elapsing from the date of receipt of the report referred to in Art. 5 (3).

CHAPTER III

Individual Joining Act and the Amendment Procedure

SECTION 1

Individual Joining Act

Art. 9. - (1) The content of the individual joining act shall be approved by the Authority along with the authorisation of the prospectus of the private pension scheme.

(2) The content of the framework individual joining act used in the enrolment process shall be that provided in the annexe forming an integral part hereof.

(3) The unique series and numbers of the individual joining acts, which the founders need in order to obtain the decision for the authorisation of the privately managed pension fund, shall be assigned by the Authority when the approval for the individual joining act is obtained.

(4) At the managers' request, the Authority shall assign the numbers and series of the individual joining acts for each privately managed pension fund.

(5) The managers shall be prohibited from inserting in the individual joining acts information other than that provided in the framework individual joining act, except for the unique series and number assigned by the Authority, and the manager's logo.

Art. 10. - (1) By signing the individual joining act, the eligible person shall express his/her consent to be part in the contract, and his/her consent in respect of the content thereof and prospectus of the private pension scheme.

(2) The individual joining act shall be filled in by the eligible person wishing to join a pension fund or by the natural person marketing agent based on the information provided by the eligible person and shall be signed in front of it, except for individual joining acts concluded for the transfer to another privately managed pension fund.

(3) When the individual joining act is signed, except for those concluded for the transfer to another privately managed pension fund, the natural person marketing agent shall have the following obligations:

- a) to present to the eligible person, accurately and in full, the private pension scheme prospectus, and the modality to join a privately managed pension fund;
- b) to request a copy of the identity document, whose copy true to the original shall be certified by the holder through a hand-written signature on the same page on which its image is photocopied;
- c) to verify the validity period of the eligible person's identity document;
- d) to compare the data on the original identity document against the data on the copy thereof, and against the data in the individual joining act;
- e) to give the eligible person, free of charge, a copy of the simplified prospectus of the private pension scheme valid on the date of execution of the individual joining act and, at its request, a copy of the detailed prospectus;
- f) to give the eligible person an original of the individual joining act filled in correctly and signed.

(4) The use of individual joining acts not approved by the Authority shall be prohibited.

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

(6) Managers shall train natural and legal person marketing agents in respect of the transmission of the individual joining acts signed by eligible persons within 5 calendar days from the execution thereof.

Art. 11. - (1) The individual joining act shall be filled out in two originals, each original shall be signed by the eligible person and the natural person marketing agent and shall be disseminated as follows:

- a) one original shall be kept by the manager of the privately managed pension fund into which the eligible person was enrolled;
- b) one original shall be kept by the eligible person who joined a privately managed pension fund.

(2) For individual joining acts that are no longer in the participant's possession or were irreversibly destroyed, the manager shall issue duplicates based at the participant's request.

SECTION 2

Amendment of the Individual joining act

Art. 12. - (1) The individual joining act shall be amended by the manager only with the prior approval of the Authority.

(2) The approval for the amendment of the individual joining act shall be issued by the Authority further to a written application submitted to the Authority by the manager, along with the amended individual joining act, presenting the reasons for the application and proof of payment of the fee.

Art. 13. - (1) The Authority shall decide on the issuance of the approval to amend the individual joining act within 10 working days from registration of the applicant's complete file.

(2) Within 10 working days from the entry into force of an authorisation or approval issued by the Authority which causes the amendment of the individual joining act, the manager shall request the approval for its amendment.

(3) Any request from the Authority for additional information or the amendment of the documents initially submitted shall interrupt the term referred to in Para (1), and a new term shall start running from the date of submission of such information or amendments.

(4) The additional information or amended documents requested by the Authority may be submitted within maximum 10 working days from the date of the Authority's request, otherwise the application shall be rejected.

(5) In case requested documents are missing or the submitted documents are incomplete, illegible or improper, the Authority may request that they be supplemented or replaced, as applicable, within the term referred to in Para (4).

(6) The approval to amend the individual joining act shall be communicated to the applicant within 5 working days from its adoption by the Authority.

(7) The amended individual joining act shall become effective within 5 working days from the date of communication of the approval referred to in Para (6).

Art. 14. - (1) Failure to fulfil or the improper fulfilment of any of the conditions hereunder shall cause the rejection of the application for approval of the amendment of the individual joining act.

(2) The decision to reject the application for approval of the amendment of the individual joining act, written and reasoned, shall be communicated to the applicant within 5 working days from its adoption by the Authority.

(3) The decision to reject the application for approval of the amendment of the individual joining act may be challenged within 30 days from its communication in accordance with Administrative Dispute Law No. 554/2004, as subsequently amended and supplemented.

Art. 15. – A new application for approval of the amendment of the individual joining act may be addressed to the Authority only after the deficiencies resulting in the rejection of the initial application have been remedied.

CHAPTER IV

Validation of Eligible Persons in the Process of Joining a Privately Managed Pension Fund

Art. 16. - (1) Each record-keeping institution shall prepare its Registry of Participants referred to in Art. 34 of the Law.

(2) The record-keeping institution shall fill in each month the Registry of Participants with the information regarding the eligible persons referred to in:

- a) Art. 30 (1) of the Law, who have the obligation to join a privately managed pension fund;
- b) Art. 30 (2) of the Law, who express the option to join a privately managed pension fund;
- c) Art. 6 (1) of the Public Pension Law, in conjunction with Art. III of Government Emergency Ordinance No. 98/2011 amending Law No. 411/2004 on privately managed pension funds, approved by Law No. 108/2012, and laying down certain measures in the field of privately managed pensions,

who have the obligation to join a privately managed pension fund, and the persons who express their option to join a privately managed pension fund, in accordance with the Law.

(3) The Registry of Participants in the privately managed pension funds shall comprise:

- a) the surname, first name and domicile of all participants registered by the record-keeping institution;
- b) their personal number code;
- c) the identity document's series and number;
- d) the unique series and number of the individual joining act;
- e) the execution date of the individual joining act;
- f) the manager's registry number in the Authority's Registry;
- g) the registry number of the privately managed pension fund in the Authority's Registry;
- h) the fiscal identification code/sole registration code and name of the employer(s), as applicable;
- i) the registry number of the legal person marketing agent in the Authority's Registry;
- j) the registry number of the natural person marketing agent in the Authority's Registry.

Art. 17. - (1) The managers shall have the following obligations:

- a) to verify whether the data mentioned in the individual joining acts match the data mentioned in the copy of the identity document;
- b) to verify, by any means that may be proven afterwards, whether the individual joining act was properly prepared and whether the eligible person's expression of will was real;
- c) to register the information included in the individual joining act in its own database within 15 working days from the execution date of the individual joining act;
- d) to prepare a monthly report comprising information on the eligible persons who executed an individual joining act, so that they are validated;
- e) to send each month the report referred to in Letter d), electronically, bearing an extended electronic signature, to the record-keeping institution and the Authority on the 25th day of each month, for the eligible persons who executed an individual joining act.

(2) The report referred to in Letter d) of Para (1) shall comprise the following information:

- a) the surname and first name of the persons who executed an individual joining act;
- b) their personal number code;
- c) the identity document's series and number;
- d) the unique series and number of the individual joining act;
- e) the execution date of the individual joining act;
- f) the manager's registration code in the Authority's Registry;
- g) the privately managed pension fund's registration code in the Authority's Registry;
- h) the fiscal identification code/sole registration code and name of the employer(s), as applicable;
- i) the registry number of the legal person marketing agent in the Authority's Registry;
- j) the registry number of the natural person marketing agent in the Authority's Registry;
- k) the name of the pension house where the participant is registered, mentioned in the individual joining act.

(3) Once the report referred to in Letter d) of Para (1) is sent, the managers shall send the Authority, electronically, bearing an extended electronic signature, the scanned copies of the individual joining acts and the identity documents of the persons whose data were registered in the report, along with a summary.

(4) If the deadline referred to in Letter e) of Para (1) for the transmission of the report is not met by the managers, then the report shall be sent on the 25th day of the following month.

(5) Managers that do not conclude any individual joining act in a certain month shall be exempted from preparing and sending the report referred to in Letter d) of Para (1).

Art. 18. - (1) Based on the report sent by the managers, the record-keeping institution shall verify whether:

a) the person is registered in its Registry of Participants;

b) the person is registered in its Registry of Insured Persons in the Public Pension System, is no more than 45 years old on the execution date of the joining act and owes at least one social insurance contribution in the past 6 months prior to the validation date, in accordance with one of the insurance documents submitted to the record-keeping institution;

c) the person is registered with a single individual joining act reported to the record-keeping institution within the same reporting;

d) the person is registered in the Registry of Participants of another record-keeping institution further to the periodic exchange of information referred to in Para (2).

(2) To comply with the provisions of Art. 31 of the Law, record-keeping institutions shall exchange information on the participants registered in their Registries and on the eligible persons who signed an individual joining act and are included in the report sent by managers on the 25th of each month, or on eligible persons for whom the random distribution process is to be initiated.

(3) If it is found that a participant was validated by different record-keeping institutions at different privately managed pension funds, then the record-keeping institutions shall notify the manager to initiate the transfer to the privately managed pension fund where the participant was first validated.

(4) If it is found that a participant was validated by different record-keeping institutions at the same privately managed pension fund, then the record-keeping institutions shall notify the manager and shall collect the information recorded in the Registry of Participants of the record-keeping institution where the participant was first validated.

(5) By the 10th day of the month following the month for which the report is drawn up, the record-keeping institution shall update the Registry of Participants and shall record therein, as validated, the information in the individual joining acts for the persons fulfilling the conditions referred to in Para (1).

(6) The record-keeping institution shall invalidate the information mentioned in the individual joining acts for persons who:

a) are listed with a single joining act reported by the managers, but are not registered in its Registry of Insured Persons in the Public Pension System or are not registered with at least one payment obligation in the past 6 months prior to the validation date in the insurance documents registered with the record-keeping institution;

b) have joined and were validated prior to the current monthly reporting or for whom more individual joining acts were reported in the same monthly reporting;

c) signed individual joining acts which are not correctly filled in or do not comprise all the information requested, except for the name and fiscal identification code/sole registration code of the employer, and the telephone number and e-mail of the eligible persons;

d) are listed in the Registry of Participants of another record-keeping institution, communicating to the manager the record-keeping institution in the registry of which the person concerned is listed.

Art. 19. - (1) On the 12th day of each month, the record-keeping institution shall send the managers and the Authority a report on the validation process of the individual joining acts of the participants, which comprises the information referred to in Art. 17 (2), the fields of the validation codes and the

reasons for the invalidations based on the data in the Registry of Insured Persons in the Public Pension System, and the date of validation and registration in the Registry of Participants.

(2) Within 30 calendar days from receipt of the report of the record-keeping institution referred to in Para (1), the manager shall notify the result of the validation process, in writing or by any means that may be proven afterwards, to the persons with whom it executed an individual joining act.

(3) The persons referred to in Para (2) shall be notified once, after the last report received from the record-keeping institution regarding the individual joining act reported, by any means that may be proven afterwards.

Art. 20. – In the case of persons whose individual joining acts were invalidated because they are not listed in the Registry of Insured Persons in the Public Pension System, but for whom the manager holds an individual joining act filled in and executed and a copy of the identity document, the manager shall include the data thereof in at least the following 3 reports sent to the record-keeping institution and the Authority, starting from the month following the month when the individual joining act was signed.

Art. 21. - In the case of persons whose individual joining acts were invalidated by a record-keeping institution as a result of the prior validation by another record-keeping institution, the record-keeping institution that validated the individual joining act shall register in its Registry of Participants the information validated by the other record-keeping institution and shall notify the manager of the pension fund, the other record-keeping institution and the Authority on the processing of such validation.

Art. 22. - (1) Eligible persons shall have 4 months to execute an individual joining act starting from the date they must join by Law a privately managed pension fund.

(2) On the 10th day of each month, the record-keeping institution shall start the random distribution process, by identifying the persons that have the obligation to join a privately managed pension fund, who did not execute any individual joining act validated at a privately managed pension fund and for which no manager sent the information referred to in Art. 17 (2) in the past 4 months' reports from the date they became eligible.

(3) If a record-keeping institution, further to the exchange of information with another record-keeping institution, finds that an eligible person who is in the situation referred to in Para (2) participates in a privately managed pension fund, then it shall collect in its Registry of Participants the data of the participant from the Registry of Participants where it was identified.

Art. 23. – To organise the random distribution, the record-keeping institution shall classify by age and gender the eligible persons to be distributed.

Art. 24. - (1) The record-keeping institution shall organise the data of the persons to be randomly distributed by categories, by age, as follows:

a) persons aged under 25;

b) persons aged between 25 and 35.

(2) Each category of persons referred to in Para (1) shall be divided by gender, female persons making up the first group.

(3) The categories of persons to be randomly distributed by the record-keeping institution shall be:

a) the first group of persons to be distributed to the privately managed pension funds shall comprise the persons referred to in Letter a) of Para (1) of female gender;

b) the second group of persons to be distributed to the privately managed pension funds shall comprise the persons referred to in Letter a) of Para (1) of male gender;

c) the third group of persons to be distributed to the privately managed pension funds shall comprise the persons referred to in Letter b) of Para (1) of female gender;

d) the fourth group of persons to be distributed to the privately managed pension funds shall comprise the persons referred to in Letter b) of Para (1) of male gender.

Art. 25. - (1) The record-keeping institution shall distribute eligible persons from each category referred to in Art. 24 (3) in equal shares by each privately managed pension fund.

(2) The distribution of the eligible persons from each group shall be made one by one, from the lowest to the highest age, starting with the privately managed pension fund with the biggest number of participants.

(3) If the outcome of the distribution referred to in Para (1) is not a whole number, then the privately managed pension fund existing on the date of the distribution shall receive a whole number of participants, and the remainder after the division shall be distributed to the privately managed pension fund with the lowest number of participants.

Art. 26. - (1) The monthly random distribution shall be completed by the record-keeping institution by no later than the 15th day of such month.

(2) When the random distribution is completed, the record-keeping institution shall register as validated the information on the eligible persons for each privately managed pension fund, shall generate unique registration series and numbers of the persons randomly distributed and shall update the information in the Registry of Participants.

Art. 27. – On the 18th day of the month in question, the record-keeping institution shall notify each manager and the Authority of the list comprising the identification details - surname, first name, personal number code, along with the contact details - domicile, and the series and number assigned for randomly distributed persons, date of validation and registration in the Registry of Participants.

Art. 28. – The manager to which eligible persons were randomly distributed by the record-keeping institution shall inform them in writing, by post, within 30 calendar days from the date of the notification referred to in Art. 27, on the name of the privately managed pension fund, the manager thereof, and the number, series and date of the random distribution.

CHAPTER V

Updating of the Information Comprised in the Registry of Participants in Privately Managed Pension Funds

Art. 29. – In the process of joining a privately managed pension fund, the record-keeping institution shall update the Registry of Participants based on:

a) the monthly reports sent by the managers with the information comprised in the individual joining acts;

b) the monthly reports sent by the managers with the information on the identification and contact details of the participants comprised in the supporting documents of the participants or employers;

c) the information comprised in the initial or corrected insurance documents;

d) the information received from the Directorate for Persons Record and Databases Management, hereinafter referred to as DPRDM;

e) the information received from the General Inspectorate for Immigration, hereinafter referred to as GII;

f) the Authority's decisions;

g) the reports sent by managers to deregister from the Registry of Participants the persons to whom the case referred to in Art. 4 applies;

h) the exchange of information among the record-keeping institutions, for a correct and homogenous record-keeping of the rights and obligations of the participants in privately managed pension funds.

Art. 30. - (1) Where appropriate, the managers shall prepare, in addition to the report referred to in Letter d) of Art. 17 (1), reports that they shall send to the record-keeping institution on the date referred to in Letter e) of Art. 17 (1), based on:

a) the applications received from participants;

b) the informative lists received from the record-keeping institution;

c) the applications received from beneficiaries, in the case of the participant's death;

d) the applications received from the participants to whom the case referred to in Art. 30 (1) and (2) of the Law applies and who did not obtain a final court decision to terminate the individual joining act;

e) other situations that cause the participant's deregistration from the Registry of Participants.

(2) The applications received from participants or beneficiaries may refer to the modification of certain identification or contact details, the enforcement of a court decision, further to the start of the entitlement to disability pension for total loss of the working capacity and further to the start of the entitlement to private pension or the claiming of the counter value of the personal net assets after the participant's death.

(3) Managers shall operate forthwith all the changes in the identification and contact details of a participant in the pension fund they manage, after receiving confirmation that said changes were operated in the Registry of Participants by the record-keeping institution.

(4) Managers shall register, list chronologically and keep the history of the changes in the identification and contact details, as well as each participant's contributions in the pension fund managed thereby.

Art. 31. – The reports referred to in Art. 30 (1) sent by managers to the record-keeping institution shall include a description code of the type of operations with distinct values for:

a) the request to deregister the participant from the Registry of Participants based on a final court decision to terminate the individual joining act;

b) the request to change the data referring to the individual joining act;

c) the request to change the participant's surname and first name, the series and number of the identity document;

d) the request to change the participant's personal number code further to his/her change of citizenship;

e) the request to change the participant's personal number code further to a clerical error;

f) the request to record the cessation of the capacity of participant by acquiring the capacity of pensioner for disability reasons;

g) the request to record the cessation of the capacity of participant further to the start of the entitlement to private pension;

h) the request to record the cessation of the capacity of participant, by death, further to the submission by the beneficiary(ies) of the copy of the heir certificate;

i) the request for deregistration from the Registry of Participants in the cases referred to in Art. 4, Letters d), f) and g);

j) the request to record the expiry of the general limitation period for the rights not claimed by the deceased participant's beneficiaries.

Art. 32. - (1) Based on the data and information comprised in the report received from managers, correlated with the existing information in the database of insured persons in the public pension system, the record-keeping institution shall update in the Registry of Participants the identification details thereof regarding the personal number code, the series and number of the identity document, the surname and first name, domicile and cessation of the capacity of participant.

(2) If, further to verification, a record-keeping institution finds errors in the information comprised in the reports referred to in Art. 30 (1), then it shall notify the other record-keeping institutions where the participant is registered, and they shall invalidate the record and shall not operate in the Registry of Participants the modification communicated.

(3) Based on the data received from DPRDM and GII, the managers or another record-keeping institution, the record-keeping institutions shall prepare, as applicable, the informative lists provided for in Art. 33.

Art. 33. - (1) On the 12th day of each month, the record-keeping institution shall send the informative lists to the managers.

(2) The informative lists shall comprise:

a) information on eligible persons who hold more individual joining acts, with the same name and personal number code;

b) information on eligible persons who have different names, but the same personal number code;

c) information on deceased participants or who lost or acquired Romanian citizenship, obtained monthly by the record-keeping institution from DPRDM and/or GII;

d) information on participants registered with different pension funds, with different record-keeping institutions;

e) information on participants who acquired the capacity of old-age pensioner and/or pensioner for disability reasons;

f) information on participants whose personal number codes do not appear in the DPRDM database;

g) other information on participants, which causes changes in the Registry of Participants.

Art. 34. - (1) As soon as possible after the receipt of the informative lists, the managers shall analyse the situation and shall contact, as applicable, each participant included on the list, the employers or other managers, by any means that may be proven afterwards, in order to clarify the notified situation.

(2) If the participant is notified by the manager with regard to a clerical error regarding his/her identification data, the participant has the obligation to take all necessary measures to correct that error.

(3) The participant has the obligation to notify in writing the manager of the private pension fund joined by such participant or where such participant was randomly distributed, as well as the employer or employers, as the case may be, of any modifications regarding the identification information and/or contact details, forwarding copies of the supporting documents issued by the competent authorities, within 30 calendar days from the commencement date of their validity period.

Art. 35. - (1) If the record-keeping institution finds that for the same personal number code there are significant differences between the participant's name as communicated through the information included in the individual joining act and the name mentioned in the insurance document, it shall notify this to the manager within the informative list.

(2) As soon as possible after the receipt of the informative list, the manager shall notify in writing the participant included on the list and, as the case may be, the employer, in order to clarify the situation described under Para (1).

(3) If it finds that the data belongs to the same participant and the clerical error occurred in the insurance document, the manager shall notify the participant that he/she has to request the employer to rectify the clerical error and to file a correction statement containing the correct name.

(4) If it finds that the data belongs to the same participant and his/her name was changed further to legal name change proceedings, such as marriage, divorce, or by administrative proceedings, performed in the database administered by DPRDM, and the changes were not communicated by the participant to the employer, the manager shall notify the participant that he/she has to request the employer to mention the new name in the following insurance document submitted to the record-keeping institution.

(5) If the participant communicates the legal name change proceedings to the manager, the latter has the obligation to prepare the report referred to in Art. 30(1) and to notify the record-keeping institution of the new name of the participant, by including a position with the mention "changes in the identification details", containing the participant's new name, within the deadline referred to in Letter e) of Art. 17(1). The manager shall attach the copy of the identity document to the report.

(6) Based on the reports received from the managers, correlated with the information in the insured persons' database of the public pension system, the record-keeping institution shall make the name change in the Registry of Participants and inform the manager thereof.

Art. 36. - (1) In the case of the applications received by the manager from the persons who are in a situation as set out in Art. 30(1) of the Law and who obtained a final court decision terminating the individual joining act, the following measures shall be taken:

a) the person shall submit to the manager of the fund in which he/she participates, as well as to the record-keeping institution, a copy of the final court decision;

b) the manager shall communicate to the record-keeping institution the termination of the individual joining act for the participant, by recording the mention "deregistration of the participant from the Registry of Participants", and forwarding a copy of the final court decision;

c) the record-keeping institution shall proceed to recovering the gross contribution transferred until the deregistration from the Registry of Participants in order to return it to the state social security budget, by compensation against the contributions to be transferred on the date of the following monthly transfer;

d) the record-keeping institution shall record in the nominal transfer lists, at the following transfer date, for the participant concerned, the amount representing the counter value of the total gross contributions transferred, as a negative amount, after the deregistration from the Registry of Participants;

e) if the personal assets of the participant are less than the value of the gross contributions transferred to the fund, the difference shall be covered from the manager's income, referred to in Letter a) of Art. 85 of the Law;

f) if the personal assets of the participant are more than the value of the gross contributions transferred to the fund, the difference shall be recorded as operating income for the fund concerned;

g) after performing the operations referred to in Letters a) to f), the manager shall close the participant's account.

(2) Within 5 working days from the completion of the operations referred to in Para (1), the managers must notify the participant of:

- a) the fulfilment of the provisions of the court decision and the closing of the participant's account;
- b) the fact that the participant must join a private pension fund, otherwise, in accordance with the legal provisions, he/she shall be randomly distributed by the record-keeping institution.

(3) In the case of the applications received by the manager from persons in a situation as set out in Art. 30(2) of the Law and who obtained a final court decision for the termination of the individual joining act, the provisions of Letter a) of Paras (1) and (2) shall also apply.

(4) In the case referred to in Letter f) of Art. 4 of this rule and under Art. 30(1) of the Law the provisions of Letters c) to g) of Para (1) and Para (2) shall apply.

(5) In the case referred to in Letter f) of Art. 4 hereof and under Art. 30(2) of the Law the provisions of Letter c) to g) of Para (1) and Letter a) of Para (2) shall apply after the manager communicates to the record-keeping institution the termination of the individual joining act for the participant concerned and forwards it a copy of the decision to terminate the individual joining act.

Art. 37. - (1) If the record-keeping institution does not communicate to the manager the information regarding the domicile of the randomly distributed participants, the manager shall:

- a) identify the participants randomly distributed to the pension fund it manages and whose domicile address is not recorded;
- b) identify the employer by its fiscal identification code/sole registration code and contacts it in writing in order to identify the participant's domicile address;
- c) request in writing to the participant to submit a copy of the identity document, bearing his/her signature in original on the same page as the photocopied image, after receiving the information regarding the domicile address from the participant's employer;
- d) communicate the address of the participant, with the mention "personal data modification" and attach the copy of the identity document to the report submitted to the record-keeping institution.

(2) Based on the report referred to in Letter d) of Para (1) and the supporting documents received, the record-keeping institution shall register in its own records the domicile address of the participant.

Art. 38. - (1) The participant must notify the manager and the employer of the acquisition/loss of the Romanian citizenship, within 30 calendar days from the issuance of the identity documents, and attach copies of the supporting documents to the notification.

(2) Upon receiving the notification referred to in Para (1) and the supporting documents, the employer shall submit a nominal correction statement at the following submission date provided by law.

(3) The manager notified in accordance with Para (1) shall inform the record-keeping institution by recording the modification in the following monthly report in order to change the participant's personal number code in the Registry of Participants.

(4) Based on the report and supporting documents received from the manager, as well as on the information included in the nominal correction statement, the record-keeping institution shall modify the personal number code in the Registry of Participants, after consulting DPRDM and/or GII, and shall inform the manager of the date referred to in Art. 33(1).

(5) Based on the information from the record-keeping institution, the manager shall modify the participant's personal number code in its own records.

Art. 39. - (1) The participant must submit to the employer and the manager a copy of his/her new identity document, bearing his/her original signature on the same page as the photocopied image, if

the DPRDM records reveal that the personal number code was modified and he/she has a new identity document, within 30 calendar days from the issuance of the new document.

(2) The manager, notified in accordance with Para (1), shall inform the record-keeping institution by recording the modification in the following monthly report, in order to update the participant's personal number code in the Registry of Participants.

(3) Based on the report and the supporting documents received from the administrator as well as on the information related to the insurance documents, the record-keeping institution shall modify the personal number code in the Registry of Participants and shall inform the manager on the date referred to in Art. 33(1).

(4) Based on the information from the record-keeping institution, the manager shall modify the participant's personal number code in its own records.

Art. 40. – If a participant whose personal number code was modified in accordance with Art. 38(1) or Art. 39(1), was validated with two privately managed pension funds, his/her personal assets shall be transferred, without any transfer penalties, in accordance with the provisions of the rule on the transfer of participants between privately managed pension funds.

Art. 41. – The managers must keep in their own records the history of the operations described under Art. 30(2), Arts. 35 to 39 and the related supporting documents.

CHAPTER VI

Legal Liability

Art. 42. - (1) The following deeds shall be deemed petty offences:

a) the managers' failure to fulfil their obligations referred to in Art. 5(5), Art. 17(1) and (3), Art. 19(2), Art. 28, Art. 30(3) and (4), Art. 35(5), Art. 36(2), Arts. 41 and 48;

b) the marketing agents' failure to observe the interdictions referred to in Art. 10(3);

c) the conclusion or use by the manager, the natural or legal person marketing agent of individual joining acts without observing their contents, as approved by the Authority, and/or without having obtained in advance the Authority's approval;

d) the failure to fulfil any other obligations provided in this rule.

(2) The perpetration of any of the petty offences referred to in Para (1) shall be sanctioned in accordance with the provisions of Art. 16, Letter c) of Art. 81(1), Art. 141(2) to (4), (6) to (11) and of Art. 142 of the Law.

CHAPTER VII

Final and transitional provisions

Art. 43. – The deadlines provided herein, which expire on a legal holiday or in a non-working day, shall be extended until the end of the following working day.

Art. 44. - (1) The natural or legal person employers, other than those in the national defence, public order and national security system, must provide the Authority and the privately managed pension fund managers with the data and documents necessary to identify the participants in the privately managed pension funds.

(2) The managers shall exchange information, at the written request of any of them, with regard to the data of the participants included in the operations described under Arts. 7, 35, 38 and 39.

Art. 45. – All reports submitted by the record-keeping institution to the Authority shall be in electronic format, under extended electronic signature. The format of such reports shall be established by the protocol concluded with such institutions.

Art. 46. – This rule shall enter into force on 1 April 2015.

Art. 47. – Decision No. 30/2009 of the Private Pension System Supervisory Commission's Board approving Rule No. 22/2009 on participants' joining privately managed pension funds and recording-keeping, published in the *Official Journal of Romania*, Part I, No. 843 of 7 December 2009, as subsequently amended and supplemented, as well as any other provisions to the contrary shall be repealed as of the entry into force of this rule.

Art. 48. – Within 90 calendar days after the publication of this rule, the managers must submit to the Authority all documents necessary to approve the modification of the individual joining act, in accordance with the provisions hereof.

**President of the Financial Supervisory Authority,
Mișu Negrițoiu**

Bucharest, 8 January 2015

No. 1

FRAMEWORK INDIVIDUAL JOINING ACT

Series No.

Number of the decision for authorisation as manager.
 Number of the decision authorising the private pension scheme prospectus.
 Number of the decision authorising the privately managed pension fund
 Surname and first name of the participant
 Personal Number Code (PNC), ID/IC Series. No., issued on
 .. by

Date of birth (dd/mm/yyyy)

Domicile address. (locality, county/district, street, number, block, entrance, floor,
 apartment, postal code)

Correspondence address (locality, county/district, street, number, block, entrance, floor,
 apartment, postal code)

Telephone number., e-mail address.

Name of the privately managed pension fund

Managed by (name of the manager)

Address of the manager (locality, county/district, street, number, block, entrance, floor,
 apartment, postal code)

Name of the employer, FIC/SRC

Name of the pension house where the participant is registered *:

* If the participant is registered in the Registry of Insured Persons with several pension houses,
 he/she should state it in this act.

- The National Public Pension House
- The District Pension House of the Ministry of National Defence
- The District Pension House of the Ministry of Administration and Interior
- The District Pension House of the Romanian Intelligence Service

(To be ticked with an X by the participant.)

In accordance with Law No. 411/2004 on privately managed pension funds, republished, as
 subsequently amended and supplemented, the marketing agent and the persons affiliated therewith
 shall be prohibited from:

1. offering collateral benefits in order to entice a person to join a pension fund or to remain a
 participant thereof;
2. granting benefits to facilitate the joining of potential participants.

The participant's representation:

1. I declare on my own liability that it is the first time when I join a privately managed fund and that I
 have not concluded any other individual joining act with any other fund.

(The participant shall tick with an X only if this is the first time when he/she joins the fund.)

2. I declare on my own liability that I have signed this individual joining act in order to be transferred
 from another privately managed pension fund.

(The participant shall tick with an X only if he/she is transferring from another privately managed
 pension fund.)

3. I have become aware of the provisions of the private pension scheme prospectus, I have received
 such document, I give my consent to becoming a party to the association contract and I was
 informed of the management contract.

4. I have become aware that the manager may use my personal data in order to present its other
 private pension products.

In accordance with Law No. 677/2001 on the protection of individuals regarding the personal data
 processing and the free movement thereof, as subsequently amended and supplemented, the
 participant benefits from the right to access and intervene on the personal data, not to be subject to

an individual decision and to address the courts of law. The participant has the right to oppose the processing of his/her personal data and to request their removal, by a written application, dated and signed, addressed to..... (name of the manager) who processes the participant's data included herein, for the purposes provided by Law No. 411/2004, republished, as subsequently amended and supplemented.

5. I undertake to inform the manager of the privately managed pension fund of any modification of my identification information or contact details, within 30 calendar days from their occurrence.

6. I have become aware of the fact that, after the execution of the individual joining act, the manager must verify the accuracy of the individual joining act and the true nature of my expression of will, by any means that may be proven afterwards.

Manager, Legal Representative, (surname, name, signature and stamp)	Participant, (surname and first name) (signature)
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Date
(dd/mm/yyyy)

Legal Person marketing agent
Financial Supervisory Authority Registry Code

Natural person marketing agent, (surname and name) (signature)
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Date
(dd/mm/yyyy)

Financial Supervisory Authority Registry Code.....

To be filled in by the manager

Verified by
Surname:
Name:

Signature	Date
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