

Rule No. 10/2009
on the rate of return of optional pension funds

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Considering the provisions of the art. 82, art. 83 lit. a) -c) and the art. 91 of the Law no. 204/2006 on optional pensions, as subsequently amended and supplemented, hereinafter referred to as the Law,

under the provisions of the Art. 16, art. 23 lit. f) and art. 24 lit. j) of Governmental Emergency Ordinance no. 50/2005 regarding the establishment, organization and the functioning of the Private Pension System Supervisory Commission, approved with amendments and completions by Law no. 313/2005,

The Private Pensions Supervisory Commission, hereinafter referred to as the Commission, shall issue this present norm.

CHAPTER I
General provisions

Article 1. - (1) This present norm establish the method of calculating the profitability rate of an optional pension fund, the weighted average rate of profitability and the minimum rate of profitability of all optional pension funds.

(2) The weighted average rate of profitability and the minimum rate of profitability shall be calculated differentially by the risk categories: high, medium and low, in conformity with the declaration regarding the Policy of Investment and the provisions of the prospectus for the optional pension scheme.

(3) This present norm is addressed to the administrators of optional pension funds and depositories.

Art. 2. - The terms and expressions used in this Norm have the meanings provided in art. 2 of the Law.

CHAPTER II

The mechanism for calculating the rate of profitability of the optional pensions funds

Art. 3. - The representation of the calculation formulas for determining the rate of profitability provided by this Law shall be the following:

a) the daily weight of a pension fund represents the raport between the net asset value of the fund and the sum of the value of the net asset value of all pension funds in a risk class calculated on that day and is calculated according to this following formula:

$$p_x = \frac{f_x}{z} = \frac{(VAN)_{f_x}}{\sum_{i=1}^n \frac{f_i}{z_i}}$$

where:

p_x = the daily weight of the fund x in the total of the pension funds in a risk category;

$\frac{f_x}{z_y}$ = net asset value of the fund x on the day y;

n = the total number of voluntary pension funds, from a risk category;

b) the average weight of a fund in total pension funds of a risk category on a certain period represents the arithmetic average of the fund's daily weights over that period and is calculated according to the following formula:

$$P_m = \frac{\sum_{y=1}^t f_{xy}}{t}$$

where:

P_m = the average weight of the fund x over a given period;

f_{xy} = the daily weights of fund x in total pension funds of a risk category, during that period;

t = Number of calendar days of the period for which the calculation is made;

c) The daily yield of a pension fund represents the ratio of the amount of the fund unit on that day and the amount of the fund unit on the preceding day and is calculated by the following formula:

$$\eta_z = \frac{f_{xz} (VUF)}{f_{x(z-1)} (VUF)}$$

where:

η_x = daily profitability on pension fund;

$(VUF)_{z_y}^{f_x}$ = the value of the fund unit x on day y;

$(VUF)_{z(y-1)}^{f_x}$ = the value of the fund unit x on day y-1 (the previous day of day y);

d) the rate of profitability of a pension fund is the annualized rate of daily yield, measured over a period of 24 months, and is calculated according to the following formula:

$$R_x = \sqrt[24]{\frac{(VUF)_{z_y}^{f_x}}{(VUF)_{z(y-1)}^{f_x}}} - 1,$$

where:

R_x = the rate of profitability of the fund x;

$(VUF)_{z_y}^{f_x}$ = the value of the fund unit x on day y;

$(VUF)_{z(y-1)}^{f_x}$ = the value of the fund unit x on day y-1 (the previous day of day y);

t = the number of calendar days of the period for which the calculation is made;

e) the weighted average rate of profitability for all pension funds for each risk class is the sum of the products between the rate of profitability of each fund in that category over a period and the average weight of the fund in the total of the funds in that category over the same period and is calculated by the following formula:

$$R[R(mp)] = \frac{\sum_{x=1}^n R_x \cdot P_x}{\sum_{x=1}^n P_x},$$

w:

R[R(mp)] = rata medie ponderată de rentabilitate a tuturor fondurilor de pensii dintr-o categorie de risc, pe o perioadă;

R_x = the rate of profitability of the fund x over that period;

P_x = the average weight of the fund x in the total pension funds of a risk category over that period;

n = the total number of pension funds in a risk category.

Art. 4. - (1) The minimum rate of profitability for all pension funds in a risk category is the smallest of the weighted average rate of profitability calculated for each risk class in that period, down 4 percentage points, and 50% of the weighted average rate of profitability calculated for each risk category during that period.

(2) The minimum rate of profitability on all pension funds is calculated according to the following formula for each risk category:

$$R[R(\text{MIN})] = \min \{ R[R(\text{mp})] - 0.04; 0.5 \leq R[R(\text{mp})] \},$$

where:

$R[R(\text{MIN})]$ = the minimum rate of profitability on all pension funds in a risk category;

$R[R(\text{mp})]$ = the weighted average rate of profitability of all pension funds in a risk category.

Art. 5. - For the calculation of the weighted average rate of profitability of all pension funds, provided in art. 3 lit. e), using the average share of pension fund in total funds from one category of risk, measured over a period of 24 months, and the rate of profitability that the fund measured over the same period.

Art. 6. - The calculation of the rate of profitability, the weighted average rate of profitability and the minimum rate of profitability shall be made for pension funds 24 months after the first reporting of the net asset value per unit, calculated and certified by the pension fund depository.

Art. 7. - 1. The administrator shall calculate and report quarterly to the Commission the rate of profitability on the pension fund on the last working day of each quarter for the last 24 months preceding the date of the calculation.

(2) The rate of profitability shall be calculated on the basis of the net asset value per unit calculated and reported by the administrator and by the pension fund depository on the last working day of the quarter.

3. The administrator shall publish the rate of profitability on the pension fund which he manages on the fourth business day following the end of the quarter.

Article 8. - The pension fund depository shall calculate and report quarterly to the Commission the rate of profitability on the pension fund on the last working day of each quarter for the last 24 months preceding the date of the calculation.

Art. 9. - 1. The Commission shall calculate on the first working day of the current month for the last 24 months preceding the date of calculation:

- a) the rate of profitability of each pension fund;
- b) the weighted average rate of profitability of all pension funds, differentiated by risk categories;
- c) the minimum rate of profitability of funds, differentiated by risk categories.

2. The Commission shall publish the rates referred to in paragraph (1) on your own website on the third working day of the current month.

Art. 10. - The Commission shall notify the administrator within 3 working days of the end of each quarter if the rate of profitability on that fund is below the minimum rate of profitability for that risk class.

Art. 11. - 1. Where the rate of profitability on a pension fund is less than the minimum rate of profitability for that risk category for four consecutive quarters, the Commission shall withdraw the management authorization of that administrator and shall apply the special administration procedure provided for in head. VI of the Law, and the provisions of Norm no. 8/2009 regarding the special administration of the optional pension funds, approved by the Decision of the Private Pension System Supervision Commission no. 9/2009 .

(2) The date from which the four consecutive quarter starts to run is the quarter following that in which the fund's rate of profitability is lower than the minimum rate of profitability of its risk class.

Art. 12. - All calculations in this rule are made 6 decimal places in absolute terms and rates of profitability shall be published both on the Commission's website and on the Administrator's website, within the time limits provided for in this Rule, in a percentage figure of 4 decimal places.

CHAPTER III Final provisions

Art. 13. - The terms provided for in this present norm which expire on a public holiday or a non-working day, shall be extended until the end of the next working day.

Art. 14. - (1) The first profitability rate of the Pension Fund shall be calculated by the administrator and the depository on the last working day of the 24th month at the date of the first reporting of the unit value of the net asset certificated by the pension fund depository, and shall be reported to the Commission the same day.

2. The following calculations of the rate of profitability on the pension fund shall be calculated on the last working day of each calendar quarter for the period of the last 24 months and shall be reported on the same day.

Art. 15. - Failure to comply with the provisions of this regulation shall be sanctioned in accordance with the provisions of the legislation in force, respectively art. 38 lit. b), c), art. 120 par. (1), art. 121 par. (1) lit. (b), (k), (2) to (4) and (6) to (10) of the Law, as the case may be.

Art. 16. - On the date of entry into force of this Rule, Art. 12, art. 19 para. (2) and Annex no. 5 of Norm [no. 5/2008](#) on reporting obligations and transparency in the optional pension system, approved by the Decision of the Private Pension System Supervision Commission [no. 11/2008](#), published in the Official Gazette of Romania, Part I, no. 137 of 21 February 2008.

Art. 17. - This Standard enters into force on May 25, 2009.