

**Rule no. 11/2011**  
**on investing and evaluating the assets of private pension funds**

In force since January 5, 2012

The consolidation of [August 1, 2018](#) is based on publication in the Official Gazette, Part I no. 8 of January 5, 2012 and includes the amendments made by the following acts: Norm [19/2012](#) ; Norm [8/2013](#) ; Norm [3/2014](#) ; Norm [13/2015](#) ;

Last amendment on September 3, 2015.

Considering the provisions of art. 25 par. (1) [lit. i](#) , but art. 28 par. (1) [lit. e](#) and par. (2) [lit. f](#) and [art. 54](#) of Law no. 411/2004 on privately managed pension funds, republished, as subsequently amended and supplemented, and art. 79 [par. \(4\) but](#) Art. 87 para. (1) [lit. i](#) and art. 90 par. (1) [lit. e](#) and par. (2) [lit. f](#) of Law no. 204/2006 on voluntary pensions, as subsequently amended and supplemented, under the provisions of [Art. 16](#) , [21](#) , [22](#) , art. 23 [lit. f](#) and art. 24 [lit. b](#) of Government Emergency Ordinance no. 50/2005 on the establishment, organization and functioning of the Private Pension System Supervisory Commission, approved with amendments and completions by Law [no. 313/2005](#) , as subsequently amended and supplemented.

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

## CHAPTER I

### General dispositions

Article 1. - (1) This Norm applies to:

a) privately managed pension fund managers and voluntary pension fund managers, hereinafter referred to as administrators;

b) privately managed pension funds and voluntary pension funds, hereinafter referred to as private pension funds.

c) the fund for guaranteeing the rights of the private pension system, established on the basis of Law no. 187/2011 on the establishment, organization and functioning of the Private Equity Guarantee Fund.

03/01/2013 - the letter was introduced by Norm [19/2012](#) .

(2) This Norm establishes:

a) the types of investments and the investment limits of the assets of the private pension funds;

b) the procedure for classifying private pension funds in degrees of risk;

c) the duties and obligations of the private pension fund managers with regard to the investment activity;

d) valuation rules for the assets of private pension funds;

e) the rules for the calculation of the net asset value and the value of the fund units.

Art. 2. - (1) The terms and expressions used in this Rule have the meanings stipulated by:

a) [Art. 2](#) of the Law no. 411/2004 on privately managed pension funds, republished, as subsequently amended and supplemented, hereinafter referred to as Law [no. 411/2004](#) ;

b) [art. 2](#) of the Law no. 204/2006 on voluntary pensions, as subsequently amended and supplemented, hereinafter referred to as Law [no. 204/2006](#) ;

c) [art. 2](#) of the Law [no. 297/2004](#) on the capital market, as subsequently amended and supplemented, as well as the norms and regulations for its application;

d) Government Emergency Ordinance [no. 99/2006](#) on [credit](#) institutions and capital adequacy, approved with amendments and completions by Law [no. 227/2007](#) , as subsequently amended and supplemented, as well as the norms, regulations and circulars for its application.

e) Law no. 187/2011 on the establishment, organization and functioning of the Private Equity Guarantee Fund, hereinafter referred to as Law no. 187/2011.

03/01/2013 - the letter was introduced by Norm [19/2012](#) .

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

a) the directors - the members of the board of directors and the directors of the administrator or, as the case may be, the members of the supervisory board and of the directorate;

b) passive deviation from the investment limits - exceeding or decreasing the investment limits without the administrator buying or selling the respective financial instruments;

c) passive deviation from the degree of risk - exceeding or decreasing from the limits of the rankings associated with each degree of risk incurred without the administrator to buy or sell financial instruments;

d) rating agencies - international rating agencies whose ratings are taken into account when classifying financial instruments as investment grade are Fitch, Moody's and Standard & Poor's;

(e) Traded UCITS - "exchange traded fund" (ETF) means an undertaking for collective investment in transferable securities authorized in accordance with Community rules in force to issue units or shares traded continuously during a trading session on at least one regulated market; and which has at least one market maker who takes the necessary actions to ensure that the market value does not vary significantly from the net asset value of that UCITS;

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f) group - a group of entities consisting of a parent company, its subsidiaries and the entities in which the parent company or subsidiaries holds a participation, as well as a group of entities linked by one another than that between a parent company and a subsidiary, respectively a relationship in the following sense:

(i) an entity or entities is / are managed / managed on a single basis by virtue of a contract with that entity or the provisions of the articles of association or the articles of association of those entities;

(ii) the management, management or supervisory bodies of one or more entities are made up of the same persons representing the majority of the decision-making body in office during the financial year and until the consolidated financial statements are drawn up;

g) investment grade - the performance grade assigned to an issue of financial instruments or, in the absence thereof, to the issuer by the rating agencies referred to in d), according to their assessment scales;

h) relevant person in relation to the administrator - any of the following persons:

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(i) a manager or equivalent of the manager;

(ii) an employee of the administrator and any other natural person who offers his services at the disposal and under the control of the administrator and who is involved in the administration of the management of the private pension fund;

(iii) a natural / legal person directly involved in the provision of services to the administrator on the basis of a contract for the performance of the activity of administering the private pension fund, according to the applicable normative acts;

i) investment manager - the person with the leading role of the investment direction;

j) private equity investments - long-term investments in shares of companies not listed on a regulated market, which involve an active strategy by directly involving the private pension fund manager in the company's management so as to gaining value in relation to the initial investment and which may be:

(i) investing in a newly established company or in an existing company, with the aim of developing it on the basis of a business plan analysis;

(ii) the purchase of shares in order to acquire a controlling position or a shareholder in an existing company based on the analysis of a business plan;

k) passive deviation from rating requirements - lower rating against the rating requirements of a issue or issuer appearing on a financial instrument in the portfolio of a private pension fund;

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l) exchange traded commodities (ETC) - entities admitted to trading on a regulated market in Romania, EU Member States, states belonging to the European Economic Area or the United States of America, specially designed to track the performance of an index commodities or the price of one or more commodities and for which there is at least one market maker whose responsibility is to ensure that the price of ETCs issued by the ETC follows the evolution of the index or commodity /

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m) prospectus for the pension scheme - the prospectus of the private pension scheme or the prospectus of the optional pension scheme, as the case may be;

n) rating - the rating given to a financial instrument issue or, failing that, the rating given to the issuer by a credit rating agency as a result of the risk assessment associated with it;

o) reverse repo - agreement whereby the pension fund purchases eligible assets for trading and involves the transfer of ownership of the eligible assets from seller to buyer, with the seller's commitment to redeem those assets at a later date and at a price set at the date closing the transaction;

p) parent company - an entity that is in one of the following situations:

(i) has the majority of the voting rights in another entity, referred to as a subsidiary;

(ii) has the right to appoint or replace a majority of the members of the management, management or supervisory bodies of another entity, referred to as a subsidiary, and is at the same time a shareholder / associate or member of that entity;

(iii) has the right to exercise a dominant influence over an entity, a subsidiary, whose shareholder / associate or member is, by virtue of a contract with that entity or the provisions of the entity's constituent act, if the law applicable to the subsidiary allows it to be subject to such contracts or provisions;

(iv) is a shareholder / associate or member of an entity and the majority of the members of the management, management or supervisory bodies of that subsidiary, who are in charge of the current financial year for the preceding financial year and until the date of the statements have been appointed only as a result of the exercise of their voting rights; this provision does not apply if another entity has the rights referred to in (i), (ii) or (iii) to that subsidiary;

(v) is a shareholder / associate or member of an entity and controls on its own, on the basis of an agreement with other shareholders / associates or members of that entity, the subsidiary, the majority of the voting rights in that subsidiary;

(vi) has the right to exercise or, in the opinion of the competent authorities, exercises in fact a dominant influence or control over another entity, referred to as a subsidiary;

q) personal transaction - a transaction in a financial instrument performed by or on behalf of a relevant person in relation to the manager, if that relevant person acts outside the scope of the activity he performs in that capacity.

r) MiFID - Directive 2004/39 / EC of the European Parliament and of the Council of 21 April 2004 on financial instruments markets in amending Council Directives 85/611 / EEC and 93/6 / EEC and Directive 2000/12 / EC of the European Parliament and of the Council and repealing Council Directive 93/22 / EEC, published in the Official Journal of the European Union, L series no. 145 of April 30, 2004;

03/01/2013 - the letter was introduced by Norm [19/2012](#) .

s) ISDA - International Swap and Derivatives Association;

03/01/2013 - the letter was introduced by Norm [19/2012](#) .

t) regulated market - authorized market according to the provisions of art. 36 par. (1) of the MiFID Directive and present in the list published in the Official Journal of the European Union, in accordance with Art. 47 of the MiFID Directive;

03/01/2013 - the letter was introduced by Norm [19/2012](#) .

u) the primary market - the market for the issue, subscription and distribution of financial instruments, directly or through an intermediary.

03/01/2013 –the letter was introduced by Norm [19/2012](#) .

## CHAPTER II

### Administrator's responsibilities regarding the investment activity

#### SECTION 1

##### General dispositions

Art. 3. - The administrator shall invest the assets of the private pension fund in compliance with the investment policy statement authorized by the Commission aiming at the prudential investment of the assets of the private pension fund exclusively for the benefit of the participants or the beneficiaries as appropriate, taking into account the long-term obligations of the private pension fund and in accordance with the legal provisions.

Art. 4. - The administrator has the following obligations:

a) to ensure the investment of the assets of the private pension funds in compliance with the limits provided by the Law [no. 411/2004](#) and Law [no. 204/2006](#) and those established by the prospectus of the pension scheme;

b) to invest the assets of the private pension funds in a way that ensures the security, the quality, the liquidity and the profitability of the assets of the private pension fund;

c) to ensure the diversification of the portfolio of the private pension fund in order to disperse the risk and to maintain an adequate degree of liquidity. Assets diversify appropriately to avoid excessive reliance on a particular asset, issuer or group of companies, as well as risk concentrations on the total assets.

Art. 5. - In exercising his / her duties, the following shall be forbidden to the administrator:

a) to negotiate and conclude transactions in the name and on behalf of other persons than the private pension fund it manages, except for the transactions authorized by the legislation in force;

b) to outsource, for the purpose of transferring attributions based on a contract or entrusting the execution of certain obligations to another administrator or to a company, the activities stipulated in art. 57 par. (1) lit. a) -f) of the Law no. 411/2004 and at art. 15 par. (1) lit. a), c), e), f) -h) of the Law no. 204/2006.

#### SECTION 2

##### Internal regulations

Art. 6. - The internal procedures of the administrator regarding the activity of the management department responsible for analyzing investment opportunities and asset placement, provided in Norm [. 12/2010](#) on the authorization to establish a pension company and the authorization to administer privately managed pension funds, approved by the Decision of the Private Pension System Supervision Commission [no. 22/2010](#) , as subsequently amended and supplemented, and in Norm [. 13/2010](#) regarding the authorization for the constitution of the pension company and the authorization for the administration of the voluntary pension funds, approved by the Decision of the Private Pension System Supervision Commission [no. 23/2010](#) , as subsequently amended and supplemented, shall be approved by the competent statutory body and shall include, but are not limited to:

03/01/2013 - the paragraph was [amended](#) by Norm [19/2012](#)

(a) procedures relating to transactions in the interests of the administrator or the personal transactions of its employees and procedures for managing the conflict of interest;

(b) adequate procedures to ensure separation of the financial instruments belonging to the private pension fund from those of the administrator and those of other private pension funds managed by the same administrator;

c) risk management procedures, including methods for assessing investment risks, credit risk, market risk, liquidity risk, operational risk, reputational risk etc .;

d) adequate procedures to ensure that all operations performed by the administrator can be reconstituted, including with respect to the parties involved, the time and place where they were performed, to ensure that records of transactions are kept, in accordance with the provisions of the Supervisory Commission Private Pensions System no. 2/2008 regarding the organization of the archive activity to the administrators of private pension funds, approved by the Decision of the Private Pension System Supervision Commission no. 3/2008;

e) adequate procedures detailing the competencies and the way in which the assets of the private pension fund are managed;

f) procedures for the investment of the assets;

g) Asset valuation and reporting procedures.

### CHAPTER III

#### Managing conflict of interest

Art. 7. - «Abrogated» 09/04/2014 - Art. 7 - was repealed by Norm [3/2014](#) .

1. The administrator shall take all measures to ensure that situations of conflict of interest between the company, including the directors, employees, parent company, group of which the manager is a member, or any person affiliated or directly or indirectly control over the company and the private pension fund as well as between combinations of the above situations are identified and managed so that the private pension fund interests are not affected.

(2) The administrator shall also ensure that there is no conflict between the interest of the participant in the private pension fund and the personal interests of an employee when the employee has interests in his / her capacity as a private person.

(3) In order to identify the types of conflicts of interest that arise during the provision of the portfolio management services of the private pension fund and related services or their combinations, whose existence might prejudice the interests of a fund, the administrator shall take into account, on the basis of minimum criteria established at the level of the company, the situation in which a relevant person or a person directly or indirectly related to him or her through control is in any of the following situations:

a) the administrator or that person could obtain a financial gain or could avoid a financial loss at the expense of the fund;

b) the administrator or that person benefits from a financial incentive or other incentive to favor a company with which to conclude a contract of any kind.

Article 8. - " Abrogated " 09/04/2014 - Article 8 - was repealed by Norm [3/2014](#) .

The administrator must have the necessary measures and procedures to ensure that they comply with:

a) the requirement that the staff of the investment direction conducting financial analysis activities and other relevant persons should not engage in personal transactions or advise or determine any person to engage in transactions with the financial instruments under investigation or any instrument related financial data before the research results are used by the pension fund;

(b) the requirement that personal transactions identified at the level of the private pension fund manager be recorded in a register including any approval or prohibition in relation to them;

c) the prohibitions set out in chapter V.

Art. 9. - " Abrogated " 09/04/2014 - Article 9 - was repealed by Norm [3/2014](#) .

The procedures drawn up in application of Art. 8 lit. (b) they must be designed in such a way as to ensure the following distinctly:

a) each relevant person must be aware of the restrictions on personal transactions as well as the arrangements set by the administrator for personal transactions and disclosure of information;

(b) the Administrator must be immediately informed of any personal transaction involving a relevant person either on the basis of a notification of that transaction or by other procedures that allow the Administrator to identify such transactions.

## CHAPTER IV

### Private pension fund investments

#### SECTION 1

##### General rules

Art. 10. - Throughout the operation of the private pension fund, the administrator invests its assets only in the instruments provided by Law no. 411/2004, by Law no. 204/2006 and this regulation, subject to the limits set for each class of assets.

Art. 11. - 03/01/2013 - Article 11. - was [amended](#) by Norm [19/2012](#)

The administrator invests the assets of the private pension fund in instruments traded on the primary market, the regulated market and the secondary banking market.

Art. 12. - 03/01/2013 - Art. 12 - was [amended](#) by Norm [19/2012](#)

(1) The assets of the private pension fund are invested in the financial instruments provided by art. 25 par. (1) lit. a) -h) of the Law [no. 411/2004](#) and art. 87 para. (1) lit. a) -h) of the Law [no. 204/2006](#) and this norm, subject to the following maximum limits for each instrument:

a) 20% of the assets of the private pension fund may be invested in money market instruments, respecting the following sublimits:

(i) accounts in RON or in freely convertible currency with banks authorized to operate on the territory of Romania, the European Union or the European Economic Area - 5%;

(ii) deposits in lei or in freely convertible currency with banks authorized to operate on the territory of Romania, the European Union or the European Economic Area - 20%;

(iii) treasury certificates admitted to trading and traded on a regulated market or traded on a secondary banking market in Romania, in European Union Member States or in countries belonging to the European Economic Area - 20%;

(iv) reverse repurchase agreements with banking institutions - 5%;

(b) 70% of the assets of the private pension fund may be invested in government securities, including the treasury certificates referred to in point (a) (iii), in Romania, from Member States of the European Union or belonging to the European Economic Area;

c) 30% of the assets of the private pension fund may be invested in bonds and other securities issued by local public authorities of Romania, Member States of the European Union or belonging to the European Economic Area, admitted to trading and traded on a market regulated in Romania, from Member States of the European Union or from states belonging to the European Economic Area;

d) 50% of the assets of the private pension fund may be invested in securities admitted to trading and traded on a regulated market in Romania, Member States of the European Union or belonging to the European Economic Area, subject to the following sublimits:

(i) shares and rights admitted to trading and traded on a regulated market in Romania, in Member States of the European Union or in the European Economic Area - 50%;

(ii) corporate bonds, except bonds involving or incorporating a derivative - 30%;

e) 15% of the assets of the private pension fund may be invested in securities issued by third countries, admitted to trading and traded on a regulated market in Romania, in European Union Member States or in countries belonging to the European Economic Area;

f) 10% of the assets of the private pension fund may be invested in bonds and other securities issued by local government authorities from third countries, admitted to trading and traded on a regulated market in Romania, from EU Member States or from countries belonging to the European Economic Area;

(g) 15% of the assets of the private pension fund may be invested in bonds issued by the World Bank, the European Bank for Reconstruction and Development, the European Investment Bank, admitted to trading and traded on a regulated market in Romania, The European Union or from countries belonging to the European Economic Area;

(h) 5% of the assets of the private pension fund may be invested in bonds issued by non-governmental foreign bodies other than those referred to in g) admitted to trading and traded on a regulated market in Romania or in European Union Member States or in countries belonging to the European Economic Area;

(i) 5% of the assets of the private pension fund may be invested in units issued by UCITS, including ETFs, in Romania or in Member States of the European Union;

j) 3% of the assets of the private pension fund may be invested in ETC and units issued by AOPC set up as closed-end investment funds, admitted to trading and traded on a regulated market in Romania, from EU Member States; or belonging to the European Economic Area.

(2) By way of exception from the provisions of paragraph (1), 10% of the assets of the voluntary pension fund may be allocated to private equity investments, with the following sublimits:

a) shares in companies in Romania, member states of the European Union or belonging to the European Economic Area - 5%;

b) private equity funds from Romania, from EU Member States or from countries belonging to the European Economic Area - 10%.

Art. 121. - 03/01/2013 - Article 12 ^ 1. - was introduced by Norm [19/2012](#) .

The financial resources provided by Law no. 187/2011 and available to the Guarantee Fund may be invested in:

a) money market instruments, including accounts and deposits in lei, at a credit institution, a legal person or a branch of a foreign credit institution authorized to operate on the territory of Romania, which are not subject to special surveillance or special administration procedure;

b) government securities issued by the Ministry of Public Finance, Member States of the European Union or belonging to the European Economic Area.

Art. 13. - Exposure to a single issuer may not exceed 5% of the assets of the private pension fund, and exposure to a group of issuers and their affiliated persons may not exceed 10% of the assets of the private pension fund.

(2) The limits stipulated in paragraph (1) refers to all types of investment permitted by law and this Rule, including accounts, bank deposits, derivative financial instruments and reverse repo transactions, with the exception of government securities.

(3) Exposure to an issuer in derivative financial instruments is their market value in the case of Derivative Financial Instruments with settlement in funds and the notional value of Derivative Derivatives with settlement on Delivery.

(4) Exposure to an issuer in reverse repo operations shall be the amount of the interest accrued.

(5) A private pension fund may not hold more than:

03/01/2013 - the paragraph was [amended](#) by Norm [19/2012](#)

a) 10% of the total number of shares issued by an issuer, with both ordinary shares and preference shares being included in the calculation of this percentage;

b) 10% of the preference shares of an issuer;

c) 25% of the units issued by a UCITS, ETF, AOPC closed-end investment fund or ETC;

d) 10% of the bonds of an issuer, except for government securities.

Article 131. - 01/07/2013 - Article 13 ^ 1. - was introduced by Norm [19/2012](#) .

1. The administrator shall ensure that, for each transaction in financial instruments, a record is made without delay containing sufficient information to enable reconstruction of its details.

(2) The registration provided for in paragraph (1) shall include at least:

- a) the name of the private pension fund and the person acting on its account;
- (b) the details needed to identify the financial instrument concerned;
- c) the amount of the traded financial instrument;
- d) type of transaction;
- e) the price of the traded financial instrument;
- f) the counterparty or intermediary of the place of performance;
- g) the bank account through which the transaction was settled.

(3) The administrator shall have an electronic record of the transactions provided in paragraph (1) for a period of at least 5 years, fulfilling the following criteria:

- a) the possibility of rapid access to information and the possibility of reconstitution of each stage of the processing of each transaction;
- (b) the ability to easily ascertain any corrections or other changes and the content of the records prior to the corrections and amendments concerned;
- c) records may be modified only in accordance with the provisions of subparagraph b).

4. At the request of the Commission, the administrator shall provide additional information on the trading orders relating to the transactions referred to in paragraph (1), including the date and time of the order, the name of the person transmitting the order and the name of the person to whom the order was sent.

## SECTION 2

### Specific rules

Art. 14. - 03/09/2015 - Article 14 - [amended](#) by Norm [13/2015](#)

The administrator invests the assets of private pension funds in traded shares and rights of issuers who meet at least the conditions for admission to the standard category of the Bucharest Stock Exchange.

Art. 15. - 03/01/2013 - Article 15. - has been [amended](#) by Norm [19/2012](#)

The administrator may trade in other markets, except those provided in art. 11, only in the following cases:

- a) trading involves derivative financial instruments of the forward and swap type referred to in art. 20 par. (3);
- b) trading involves units issued by UCITS that are not admitted to trading on a regulated market;
- c) trading involves private equity investments.
- d) the transaction involves municipal bonds stipulated in art. 12 paragraph (1) lit. c) and f) and corporate bonds provided under art. 12 paragraph (1) lit. (d) (ii).

03/09/2015 - the letter was introduced by Norm [13/2015](#) .

Article 16 - An issue or an issuer is considered an investment grade in the following situations:

- (a) if the issuer or issue is rated by a single rating agency, it is considered to be an investment grade if it has received at least this rating from the rating agency;
- (b) if the issuer or issue is rated by two credit rating agencies, it is considered to be an investment grade if it has received at least this rating from both rating agencies;
- c) If the issuer or issue is rated by 3 rating agencies, it is considered to be an investment grade if it has received at least one rating from at least two of the rating agencies.

Art. 17. - (1) The administrator may invest the assets of the private pension funds only in bonds or other debt securities of issuers from countries belonging to the European Union or the European Economic Area or from third countries, which have the investment grade rating, with the exception of:

03/01/2013 - the paragraph was [amended](#) by Norm [19/2012](#)

- a) government securities issued by the Romanian state and bonds issued by local public administration authorities;
- b) the corporate bonds of issuers in Romania who have the explicit and full guarantee of the Romanian state;
- c) corporate bonds of issuers in Romania that meet the following criteria cumulatively:

09/09/2013 -> 09/09/2015 - Derogation by Norm [11/2011](#) .



(i) have a minimum rating with a rating a step below Romania;  
(ii) none of the performance ratings granted by Fitch, Standard & Poor's or Moody's is lower than BB-, BB-, or Ba3 respectively.

(2) The administrator may invest only in those bonds issued by non-governmental foreign bodies, which have the grade, investment grade.

(3) Administrators conclude forward and swap transactions only with banks that have received the investment grade or whose parent has received this rating.

03/01/2013 - the paragraph was [amended](#) by Norm [19/2012](#)

(4) The provisions of paragraph (1) lit. (c) apply only to debt securities or debt securities purchased after the date of entry into force of this Standard.

03/01/2013 - the paragraph was introduced by Norm [19/2012](#) .

Article 171. - 09/09/2013 -> 09/09/2015 - Article 17 ^ 1. - was introduced by Norm [8/2013](#) .

(1) By way of exception to the provisions of art. 17 par. (1) lit. c) Based on the decision of the Board of Directors or the Management, as the case may be, taken for each financial instrument, the administrator may invest the assets of the private pension funds in unsubscribed or insufficiently rated corporate bonds issued by legal persons from Romania, observing the following requirements:

a) the Romanian State holds, directly or indirectly, a minimum 33% stake in the issuer's share capital;

b) the turnover of the respective issuer for the last 3 financial years is at least 500 million lei;

c) the respective issuer reported profit to the Romanian tax authorities in at least two of the last 3 financial years.

(2) In the case of an administrator in a dual system, the directorate may decide to invest the assets in accordance with the provisions of para. (1) only after the investment decision for this type of assets adopted by the Board of Supervisors for each private pension fund.

(3) The corporate bonds referred to in paragraph (1) and in the portfolios of private pension funds at the end of the 2-year period may be retained until maturity.

Article 172. - 03/09/2015 - Article 17 ^ 2. - was introduced by Norm [13/2015](#) .

(1) The possibility to trade municipal bonds, stipulated in art. 12 paragraph (1) lit. c) and f), and corporate bonds, provided in art. 12 paragraph (1) lit. (d) (ii) outside the regulated market shall be clearly stated in the declaration of the investment policy of the trustee and appropriately reflected in the risk management policy and procedures that shall include at least general criteria for choosing the counterparty, determination of the price and liquidity of the financial instrument as well as any other criteria leading to trading for the benefit of the participants.

(2) Transactions with municipal bonds, stipulated in art. 12 paragraph (1) lit. c) and f), and corporate bonds, provided in art. 12 paragraph (1) lit. (d) (ii), outside the regulated market may only be made on the basis of the investment director's decision, adopted for each individual transaction, based in writing and containing at least the details regarding the establishment of the counterparty, the transaction price and the lack of liquidity of the financial instrument on the regulated market on which it is admitted to trading.

(3) The trading decision referred to in paragraph (2) shall be transmitted to the Financial Supervisory Authority upon its request.

Art. 18. - 03/01/2013 - Art. 18. - has been [modified](#) by Norm [19/2012](#)

(1) The administrator has the obligation to ensure that during the entire period of holding of the financial instruments they comply with the provisions of art. 17.

2. In the case of a passive deviation from the rating requirements, within 360 calendar days after the limit is exceeded, the administrator shall correct, including through active measures, the deviation from the issuer or issuer rating requirement.

(3) By way of exception from the provisions of paragraph (2), the increase in Romania's rating does not represent a passive deviation from the rating requirements for the bonds referred to in art. 17 par. (1) lit. c) and in the portfolios of private pension funds at the time of the rating increase.

(4) The administrator has the obligation to elaborate and implement, based on the provisions of art. 6 lit. c) a procedure for passive deviations from the rating requirements that ensure minimization of the number of passive deviations and their impact on the portfolio of the private pension fund.

Art. 19. - 03/01/2013 - Art. 19. - has been [modified](#) by Norm [19/2012](#)

(1) If in the investment process the passages provided by art. 12 and 13, within 30 calendar days from the date of the limit exceedance, the administrator of the private pension fund has the obligation to correct, including through active measures, the deviation from the investment limits provided by the applicable normative acts and in the pension scheme prospectus, with the exception of the limits provided in art. 13 par. (5) lit. d), for which the term is 360 calendar days.

(2) The deviation from the limits provided in art. 12 and 13 as a result of the conversion of contributions, transfer of participants or payment of the participants' personal assets is not a passive deviation and the administrator has the obligation to correct these deviations within one working day.

Art. 20 - 03/01/2013 - Art. 20 - has been [amended](#) by Norm [19/2012](#)

(1) The administrator may protect the investment portfolio of the private pension fund against foreign exchange risk by trading in derivative financial instruments such as futures contracts and options made only on regulated markets.

03/09/2015 - Derogation by Norm [11/2011](#) .

03/09/2015 - the paragraph was [amended](#) by Norm [13/2015](#)

(2) The amount of all contracts related to the financial instruments provided in paragraph (1) and (3) in a given currency may not exceed the exposure value of the portfolio of the private pension fund over that period of the holding.

(3) By way of exception from the provisions of paragraph (1), the administrator may protect the investment portfolio of the private pension fund against foreign exchange risk by means of forward and swap derivative financial instruments negotiated outside the regulated market provided that the provisions of paragraph (5) in any of the following situations:

(a) for maturities of less than 30 calendar days for which standard contracts are not available, provided that they are used to supplement a financial instrument referred to in paragraph (1);

b) protecting the portfolio in accordance with the provisions of paragraph (1) is not possible by trading in derivative instruments through the regulated market, provided that the regulated market is not liquid enough to ensure the possibility of initiating or liquidating derivatives positions at any time.

(4) Derivatives traded outside the regulated market must be subject to a daily, reliable and verifiable valuation and may, at the manager's initiative, be sold, liquidated or closed at any time at their fair value with the same counterparty with which the original transaction was completed.

(5) If the protection of the foreign exchange risk portfolio is achieved by means of derivative financial instruments traded outside a regulated market, the administrator is obliged to use the ISDA Framework Agreement (ISDA Master Agreement) frameworks adjusted to the applicable regulatory framework in Romania and to ensure that they include at least:

(a) the possibility and conditions for offsetting the reciprocal obligations of the parties;

b) conditions ensuring the observance of the provisions of para. (4), including the counterparty's obligation to provide daily open position ratings and the right of the manager to initiate the sale, liquidation or closure of open positions at any time.

Article 201. - 03/09/2015 - Article 20 ^ 1. - was introduced by Norm [13/2015](#) .

(1) The administrator may protect the investment fund's portfolio of voluntary pension funds against interest rate risk through derivatives transactions such as futures and options only on regulated markets for those assets with a residual maturity greater than 5 years calculated at the date of the transaction.

(2) The size of all derivative contracts for interest rate risk coverage may not exceed the principal of repayment of the underlying held in the portfolio of the voluntary pension fund for the entire period of their ownership and the final maturity of derivative financial instruments shall be at most equal with the maturity of the underlying asset.

(3) By way of exception from the provisions of paragraph (1), the administrator may protect the investment fund of the voluntary pension fund against interest rate risk through forward and swap derivative instruments negotiated outside the regulated market for those assets with a residual maturity greater than 5 years calculated on the date the conclusion of the transaction if the regulated market is not sufficiently liquid to ensure the possibility of initiating or liquidating any derivatives positions at any time.

(4) Derivatives traded outside the regulated market must be subject to a daily, reliable and verifiable valuation and may, at the manager's initiative, be sold, liquidated or closed at any time at their fair value with the same counterparty with which the original transaction was completed.

(5) Where the protection of the portfolio against interest rate risk is achieved through derivative financial instruments traded outside a regulated market, the administrator is required to use the ISDA Master Agreement, adjusted to the applicable regulatory framework in Romania, and to ensure that they include at least:

(a) the possibility and conditions for offsetting the reciprocal obligations of the parties;

b) conditions ensuring the observance of the provisions of para. (4), including the counterparty's obligation to provide daily open position ratings and the right of the manager to initiate the sale, liquidation or closure of open positions at any time.

Article 202. - 03/09/2015 - Article 20 ^ 2. - was introduced by Norm [13/2015](#) .

(1) The possibility to trade derivatives referred to in art. 20 par. (3) and Art. 201 par. (3) outside the regulated market must be clearly stated in the investment manager's investment policy statement and appropriately reflected in the risk management policy and procedures, which must include at least general criteria for choosing the counterparty, price determination, and of the underlying asset, as well as any other criteria leading to a trading for the benefit of the participants.

(2) Transactions with financial instruments referred to in art. 20 par. (3) and Art. 201 par. (3) outside the regulated market may only be made on the basis of the investment director's decision adopted for each individual transaction, based in writing and containing at least the details of the establishment of the counterparty, the transaction price and the underlying asset.

(3) The trading decision referred to in paragraph (2), accompanied by the ISDA, shall be transmitted to the Financial Supervisory Authority on the same day as the transaction is concluded.

Article 21. - (1) Eligible assets for reverse repo operations shall cumulatively fulfill the following conditions:

a) be owned by the counterparty of the private pension fund;

b) not to be pledged or seized;

c) have a maturity date after the maturity of the operation;

d) have coupons maturing after the maturity of the operation;

e) to be government securities issued by the Romanian state.

(2) The term up to the maturity of the reverse repo operation shall be no more than 90 calendar days.

Art. 211. - 03/01/2013 - Art. 21 ^ 1. - was introduced by Norm [19/2012](#) .

(1) The administrator has the obligation to submit the necessary documentation for the collection of the dividends, within 30 days from the date of their payment.

(2) The obligation of the administrator provided in paragraph (1) may be delegated to the depository by means of the storage contract.

(3) In the case of privately managed pension funds, the dividend collection fees, which can not be recovered from the issuer, shall be borne by the administrator by deducting them from the administration fee.

Art. 212. - 03/01/2013 - Art. 21 ^ 2. - was introduced by Norm [19/2012](#) .

In the case of foreign exchange transactions in which the counterparty is the depository of the pension fund, the administrator is required to obtain for the private pension fund treatment equivalent to that obtained by applying the best execution provisions of MiFID as implemented in national legislation.

## CHAPTER V

### Prohibitions on Investments

Art. 22. - 03/01/2013 - Art. 22 - was [amended](#) by Norm [19/2012](#)

(1) The administrator may not invest the assets of the pension fund it manages in financial instruments for which the parent of the manager, the group of which the manager is a member or any other person affiliated or directly or indirectly in control of the administrator is in any of the following situations:

- a) the entities mentioned have issued the respective financial instrument;
- b) the entities mentioned directly manage or control the issuer of that financial instrument;
- c) the entities mentioned are the counterpart of that transaction.

(2) The administrator may not transmit trading orders on behalf of the private pension fund which he administers to the entities referred to in paragraph (1), except public offers for sale or purchase, including transactions in the primary market of government securities.

3. The administrator may not invest the assets of the pension fund which it manages in financial instruments for which the depositary, the parent of the depositary, the group of which the depositary is a member or any other person affiliated or directly or indirectly in a controlling position compared to the depositary is the counterpart of that transaction, except:

- a) cases where this is not known at the time the transaction is concluded;
- b) currency exchanges and deposits with banks authorized to operate on the territory of Romania, the European Union or the European Economic Area.

(4) The administrator may not transmit trading orders on behalf of the private pension fund which he administers to the entities referred to in paragraph (3), except public offers for sale or purchase, including transactions in the primary market of government securities.

5. The administrator may not invest the assets of the private pension fund which he manages in assets that can not be identified or whose valuation is uncertain.

(6) The administrator can not initiate for the pension fund, which he / she administers for short selling or for lending with securities admitted to trading.

Art. 23. - "[abrogated](#)" 09/04/2014 - Art. 23. - was repealed by Norm [3/2014](#) .

(1) The administrator, financial analysts and relevant persons involved in the study, analysis and research of investments are forbidden to accept any material or other benefit from persons with a material interest in the subject of investment research.

(2) The persons referred to in paragraph (1) shall not promise issuers the provision of favorable research.

Article 24. - Investments in units of collective investment undertakings in transferable securities or tradable UCITS which do not comply with the requirements of European Parliament and Council Directive 2009/65 / EC of 13 July 2009 coordinating the laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), published in the Official Journal of the European Union, L series no. 302 of 17 November 2009.

Art. 25. - 03/01/2013 - Art. 25 - was [amended](#) by Norm [19/2012](#)

(1) It is forbidden to invest the assets of private pension funds in:

- a) companies carrying out predominantly, or more than 50% of their turnover, activities related to the production and / or marketing of tobacco and alcohol products;
- b) companies that carry out, in any percentage, activities in the field of gambling, production and / or sale of arms.

(2) Investments in any other assets not expressly provided for in this Norm shall be prohibited.

Art. 251. - 03/01/2013 - Article 25 ^ 1. - was introduced by Norm [19/2012](#) .

(1) It is forbidden to invest the assets of privately managed pension funds in:

- a) securities issued by companies that develop and promote real estate, purchase and sale of their own real estate, rent and lease of own or rented real estate, real estate agents, real estate administration based on tariffs or contracts or any other activity assimilated to directly or indirectly to the real estate sector;
- b) securitized financial instruments issued under Law [no. 31/2006](#) on the securitization of claims or on the basis of equivalent third-country legislation.

(2) In the application of par. (1) lit. (a) the sale, possession or rental of a real estate used in the production, supply, provision of services or for administrative purposes is not considered to be an activity directly or indirectly linked to the real estate sector.

(3) For the financial instruments in the portfolio of the privately managed pension fund at the date of entry into force of the present norm, the administrator is obliged to ensure the compliance with the restrictions stipulated in para. (1) until 31 December 2013.

18/03/2013 - Article 25 ^ 1. - was completed by Norm [19/2012](#)

## CHAPTER VI

### Valuation rules for financial instruments

Art. 26. - (1) The assets of the fund shall be valued at the closing price of the main section of the regulated market on which they are traded from the day for which the calculation is made.

2. When admitted to trading on more than one regulated market, the value to be taken into account shall be the market price most relevant for liquidity, as determined in accordance with Art. 9 of Regulation (EC) No. 1.287 / 2006 of 10 August 2006 implementing Directive 2004/39 / EC of the European Parliament and of the Council on bookkeeping and registration obligations of investment firms, reporting of transactions, market transparency, admission of financial instruments to trades and the definition of terms within the meaning of that Directive, published in the Official Journal of the European Union, L series no. 241 of 2 September 2006.

(3) Assets are valued according to the following formula:

$$VA = N \times P,$$

where:

VA = current value;

N = the number of units in the portfolio;

P = closing price.

Art. 27. - The provisions of art. 26 does not apply to assets such as private equity investments, collective investment undertakings in unlisted securities on a regulated market or to the assets referred to in art. 20.

Art. 28 - 03/01/2013 - Art. 28 - was [amended](#) by Norm [19/2012](#)

The financial instruments provided under art. 12 paragraph (1) lit. (a) (iii), b), c), lit. (d) points (ii) and e) -h) shall be valued at the gross price, defined according to art. 29.

Art. 29. - The relation between the net price, the gross price and the accrued interest for the instruments referred to in art. 28 is as follows:

$$Pb = Pn + Da,$$

where:

Pb = gross price expressed as a percentage;

Pn = net price expressed in percentage;

Da = accrued interest expressed per cent.

Art. 30 - 03/01/2013 - Art. 30 - has been [amended](#) by Norm [19/2012](#)

1. Shares traded on regulated markets and having no transactions for a period of 180 calendar days shall be valued at the lowest of the purchase price, the last closing price of the principal market section and the carrying amount of the securities respectively, calculated according to art. 46 par. (2).

(2) The financial instruments provided under art. 12 lit. (a) (iii), b), c), lit. (d) points (ii) and e) -h) who did not have any deals or bid quotations, according to art. 31 par. (2) over a period of 180 calendar days shall be

valued using the net price as the lowest value between the net purchase price and the last net closing price of the main market section plus the interest accrued until the valuation.

Art. 31. - 03/01/2013 - Art. 31 - has been [amended](#) by Norm [19/2012](#)

(1) By way of exception to the provisions of art. 26, the financial instruments stipulated in art. 12 lit. (a) (iii), b), c), lit. (d) points (ii) and e) -h) are assessed as follows:

a) using the bid quotation displayed by Bloomberg Finance LP or Thomson Reuters SA quotation providers for that day;

b) in the absence of the quotation provided in let. a), using the closing price according to art. 26.

(2) If the closing prices or quotations for the financial instruments provided for in paragraph (1), in accordance with the provisions of art. 26 and par. (1), they are valued using the most recent closing price or the most recent quote used in the calculation of the asset.

(3) The administrator shall notify to the Commission the list and the order in which he uses the quotations of the suppliers mentioned in par. (1).

4. If the first listed listing provider can not provide the required data, the administrator shall use the quotation of the following quotation provider as set out in paragraph (3).

(5) The administrator shall use for the valuation of assets provided for in paragraph (1) the quotations of the suppliers mentioned in the list provided in paragraph (3) for a period of 1 year from 1 July of the current year to 30 June of the following year, respecting the provisions of paragraph (4).

03/09/2015 - the paragraph was [amended](#) by Norm [13/2015](#)

(6) By May 31 of each year, the administrator shall send to the Financial Supervisory Authority the notification regarding the list and the order in which it uses the quotations of the suppliers mentioned in paragraph (1) for the period referred to in paragraph (5).

03/09/2015 - the paragraph was [amended](#) by Norm [13/2015](#)

Art. 32. - (1) The reverse repo agreement shall be valued by the method based on the daily recognition of interest for the period elapsed from the date of purchase of the eligible assets.

(2) The amount of eligible assets purchased under a reverse repo agreement is not taken into account in the calculation of the private pension fund's asset.

Art. 33. - If a credit event is defined as such in the issue prospectus of a bond or if for 3 consecutive coupons or for one year the issuer has made no payment for these coupons, starting with the date of the credit event or, respectively, from the date of the next coupon, that bond is taken into account in the calculation of the asset at zero.

Art. 34. - (1) Availability of current accounts and accounts opened at intermediaries shall be assessed by taking into account the available balance at the date for which the calculation is made.

2. The calculation of the net asset shall take into account the amounts in transit and the amounts to be settled, which are recognized at the value of the entry in the accounts, and the amounts in the course of settlement.

Art. 35. - (1) Maturity-settled deposits with credit institutions, irrespective of the duration of the deposit, shall be valued using the method based on the daily recognition of interest for the period elapsed since the placement.

(2) If for the deposits provided in par. (1) interest accrued before maturity, the amounts thus received shall be deducted from the value calculated in accordance with paragraph (1).

(3) Deposits with advance interest paid to credit institutions, irrespective of the duration of the deposit, shall be valued at the value of the initial amount as a deposit for the entire deposit period.

Art. 36. - (1) Dividends are recognized from the first day when the investors who buy the shares no longer receive dividends until they are collected.

(2) If the dividends are not paid within the term stipulated in the decision of the general meeting of the issuer's shareholders, they shall be valued at zero, starting with the next calendar day.

Art. 37. - (1) The coupons and the principal shall be recognized at the dates specified in the issue prospectus up to their collection.

(2) If coupons or principal, as the case may be, have not been paid / paid up to the maximum payment date specified in the issue prospectus, this/they is/are valued at zero.

Art. 38. - Until admission to trading on a regulated market, the newly issued shares shall be valued at the price of the primary public offering in which the shares were acquired.

Art. 39. - (1) Shares resulting from capital increases that do not involve cash consideration from investors shall be recognized on the first day when the investors who buy the shares can no longer participate in the capital increase and shall be taken into account in the calculation of the limits provided in art. 12.

(2) Shares resulting from capital increases, which involve a cash consideration from the investors, shall be recognized at the effective payment date of the subscribed shares for the capital increase and shall be taken into account in calculating the limits provided in art. 12.

3. Where shares resulting from capital increases are the subject of an ongoing litigation made public by the market operator administering the regulated market on which the issuer is traded, they shall be valued in the fund's assets at zero.

Art. 40. - (1) The preference rights shall be recognized from the first day when the investor buying the shares no longer benefits from these rights and shall be valued before the admission to trading at the theoretical value according to the formula:

$$Valoare\ Teoretica = \text{Max}(P - P_s, 0) \times \frac{NrActiuniNoi}{NrActiuniVechi + NrActiuniNoi}$$

where:

P = Closing price on the last day that buyers have the right to participate in the capital increase.

Ps = subscription price of new shares based on pre-emption rights.

(2) Subsequent to admission to trading, pre-emptive rights will be assessed in accordance with Art. 26.

(3) If, after admission to trading, pre-emptive rights do not have a closing price available, they shall be valued using the most recent closing price or the most recent theoretical value used in the calculation of the asset.

Art. 41. - (1) The units of a collective investment undertaking not listed on a regulated market shall be taken into account at the latest unit value of the net asset published and certified by the depositary, as the case may be.

2. The units of a UCITS, including ETFs, AOPCs or ETCs for which there is no closing price under Art. 26 are valued at the minimum of the last closing price available and the last unit value of the net asset published and certified by the depositary.

03/01/2013 - the paragraph was [amended](#) by Norm [19/2012](#)

(3) Participation titles of a private equity fund shall be valued on the basis of the value certified by an independent auditor or by a depositary, as the case may be.

(4) "[Repealed](#)" Infrastructure investments shall be valued according to the financial instrument through which the investment is made.

03/01/2013 - the paragraph was repealed by Norm [19/2012](#) .

Art. 42. - Futures contracts and options transacted on a regulated market are valued daily by the intermediary markup.

Art. 43. - (1) Forward contracts shall be valued at the market price provided by the counterparty under the contract.

(2) If the counterparty has not provided a quote, the administrator may use the quotation provided by another supplier for the daily valuation.

Art. 44. - (1) Swap contracts are valued at the market price provided by the counterparty under the contract.

(2) If the counterparty has not provided a quote, the administrator may use the quotation provided by another supplier for the daily valuation.

Art. 45. - "[repealed](#)" 03/01/2013 - Art. 45. - was abrogated by Norm [19/2012](#) .

(1) Options traded on the secondary banking market shall be valued at the market price provided by the counterparty under the contract.

(2) If the counterparty has not provided a quote, the administrator may use the quotation provided by another supplier for the daily valuation.

Art. 46. - (1) The following methods may be used for the valuation of private equity investments, with the prior notification of the Commission:

(a) the minimum amount between the purchase price and the book value;

(b) the assessment carried out by an independent evaluator, a legal person, a member of a national professional assessment association recognized as being of public utility and having at least 36 months' professional experience.

(2) The carrying amount per share is determined by reporting the "Equity" position of the most recent annual financial results audited, submitted to the competent bodies, to the number of issued shares.

(3) The book value per share shall be recalculated within a maximum of 60 calendar days from the submission of the audited annual financial statements to the competent bodies.

(4) If the administrators using the valuation provided in paragraph (1) lit. a) do not obtain the respective annual financial statements, the shares of the private equity investment companies shall be included in the voluntary pension fund assets at zero value within 60 calendar days from the date of their submission to the competent bodies.

03/01/2013 - the paragraph was [amended](#) by Norm [19/2012](#)

Art. 47. - In the case of the evaluation carried out according to art. 46 par. (1) lit. b) the price established by an evaluation report is valid for no more than 12 months from the date of the initial report, after which the evaluation is based on a new assessment report drawn up by the evaluator and, in the absence thereof, at zero.

Art. 48. - (1) In certain justified circumstances, such as those in which the issuing companies are in insolvency or liquidation or temporary cessation of activity, the shares that have been suspended from trading shall be taken into account in the calculation of the asset net to zero from the date of suspension from trading.

(2) If the suspension from trading, in the situations stipulated in paragraph (1), takes place during the trading session, the shares of the trading companies suspended from the trading are valued in accordance with the provisions of Art. 26 par. (1).

(3) In the event of resumption of the trading of the shares of the issuing companies provided in paragraph (1), they shall be evaluated in accordance with the provisions of art. 26 par. (1).

(4) The shares of the issuing companies in insolvency proceedings or in liquidation or temporary cessation of activity and withdrawn from trading are taken into account in the calculation of the assets of the private pension fund at zero.

(5) The shares of the issuing companies which have been withdrawn from trading, but which are not insolvent, in liquidation or in temporary cessation of activity are assessed according to art. 46.

Art. 49. - The registration in the portfolio of the privately administered pension fund of the transactions with financial instruments is made at the transaction date, based on the transaction confirmation.

## CHAPTER VII

### The procedure for classifying private pension funds in degrees

Art. 50. - (1) Each private pension fund is associated with a degree of risk.



(2) The degree of risk shall be expressed as a percentage and calculated daily, according to the following formula:

$$\text{GradRisc} = 100 - \frac{\sum \text{ActivePonderateLaRisc}}{\text{ActivTotal} - \text{SumInDecontareTranzit Rezol var e}}$$

(3) The value of the risk-weighted asset shall be calculated as follows:

a) accumulate asset value with the market value of derivatives hedging interest rate and / or market, if necessary, the amount thus obtained by weighting the assets under Art. 51;

b) the values obtained at lit. a) are summed up ;

c) the market value of foreign exchange hedging derivatives is cumulated;

d) the value obtained at lit. b) is summed up with the value obtained at lit. c).

(4) Depending on the degree of overall risk, a private pension fund can be classified in one of the following categories:

03/01/2013 - the paragraph was [amended](#) by Norm [19/2012](#)

a) Low-risk private pension fund: risk level below 10% inclusive;

b) Private Medium-Risk Private Equity Fund: Degree of risk between 10% and 25% inclusive;

c) high-risk private pension fund: risk ratio between 25% and 50% inclusive.

Art. 51. - 03/01/2013 - Art. 51. - has been [amended](#) by Norm [19/2012](#)

03/09/2015 - Article 51. - [amended](#) by Norm [13/2015](#)

(1) The weighted assets are as follows:

a) 100% weight applies to:

1. the assets referred to in art. 12 paragraph (1) lit. (a) (iii) and b) issued by the Romanian state;

2. the assets referred to in art. 12 paragraph (1) lit. (a) (iii) and b), except for those issued by the Romanian state, and to art. 12 paragraph (1) lit. e), g) and h) which have the grade investment grade;

3. the assets referred to in art. 12 paragraph (1) having the explicit and full guarantee of the Romanian state;

4. assets referred to in art. 12 paragraph (1) having the explicit and full guarantee of the state, having the grade investment grade;

b) the weight of 75% shall apply to:

1. the assets referred to in art. 12 paragraph (1) lit. (a) (i) and (ii) set up in banks that have received the investment grade or whose parent has received this rating;

2. the assets referred to in art. 12 paragraph (1) lit. c) and f) which have the grade investment grade;

3. the assets referred to in art. 12 paragraph (1) lit. (d) (ii) which have the grade investment grade;

4. assets referred to in art. 12 paragraph (1) lit. i), classified as monetary funds, according to the CESR / 10-049 European Committee of Securities Regulatory Guideline;

5. the value of the reverse repo agreements;

c) the 50% weighting shall apply to the assets provided under art. 12 paragraph (1) lit. i), classified as bond funds, according to the classification of the Association of Fund Managers in Europe - EFAMA;

(d) 25% shall apply to:

1. the assets referred to in art. 12 paragraph (1) lit. (a) (i) and (ii) set up in banks that did not qualify as investment grade or whose parent company did not receive this grade;

2. the assets referred to in art. 12 paragraph (1) lit. (a) (iii) and b) with the exception of those issued by the Romanian State, which do not qualify as investment grade;
  3. the assets referred to in art. 12 paragraph (1) lit. c) and f) which do not qualify as investment grade;
  4. assets referred to in art. 12 paragraph (1) lit. (d) point (i);
  5. the assets referred to in art. 12 paragraph (1) lit. (d) (ii) which do not qualify as investment grade;
  6. the assets referred to in art. 12 paragraph (1) lit. e), g) and h) which do not qualify as investment grade;
  7. the assets referred to in art. 12 paragraph (1) lit. i) including the ETF, excluding monetary and bond funds, according to the classification of the Association of Fund Managers in Europe - EFAMA;
  8. the assets referred to in art. 12 paragraph (1) lit. j);
- e) the 0% weighting applies to the other assets and cases not covered by the provisions of let. a) - d).
- (2) The weights applicable to the assets of the private pension funds provided in par. (1) are set out in Annexes A and B, which form an integral part of this Regulation.

Art. 52. - (1) The administrator of the private pension fund shall also correlate, including through active measures, the deviation from the declared risk level in the pension scheme prospectus within a maximum of 60 calendar days from the date of the passage over / / below the limits of the declared risk.

(2) The deviation from the risk degree as a result of the receipt of contributions or as a result of the transfers of the participants is not a passive offense.

## CHAPTER VIII

### Rules for calculating the assets of the private pension fund

Art. 53. - The net value of the assets of a private pension fund is calculated by subtracting the obligations from the total value of the assets:

Net asset value of the fund = Total asset value - Amount of liabilities

Art. 54. - (1) The total value of the assets of the fund shall be calculated daily by summing the value of all the assets in its portfolio, assessed in accordance with the provisions of Chapter. VI.

(2) Participants' contributions to the collector account shall not be included in the calculation of the total value of the assets until the date of their conversion into fund units.

03/01/2013 - the paragraph was [amended](#) by Norm [19/2012](#)

(3) Conversion of contributions into base units shall be made at the last unit value of the net asset reported and certified by the depositary.

Art. 55. - (1) The administration fee from the net asset of the private pension fund is estimated and recorded on a daily basis in the calculation of the net asset value and regularized monthly, according to the supporting documents.

(2) Expenditure on audit fees of the private pension fund is estimated annually, recorded on a daily basis and regularized at the date of payment, according to the supporting documents.

Art. 56. - (1) The calculation of the unit value of the net asset of a private pension fund for a certain date shall be made according to the following formula:

Unit net asset value at that date = Net asset value at that date / No. of units at that time

(2) The number of fund units is the difference between the total number of units issued and the total number of fund units canceled as a result of the payment of the rights of the participant, the transfer of the

personal asset or the invalidated or death of the asset, and as a result of adjustments made by the recording institution, as the case may be.

(3) The unit value of the net asset is calculated and reported on each business day and is based on the information valid on the business day preceding the calculation.

(4) The unit value of the net asset is calculated and recorded with 6 decimal places in the records of the private pension fund.

Art. 57. - 03/01/2013 - Art. 57. - has been [amended](#) by Norm [19/2012](#)

(1) The errors identified in the daily calculation of the net asset value of the net asset, ascertained subsequent to the reporting of these values to the Commission, shall be corrected and adjusted only at the date of their finding.

2. The administrator, appended to the daily reporting of the net asset value per unit of the correction date, shall send to the Commission an explanatory note, under the extended electronic signature of the legal representative or empowered persons, detailing the causes which caused the errors par. (1) and their effects.

Art. 58. - (1) If some assets are expressed in freely convertible currencies, the exchange rate of the National Bank of Romania shall be used for the conversion into lei on the day the calculation is made.

(2) Where there are assets denominated in currencies for which the National Bank of Romania does not publish a foreign exchange rate, the exchange rate of the respective currency against the euro shall be used, communicated by the central bank of the country in whose currency the item is expressed actively, and the euro / leu exchange rate communicated by the National Bank of Romania on the day the calculation is made.

## CHAPTER IX

### Investment decision and attributions of the investment director

Art. 59. - The investment decision shall be taken in compliance with the investment policy statement, the investment limits set out in the pension scheme prospectus authorized by the Commission and the regulations in force.

Art. 60. - In order to manage the day-to-day operations of the pension fund, the administrator shall have in its organizational structure a distinctly managed investment direction, responsible for analyzing investment opportunities and placing assets in accordance with the strategy established by the board of directors or the supervisory board, as appropriate.

Art. 61. - The Investment Manager shall have at least the following attributions in his field of activity:

- a) organize the activity of the investment directorate;
- b) ensure the investment of the assets, observing the limits provided by the Law no. 411/2004, by Law no. 204/2006, by this norm and those set out in the prospectus of the pension scheme;
- c) ensure diversification of the portfolio of the private pension fund and maintain an adequate degree of liquidity;
- (d) carry out pre-investment analyzes at least on:  
03/01/2013 - the letter was [modified](#) by Norm [19/2012](#)
  - (i) investment risk;
  - (ii) the liquidity of each financial instrument concerned, at least through the following indicators:
    1. the average percentage of financial instruments traded in a trading session in relation to the total number of issued financial instruments;
    2. the number of trading sessions necessary for the liquidation of that position under normal market conditions;
  - (iii) the costs involved;
- (e) ensure the development of appropriate policies and procedures for the analysis of investment opportunities and asset placement, including in relation to pre-investment analyzes referred to in point d).  
03/01/2013 - the letter was [modified](#) by Norm [19/2012](#)
- f) ensure compliance with prudential regulations;

g) ensure that the board of directors / supervisory board is informed of the significant issues and developments that could influence the risk profile of the private pension fund;

(h) Establish detailed and timely reporting systems to the board of directors and / or the supervisory board, as appropriate, to enable them to carry out a fair assessment of their work.

## CHAPTER X

### Transitional and Final Provisions

Article 62. - The Commission may decide, in exceptional circumstances or in other cases likely to prejudice the interests of participants, to take specific and targeted measures.

Article 62.1. - 03/01/2013 - Article 62 ^ 1. - was introduced by Norm [19/2012](#) .

The provisions of art. 26, 28, 30, 31, art. 33-35, 37, 49 and 63, applicable to directors, shall apply accordingly to the Guarantee Fund.

Art. 63. - "[repealed](#)" 01/07/2013 - Art. 63. - was repealed by Norm [19/2012](#) .

(1) By way of exception to the provisions of art. 26-31 for government securities, irrespective of their maturity, as well as for all fixed income instruments, including non-government bonds, municipal bonds of local public authorities or corporate bonds, the valuation is made by adding to the net acquisition price both the interest cumulative, calculated by applying the coupon rate at face value for the period elapsing between the date of commencement of the current coupon and the amount resulting from the daily recognition of the difference between the nominal amount that will actually be earned at the maturity of the securities and the price net acquisition.

2. The Commission shall decide, at least three months before application, to change the method of valuation of fixed income financial instruments in accordance with the provisions of Art. 26-31.

Art. 64. - (1) By way of exception from the provisions of art. 50 and 51, for a period of 6 months from the entry into force of this regulation, the degree of risk of private pension funds shall be determined by the degree of holding of the low risk instruments as a percentage (%) of the total assets of the fund private pensions, as follows:

a) low risk of a private pension fund - total holdings of low-risk financial instruments from the fund's total net assets: 100% -80%;

b) average risk level of a private pension fund - total holdings of low-risk financial instruments from the total net assets of the fund: 80% -60%;

c) high risk of a voluntary pension fund - total holdings of low-risk financial instruments from the total assets of the fund: 60% -40%.

(2) Within the 6-month period stipulated in paragraph (1) the administrator has the obligation to inform the Commission about the degree of risk associated with the private pension fund, according to the provisions of art. 50 and 51.

Art. 65. - (1) The following facts are contravened:

a) investing the assets of the pension fund without respecting the investment policy according to the provisions of art. 3;

b) non-compliance by the administrator with the obligations stipulated in art. 4;

c) failure by the administrator to comply with the prohibitions provided in art. 5;

d) non-observance of the obligation to elaborate and approve by the Board of Directors / the Supervisory Board the procedures for the performance of the activity of the private pension fund, according to the provisions of art. 6, and the procedures regarding the identification and resolution of conflicts of interest, according to the provisions of art. 9;

e) non-observance of the obligation to invest in the instruments, markets and with the limits stipulated in art. 10, 11, 12 and 13;

f) non-compliance with the conditions regarding the type and quality of the instruments in which the assets of the private pension funds are invested;

g) the conclusion of forward and swap transactions with banks that did not qualify as "investment grade" or whose parent company did not receive such a rating;

h) failure to observe the obligation of the administrator to correct the passive deviations from the rating requirements within the term stipulated in art. 18 par. (2) or, as the case may be, the obligation to correct the deviations from the investment limits and the degree of risk provided in art. 19, respectively art. 51;

03/01/2013 - the letter was [modified](#) by Norm [19/2012](#)

i) the conclusion of transactions with derivative financial instruments without complying with the conditions stipulated in art. 20 par. (2) - (5);

03/01/2013 - the letter was [modified](#) by Norm [19/2012](#)

j) the conclusion of reverse repo agreements without complying with the provisions of art. 21;

k) non-observance of the prohibitions regarding the activity of investing the assets of the private pension funds, stipulated in art. 22-251;

03/01/2013 - the letter was [modified](#) by Norm [19/2012](#)

l) non-observance of the evaluation rules established by the provisions of art. 26-49;

m) non-observance of the provisions regarding the calculation of the degree of risk;

n) non-compliance with the obligation to daily calculate the Fund's assets;

o) non-observance of the provisions of art. 55 on the calculation and recording of the administration fee and of the audit fees;

p) non-observance of the requirements for the correction of the errors provided in art. 57 par. (1) and the non-fulfillment of the obligation to transmit the explanatory note according to the requirements of art. 57 par. (2);

q) non-observance of the requirements regarding the existence in the organizational structure of the administrator of an investment direction organized separately according to the provisions of art. 60;

r) the investment director's failure to perform his / her duties in investing the assets of private pension funds;

s) non-compliance with the other obligations under this rule.

(2) Failure to comply with the provisions of this regulation shall be sanctioned in accordance with the provisions of the legislation in force, art. 16, art. 81 paragraph (1) lit. c), art. 140 para. (1), art. 141 para. (1) lit. g), par. 2, 3, 4, 6, 7, 9 and 10 of Law no. 411/2004 and art. 38 lit. c), art. 120 par. (1), art. 121 par. (1) lit. f) and k) and para. 2, 3, 4, 6, 7, 9 and 10 of Law no. 204/2006.

Article 651. - 03/01/2013 - Article 65 ^ 1. - was introduced by Norm [19/2012](#) .

The Commission may adopt any measures, including administrative and financial, against the Guarantee Fund and the responsible natural persons, as appropriate, in order to prevent or remedy any situation that is likely to prejudice the rights of participants and beneficiaries guaranteed under Law no. 187/2011.

Article 652. - 03/01/2013 - Article 65 ^ 2. - was introduced by Norm [19/2012](#) .

(1) The non-observance of the provisions of the present norm by the Guarantee Fund constitutes a contravention if it has not been committed under such conditions that, according to the criminal law, it is considered an offense.

(2) The contraventions committed by the responsible person or the Guarantee Fund shall be sanctioned according to the seriousness of the facts with:

a) written warning;

b) fine between 1,000 lei and 100,000 lei.

(3) If the deed is imputable to several persons, they shall be held jointly and severally liable for the repair of the damage caused.

4. The finding of contraventions shall be made by the staff empowered for that purpose by decision of the President of the Council of the Commission.

(5) The misdemeanor fines shall be paid to the state budget in accordance with the provisions of the Government Ordinance [no. 2/2001](#) on the legal regime of contraventions, approved with amendments and completions by Law no. 180/2002, as subsequently amended and supplemented.

Art. 66. - The time limits provided for in this rule, which expire on a public holiday or on a non-working day, shall be extended until the end of the next working day.

Art. 67. - This Standard shall enter into force on the date of its publication in the Official Gazette of Romania, Part I.

Art. 68. - From the date of entry into force of this norm, the following shall be repealed:

a) Norm [no. 3/2009](#) regarding the investments of the privately managed pension funds and the organization of the investment activity, approved by the Decision of the Private Pension System Supervision Commission [no. 3/2009](#), published in the Official Gazette of Romania, Part I, no. 82 of February 11, 2009;

b) Norm [no. 4/2009](#) regarding the investments of the voluntary pension funds and the organization of the investment activity, approved by the Decision of the Private Pension System Supervision Commission [no. 4/2009](#), published in the Official Gazette of Romania, Part I, no. 85 of February 12, 2009;

c) Norm [no. 5/2009](#) regarding the calculation of the net assets and the value of the fund unit for the privately managed pension funds, approved by the Private Pensions Supervisory Commission Decision [no. 6/2009](#), published in the Official Gazette of Romania, Part I, no. 160 of 16 March 2009, as subsequently amended and supplemented;

d) Norm [no. 6/2009](#) regarding the calculation of the net asset and the value of the fund unit for the voluntary pension funds, approved by the Decision of the Private Pension System Supervision Commission [no. 7/2009](#), published in the Official Gazette of Romania, Part I, no. 160 of 16 March 2009, as subsequently amended and supplemented.

ANNEX A  
to the norm

03/09/2015 - ANNEX A was [amended](#) by Norm [13/2015](#)

SUPERVISORY BOARD  
of the private pension system

No.	Asset	Investment grade	Non-investment grade
1	Accounts in RON or in freely convertible currency with banks authorized to operate on the territory of Romania, the European Union or the European Economic Area	75%	25%
2	Deposits in lei or in freely convertible currency in banks authorized to operate on the territory of Romania, the European Union or the European Economic Area	75%	25%
3	Treasury Certificates from Romania, traded on a regulated market or on the secondary banking market in Romania, from Member States of the European Union or from countries belonging to the European Economic Area	100%	100%
4	Treasury bills traded on a regulated market or on the secondary banking market in Romania, from	100%	25%

	European Union Member States or from countries belonging to the European Economic Area		
5	State securities in Romania traded on a regulated market or in the secondary banking market in Romania, in European Union Member States or in countries belonging to the European Economic Area	100%	100%
6	State Treasuries of Member States of the European Union or of the European Economic Area traded on a regulated market or on the secondary banking market in Romania, from Member States of the European Union or from countries belonging to the European Economic Area	100%	25%
7	Bonds and other securities issued by local government authorities in Romania and European Union Member States or the European Economic Area traded on a regulated market in Romania, from European Union Member States or from countries belonging to the European Economic Area	75%	25%
8	Corporate bonds, except for bonds that involve or incorporate a derivative, admitted to trading and are traded on a regulated market in Romania, in European Union Member States or in States belonging to the European Economic Area	75%	25%
9	Government securities issued by third countries and traded on a regulated market in Romania, in European Union Member States or in states belonging to the European Economic Area	100%	25%
10	Bonds and other securities issued by local government authorities in third countries traded on a regulated market in Romania, from Member States of the European Union or from countries belonging to the European Economic Area	75%	25%
11	Bonds issued by non-governmental foreign bodies other than those referred to in art. 12 paragraph(1) lit. g) of the norm, traded on a regulated market in Romania, in EU Member States or in states belonging to the European Economic Area	100%	25%
12	Bonds issued by the World Bank, the European Bank for Reconstruction and Development, the European Investment Bank, traded on a regulated market	100%	25%
13	Assets having the full and explicit guarantee of the Romanian state	100%	100%
14	Assets having the full and explicit guarantee of the state	100%	25%

ANNEX B  
to the norm

Nr.crt.	Asset	Applicable weight
1	Reverse repo agreements	75%
2	Shares and rights traded on regulated markets in Romania, from Member States of the European Union or belonging to the European Economic Area	25%
3	Shares issued by undertakings for collective investment in transferable securities in Romania, Member States of the European Union or belonging to the European Economic Area and third countries, defined according to the Association of Fund Managers in Europe - EFAMA as Monetary Funds	75%
4	Participation titles issued by undertakings for collective investment in transferable securities in Romania, member states of the European Union or belonging to the European Economic Area and third countries, defined according to the Association of Fund Managers in Europe - EFAMA as bond funds	50%
5	Participation titles issued by undertakings for collective investment in transferable securities in Romania, Member States of the European Union or belonging to the European Economic Area and from third countries, excluding monetary and bond funds	25%
6	Participation titles of the collective investment undertakings in exchangeable securities exchange traded fund and units issued by other collective investment undertakings	25%
7	Precious metals and precious metal funds	25%
8	Other assets	0%