

STATE COMMISSION FOR REGULATION OF FINANCIAL SERVICES MARKETS OF  
UKRAINE

O R D E R

of 27 November 2003 No. 139

Registered by the Ministry of  
Justice of Ukraine  
16 December 2003  
Assigned No. 1165/8486

On approval of the Regulation on the investment policy declaration of  
the non-state pension fund

In pursuance to the requirements of item 4 article 10 of the Law of  
Ukraine "On Non-State Pension Provision" (1057-15) the State  
Commission for Regulation of Financial Services Markets of Ukraine  
HEREBY ORDERS:

1. Approve the Regulation on the investment policy declaration  
of the non-state pension fund (annexed hereto) agreed with the State  
Commission for Securities and Stock Market.

2. The Legal department (D.V. Tkachenko) and Department for  
supervision over non-state pension funds (A.A. Rybalchenko) are  
hereby directed to provide for the submission of the present Order  
on the investment policy declaration of the non-state pension fund  
for the state registration to the Ministry of Justice of Ukraine.

3. The Public relations division (M.V. Nagorniak) is hereby  
directed to provide for the publication of the Regulation on the  
investment policy declaration of the non-state pension fund in the  
mass media upon its state registration.

4. The supervision over the execution of this Order is hereby  
placed on the Commissioner, Director of the department for  
supervision over non-state pension funds (A.A. Rybalchenko).

5. The Order shall be deemed as effective from 1 January 2004.

Head of the Commission

V. Suslov

APPROVED  
By Order No. 139  
dated 27 November 2003  
of the State Commission for  
Regulation of Financial  
Services Markets in Ukraine

Registered by the Ministry of  
Justice of Ukraine  
16 December 2003  
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REGULATION

on the Investment Policy Declaration of Non-State Pension Fund

This Regulation was elaborated in accordance with provisions of the Laws of Ukraine "On Financial Services and State Regulation of Financial Services Markets" (2664-14), "On Non-State Pension Provision" (1057-15), "On Business Associations" (1576-12 ), the Regulation on the State Commission for Financial Services Markets in Ukraine approved by the Decree of the President of Ukraine dated 4 April 2003 No. 292/2003 (292/2003) and other regulatory and legal acts that govern relations in the sphere of the non-state pension provision.

Section 1. General provisions

1.1. The investment policy declaration is a document that shall define the investment policy of the non-state pension fund (hereinafter, the fund). The investment policy declaration shall define basic lines of pension asset investments and investment limits subject to general requirements and investment limits as provided by the Law of Ukraine "On Non-State Pension Provision" (1057-15).

1.2. The investment policy declaration shall be binding for the entities managing the pension assets and custodian.

1.3. The investment policy declaration shall be an integral annex to the contracts concluded by the board of the fund: the contract for administering the pension fund, the contract for managing the pension fund assets, the contract for custodian services for the pension fund.

1.4. The requirements set for the investment policy declaration are set forth by the Law of Ukraine "On Non-State Pension Provision" (1057-15) and this Regulation.

1.5. The investment policy declaration and modifications to it shall be a subject to compulsory registration by the State Commission on Regulation for Financial Services Markets of Ukraine (hereinafter, the Derzhfinposluga) in compliance with provisions set forth in Section 4 and 5 of this Regulation.

1.6. The procedure on approval and modifying the investment policy declaration of the fund should be included in the charter of the fund.

Section 2. Rules for drafting and modifying the investment policy declaration

2.1. The investment policy declaration of the pension fund and modifications to it shall be drafted and approved by the board of the fund.

2.2. Modifying the investment policy declaration shall be based on the decision of the board of the fund in the case when:

1) based on the results of the investment performance efficiency analysis conducted, the decision was made on appropriateness of

entering the said amendments. The board of the fund should conduct the performance efficiency analysis as minimum once a year;

2) the entities managing the pension fund assets as well as consultants on the investment issues (in case those are invited) made proposals to the board of the fund on appropriateness of modifying the investment policy declaration;

3) the Derzhfinposlугy made recommendations to the board of the fund on modifying the investment policy declaration in the case defined in section 6 article 51 of the Law of Ukraine "On Non-State Pension Provision" (1057-15). Should recommendations are made to the board of the fund the Derzhfinposlугy shall adequately notify the State Commission on Securities and Stock Market within five business days from the date the relevant conclusion was made.

The Derzhfinposlугy shall provide recommendations on entering the modifications specified in sub-item 3 item 2.2 of this Regulation with the conclusion made to the board of the pension fund in written within five business days from the date the Derzhfinposlугy came to this conclusion. The conclusion shall be made based on the analysis of reporting filed by the administrator, data made available by other subjects (including traders in securities) that provide services to the fund as well as the information subject to disclosure by government authorities in compliance with the Law of Ukraine "On Non-State Pension Provision" (1057-15) that exercise supervision over the sphere of non-state pension provision. The conclusion shall be signed by the director of the department on supervision over non-state pension funds and be certified by the Derzhfinposlугy seal.

2.3. The investment policy declaration and amendments to it shall be approved by the board of the fund under the procedure set forth in the charter of the fund. The decision of the board of the fund on approval of the investment policy declaration of the fund shall be covered by the minutes.

2.4. In case the professionals in the sphere of investments are missing in the board of the fund the board should invite the consultants on the investment issues for drafting the investment policy declaration. Services of these consultants shall be paid at the expense of the founders of the fund.

2.5. The consultant on the investment issues might be a legal entity that performs as a provider of investment consulting (including the asset management company) or an individual that has the relevant skills and work experience.

2.6. The decision on inviting the consultant (consultants) on the investment issues shall be made by the board of the fund. In this case the board of the fund shall conclude the relevant contract with him/her (them).

2.7. As recommended the contract includes:

- the full name and location of the parties under the contract (in case the consultant is an individual, IN and passport details shall be indicated);
- the subject of the contract;
- the rights and responsibilities of the parties;
- the information providing for compliance of the consultant on the investment issues to the requirements set for skills and work experience;
- the confidentiality clauses;
- the procedure on disclosure of the information with considerations of the requirements set forth by this Regulation;

- the liability of the parties for non-performance or bad performance of the contract and confidentiality violation;
- the term of the contract;
- the procedure for calculating the fee to be payable to the consultant on the investment issues;
- the procedure for modifying the terms and conditions of the contract;
- the conditions for early termination of the contract;

By the mutual consent of the parties the contract may include other provisions not conflicting with the legislation.

In the event of inviting the consultant (consultants) on the investment issues the board of the fund shall inform on this the administrator of the fund, entities managing the pension fund assets as well as the Derzhfinposlugy within three business days from the date of concluding this contract.

2.8. To improve the pension asset investment returns, the consultant (consultants) on the investment issues in compliance to the terms and conditions of the contract concluded with the fund may provide the following services:

- monitoring the information on investment and economic conditions in the national and international market that contribute or might contribute to the investment efficiency of the pension fund money.
- consulting and advising the board of the fund during drafting the basic lines of the investment policy and standards on the pension money investments;
- consulting and advising the board of the fund when carrying out the annual investment efficiency analysis.
- filing to the board of the fund the grounded proposals on a need in drafting and modifying provisions in the investment policy declaration.

### Section 3. Requirements to the investment policy declaration of the fund

3.1. The investment policy declaration should include the indication on the full name of the fund, the code of the fund by the business register (ЄДРПОУ), the type of the fund (open-end pension fund, corporate pension fund or occupational pension fund), the registration number by the National financial institution register as well as the location of the board of the fund.

3.2. The investment policy declaration should include the following sections:

- the purpose of the pension asset investments;
- basic lines of the investment policy of the fund;
- limits on the pension asset investments;
- requirements set for a composition and structure of the pension assets;
- requirements set for entities managing the pension fund assets;
- the procedure for supervision over the pension asset investments;
- the procedure for modifying the investment policy declaration by the board of the fund.

#### 3.2.1. The purpose of the pension asset investments

The section might indicate that the purpose of the pension asset investments shall be the gain of the pension money to secure the rights of participants of the pension fund in getting the pension

benefits additional to those paid under the state compulsory pension insurance as provided by the Law of Ukraine "On Non-State Pension Provision" (1057-15).

3.2.2. Basic lines of the investment policy of the fund

The section should include the details of the investment policy of the fund as well as the investment strategies that will be implemented under the pension fund asset investments.

3.2.3. General restrictions on investment activities with the pension fund assets

The section should include the restrictions on investment activities with the pension assets during pension asset formation and investments by the entity managing the pension fund assets. The said information should comply to the provisions of the Law of Ukraine "On Non-State Pension Provision" (1057-15) and the current legislation.

3.2.4. Requirements to composition of the pension assets

The section should include the information on the type of assets and their maximum portion (in per cent) in the structure of the pension fund portfolio. The section might include an indication to the country of investing as well as the information on the issuers against whose securities the fund assets will be placed. The minimum (parallel to maximum) portion of the assets may be set. The said information should comply with the provisions of the Law of Ukraine "On Non-State Pension Provision" (1057-15) and may be presented as the tabulation given in Annex 1 to this Regulation.

3.2.5. Requirements set for the entities managing the pension assets

As pursuant to the law the section shall include the requirements set for entities that may manage the pension fund assets, an indication on a circle of these entities, restrictions put on the activities of the entities managing the fund assets.

In particular, the following entities may manage the assets:

- the asset management company;
- the bank or asset management company acting as one-person founder of the corporate fund in cases covered by the law;
- the professional administrator granted a license for the asset management activities as pursuant to the law.

The fund assets may be managed by several entities.

Also, the section shall include the information on non-residents managing the asset transactions in the international markets.

In case several entities manage the assets, the procedure and criteria as to the asset allocation between these entities should be defined.

The investment policy declaration might include the said restrictions and requirements set for the entities that will manage the pension fund assets, that will not be in conflict with the provisions set forth by the law.

3.2.6. The procedure for supervision over the pension fund asset investments

The section shall include the information on the procedure for supervision over the activities of the entities managing the fund assets by those who exercise supervision (the board of the fund, custodian, founders of the fund, relevant government institutions) as well as the procedure for their cooperation and information exchange

aimed at improving the supervision efficiency and protection of the rights of the fund participants (contributors).

3.2.7. The procedure for modifying the investment policy declaration by the board of the fund

The section shall include the criteria to be applied by the board of the fund for investment efficiency assessment, periods in which the investment policy declaration shall be subject to revision (minimum once in twelve months) and aimed at improving the investment activity efficiency as well as the procedure for modifying the investment policy declaration with account taken for the proposals made by the entity (entities) managing the fund assets, consultant (consultants) on the investment issues (in case the latter are invited), periods in which the fund net asset value is estimated in compliance to the norms set by the Derzhfinposludy.

Section 4. Procedure for registering the investment policy declaration of the fund

4.1. In order to register the investment policy declaration the board of the fund within the term set forth by the Law of Ukraine "On Non-State Pension Provision" (1057-15) but not later ten business days from the date of approval of the investment policy declaration by the board of the fund shall file an application in the Derzhfinposludy for registration of the investment policy declaration of the pension fund that was endorsed by a signature of the chairman of the board of the fund and the fund seal and was executed in the format set in Annex 2 to this Regulation.

The application for the registration of the investment policy declaration of the pension fund should have the following documents attached:

- the minutes or extract from the minutes on the meeting of the board of the fund on approval of the investment policy declaration of the fund that was endorsed by a signature of the chairman of the board of the fund on the fund seal.

- three tied together and numbered copies (originals) of the investment policy declaration approved by the board of the fund under the procedure set forth in the charter of the pension fund which content should comply to the provisions given in section 3 of this Regulation.

- the copy of the contract (contracts) concluded by the board of the fund with the consultant (consultants) on the investment issues (in case those were invited).

The application should be attached with the list of the documents covered in this item of the Regulation. The list should include an indication on the number of the copies as well as the number of the pages in the said documents.

4.2. The application for the registration of the investment policy declaration of the pension fund and the documents attached to it shall be filed by the list and its copy shall be made available for the applicant with an indication made on the date of filing the documents with a signature of the Derzhfinposludy responsible person.

4.3. In case the filed documents are in compliance to the current national legislation, the Derzhfinposludy shall register the investment policy declaration of the fund within ten days from the date of filing the application and documents covered in item 4.1 of this Regulation.

4.4. The copies of the investment policy declaration of the fund shall be endorsed or stamped as "Registered" with an indication of the registration date. The endorsement (stamp) shall be certified by the Derzhfinposlugy seal and a signature of the Commissioner - the director of the Derzhfinposlugy department on supervision over non-state pension funds. Two registered copies of the originals shall be made available with the applicant.

4.5. The board of the fund should pass one copy (original) of the registered investment policy declaration to the State Commission on Securities and Stock Market within five business days from the date of registration.

#### Section 5. Procedure for registering modifications to the investment policy declaration of the fund

5.1. In case the investment policy declaration of the fund is to be modified, the board of the fund not later ten business days from its approval of modifications in the investment policy declaration shall file in the Derzhfinposlugy the application for registration of the modifications in the investment policy declaration of the pension fund that was endorsed by a signature of the chairman of the board of the fund and the fund seal and drafted in the format set forth in Annex 3 of this Regulation.

Attached to the application for the registration of modifications to the investment policy declaration of the fund should be the following documents:

- the minutes or extract from the minutes on the meeting of the board of the fund on modifications to the investment policy declaration of the fund endorsed by a signature of the chairman of the fund and the fund seal. The minutes (extract) should include indication on the causes of modifications to the investment policy declaration and their wording including the proposals on modifications to be entered in the investment policy declaration made by the entity (entities) managing the fund assets, consultant (consultants) on the investment issues (in case the relevant contract was concluded);

- the wording of the modifications to the investment policy declaration after approval by the board of the fund, tied together and numbered, endorsed by a signature of a chairman of the board of the fund and the fund seal (in three copies);

- the information on the fund investment efficiency (certain indicators estimates) analysis conducted (in case modifications to the investment policy declaration shall be made based on the results of the analysis conducted and aimed at improvement of the investment efficiency of the fund).

Attached to the list should be the documents defined in this item of the Regulation. The list should include an indication to the number of copies as well as the number of pages in the said documents.

5.2. In case the documents filed are in accordance to provisions of the current national legislation the Derzhfinposlugy within ten business days from the date of filing the application and the documents defined in item 5.1 of the Regulation shall register the modifications to the investment policy declaration of the fund.

5.3. The copies with the wording of modifications to the investment policy declaration shall be endorsed (stamped) as

"Registered" with an indication of the date of the registration. The endorsement (stamp) shall be certified by the seal of the Derzhfinposlugy and a signature of the Derzhfinposlugy Commissioner-director of the department for supervision over non-state pension funds. Two registered copies of the originals of the wording of modifications to the investment policy declaration of the fund shall be passed to the applicant.

5.4. The board of the fund should file in the State Commission for Securities and Stock Market one copy of the original with the registered modifications to the investment policy declaration of the fund within five business days from the date of the registration.

5.5. The board of the fund should provide the registered modifications to the investment policy declaration to the entity (entities) managing the fund assets and custodian within five business days from the date of the registration.

Section 6. Rejection of the registration of the investment policy declaration of the fund and modifications to it

6.1. The grounds for the decision made by the Derzhfinposlugy on rejection of the registration of the investment policy declaration (modifications thereto) might be the following:

- not compliance of the filed documents to the provisions of the current national legislation;
- the absence of any document which submission is to be provided under the Regulation;
- the invalid data in the documents filed for the registration of the investment policy declaration (modifications thereto);
- untimely filing with the Derzhfinposlugy the documents for registration of the investment policy declaration of the fund (modifications thereto), in particular: filing of the documents at the expiration of the period in accordance with item 2 section 1 article 10 of the Law of Ukraine "On Non-State Pension Provision" (1057-15) and item 4.1, 5.1 of the Regulation.

6.2. Should the grounds for denial of the registration of the investment policy declaration are present the Derzhfinposlugy shall reject the application within thirty calendar days from the date of filing the application and documents. The applicant shall be notified on the rejection to register the investment policy declaration (modifications thereto) in written with an indication on causes of denial within three business days after the date of denial.

6.3. In case of rejection to register, one copy of the documents filed for registration of the investment policy declaration (modifications thereto) should be kept with the Derzhfinposlugy, the other copies shall be passed to the applicant with the relevant notification on the rejection.

6.4. The board of the fund within thirty calendar days after receipt of the notification on rejection to register the investment policy declaration (modifications thereto) may eliminate shortcomings and file additional documents and information with the Derzhfinposlugy and re-submit the application and documents required for the registration under the procedure set forth in the Regulation. Upon elimination of shortcomings and filing the additional information the Derzhfinposlugy within thirty days shall make a

decision on the registration of the investment policy declaration (modifications thereto).

6.5. In case the registration of the investment policy declaration (modifications thereto) failed within the period defined or denied under the grounds the applicant treats as unreasonable the applicant may challenge this decision in the court.

Section 7. Procedure for supervision over  
the observance of the provisions of this Regulation

7.1. Supervision over the observance of the provisions of this Regulation shall be with the Derzhfinposlugy in accordance with the current legislation.

7.2. In the event of failure to file, untimely filing or filing the invalid information in the documents submitted to the Derzhfinposlugy in accordance with the Regulation the applicant will be liable as it is set forth in the national legislation.

7.3. In the event any violation revealed upon supervision over the observance of the provisions of the Regulation the Derzhfinposlugy shall take measures of influence in accordance with the national legislation.

Commissioner  
Director of the Department

A.Rybalchenko

Annex 1  
to the Regulation on the  
investment policy declaration  
of the non-state pension fund

INFORMATION  
on objects of investments for placing the non-state  
pension fund assets

No.	Objects of investments of the non-state pension fund	Maximum (minimum) percent for pension fund assets investments in objects of investments (as percent to total value of pension assets of the fund)*
1.1	Bank deposit accounts and bank savings certificates	
1.2	One-bank deposit accounts and savings certificates	
2	Securities:	
2.1	One-issuer securities	
2.2	Securities with the yield guaranteed by the Cabinet of Ministers of Ukraine	
2.3	Securities with the yield guaranteed by the Council of Ministers of AR Crimea, local radas	
2.4	Corporate bonds issued by residents of Ukraine	
2.5	Shares of Ukrainian issuers	
2.6	Securities of foreign issuers	
2.7	Mortgage instruments	
3	Real estate	
4	Bank metals	
5	Other assets, including: **	

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\* Set by the board of the fund but should comply to the provisions of article 47, 49 of the Law of Ukraine "On Non-State Pension Provision" (1057-15).

\*\* to be provided the list of other assets.

Annex 2  
to the Regulation on  
the investment policy  
declaration of the non-state  
pension fund

State Commission for Regulation  
of Financial Services Markets  
of Ukraine

"\_\_" \_\_\_\_\_ 200\_ No. \_\_\_\_  
(application filing date)

APPLICATION  
for registration of the investment policy declaration of the non-  
state pension fund

\_\_\_\_\_  
(full name of the non-state pension fund)

\_\_\_\_\_  
(location of the board of the fund)

\_\_\_\_\_  
(identification code by business register (ЄДРПОУ))

\_\_\_\_\_  
(registration number)

\_\_\_\_\_  
(number of the registration certificate of the financial institution)

\_\_\_\_\_  
contact telephone (telephones)

Chairman of  
the Board of the Fund

Signature \_\_\_\_\_  
(first, middle, last name)

Seal

Annex 3  
to the Regulation on  
the investment policy  
declaration of the non-state  
pension fund

State Commission for Regulation  
of Financial Services Markets  
of Ukraine

"\_\_" \_\_\_\_\_ 200\_ No. \_\_\_\_  
(application filing date)

APPLICATION  
for registration of modifications to the investment policy  
declaration of the non-state pension fund

\_\_\_\_\_  
(full name of the non-state pension fund)

\_\_\_\_\_  
(location of the board of the fund)

\_\_\_\_\_  
(identification code by business register (ЄДРПОУ))

\_\_\_\_\_  
(registration number)

\_\_\_\_\_  
(number of the registration certificate of the financial institution)

\_\_\_\_\_  
contact telephone (telephones)

Chairman of  
the Board of the Fund

Signature \_\_\_\_\_  
(first, middle, last name)

Seal