

STATE COMMISSION FOR REGULATION OF FINANCIAL SERVICES MARKETS
OF UKRAINE

RESOLUTION

No. 3101 of 16.12.2004

Registered with the Ministry
of Justice of Ukraine
No. 1670/10269
of December 30, 2004

**On the approval of Procedure of charge and payment of a fine by the
administrator of the non-state pension fund to the participant of the non-state
pension fund**

According to requirements of the Law of Ukraine " On the Non-State Pension Provision " (1057-15) and also with the purpose of improvement of the state regulation of activity on rendering services on the non-state pension provision the State Commission for Regulation of Financial Services Markets of Ukraine HAS RESOLVED as follows:

1. To approve Procedure of charge and payment of a fine by the administrator of the non-state pension fund to the participant of the non-state pension fund that is attached.

2. Department of Supervision over the Non-State Pension Funds (A.A. Rybalchenko) and Legal Directorate (D.V.Tkachenko) to ensure submission of this Resolution to the Ministry of Justice of Ukraine for the state registration.

3. Directorate of Organizational-Analytical Provision of Chairman's work (T.M. Shevchenko) to ensure publication of the Resolution in mass media after its state registration.

4. Control over fulfillment of the Resolution to be assigned to the Commissioner - Director of Department of Supervision over Non-State Pension Funds - A.A.Rybalchenko

Chairman of Commission

V.Suslov

Protocol No. 105
of Commission meeting
of 16.12. 2004

APPROVED
Resolution of the State
Commission for Regulation of

PROCEDURE
on charge and payment of a fine by the administrator of the non-state pension fund to the participant of the non-state pension fund

This Procedure is elaborated under the requirements of the Laws of Ukraine " On the Non-State Pension Provision " (1057-15) (hereinafter referred to as - Law), " On Financial Services and State Regulation of Financial Services Markets " (2664-14), Regulation on the State Commission for Regulation of Financial Services Markets of Ukraine, approved by the Decree of the President of Ukraine No. 292 (292/2003) of April 4, 2003.

1. General provisions

1.1. This Procedure establishes the procedure of charge and payment of fine by the administrator of the non-state pension fund (hereinafter referred to as - administrator) to the participant of the non-state pension fund (hereinafter referred to as - fund) in cases defined by the Law (1057-15).

1.2. In this Procedure the below-mentioned terms are used in the following meanings:

- obligation of administrator to the fund's participant (hereinafter referred to as - obligation) - obligation of the administrator to transfer funds of the participant of a fund to other subjects of the non-state pension provision in cases stipulated by the Third part of Article 58, the Sixth part of Article 62 and the Third part of Article 63 of the Law (1057-15) or to execute pension payment to the fund's participant in the case stipulated by Article 65 of the Law;
- fine – penalty that is collected from the administrator in favor of the fund's participant and is calculated in percentage of the sum of the unduly executed monetary obligation per every day of delay of obligation's execution.

Term " rate of the National Bank of Ukraine " is used in this Procedure in accordance with the Law of Ukraine " On the National Bank of Ukraine " (679-14).

Other terms in this Procedure are used according to the Law of Ukraine " On the Non-State Pension Provision " (1057-15).

2. Charge of the fine

2.1. The fine is charged by the administrator:

2.1.1. In case of undue transfer by the administrator of pension means of the fund's participant to the other pension fund, banking establishment or insurance organization, in case of acceptance by the fund's depositor of a decision on

cancellation of the pension contract and change of a pension fund;

2.1.2. In case of undue transfer by the administrator of pension means of the fund's participant to the insurance organization in case when the fund's participant wishes to receive the lifelong pension in insurance organization at the cost of pension funds accumulated in a pension fund in his/her favor;

2.1.3. In case of undue transfer by the administrator of pension funds of the fund's participant to other pension fund in case when the fund's participant has concluded an agreement for payment of pension for the specified term with the other pension fund;

2.1.4. In case of violation by the administrator of term of execution of a single pension payment to the fund's participant of (successor of the fund's participant).

2.2. Limiting date for the fulfillment of obligation in cases stipulated by Subitems 2.1.2 - 2.1.4 of Item 2.1 herein, is defined as the date of receipt by the administrator of an application and/or documents according to the Law (1057-15) increased on 5 working days and, in case stipulated by Subitem 2.1.1 of Item 2.1, as the date of receipt by the administrator of documents defined by the Third paragraph of the Third part of Article 58 of the Law, increased on 30 calendar days.

2.3. If the limiting date of obligation's fulfillment coincides with the day-off or a holiday, then the operational banking day following the day-off or a holiday is considered as such limiting date.

2.4. Charge of the fine starts from the first working day following the limiting date of the obligation's fulfillment.

2.5. The fine is charged on an actual amount of obligation, outstanding on every day of delay of its fulfillment. In case of partial fulfillment of the obligation during the period of delay of its fulfillment, for the aim of the subsequent charge of the fine, the actual amount of obligation that has remained outstanding, is calculated as per the first calendar day following the date of fulfillment of a part of the obligation of the administrator to the fund's participant.

2.6. The fine is charged at a rate of a double rate of the National bank of Ukraine on the basis of 1 day from the sum of unsettled obligation per every day of delay of its execution.

2.7. For the calculation of a fine, the corresponding value of the rate is used of the National Bank of Ukraine which was in force on every day of the period of delay of obligation's fulfillment.

2.8. State Commission for Regulation of Financial Services Markets of Ukraine is entitled to make decision as to reduction of the amount of a fine, charged to administrator as per Subitem 2.1.1 of Item 2.1 herein, if the delay in execution of the obligation has occurred under the valid reasons.

2.9. The document that confirms the amount of obligation fulfillment (part of the obligation) and date of its fulfillment is the administrator's payment order to the fund's custodian with regard to participant which obligation is fulfilled, that is accounted and certified by the custodian in a procedure established by the legislation. The day of submission of a payment order to custodian is considered the day of its registration with the custodian, confirmed by a relevant stamp.

3. Sources and procedure of fine payment

3.1. Payment of the fine by the administrator is made at its own cost. It is forbidden to execute payment of the fine at the cost of pension assets of the non-state pension funds.

3.2. The fine to the fund's participant is paid concurrently with the transfer (payment) of the outstanding amount of obligation (its part) as follows:

3.2.1. by bank remittance;

3.2.2. by postal order.

3.3. The fund's participant, and in cases stipulated by the legislation, the successor of the fund's participant, together with the relevant application that is submitted to the administrator in cases stipulated by Articles 58, 62, 63 and 65 of the Law (1057-15) is obliged to submit necessary information, in writing (essentials of the bank's current account, mailing address, etc., other things in accordance with the current legislation) as to the chosen method within the framework of item 3.2 herein in which he/she will receive the fine in case of occurrence of causes for its charge and payment.

3.4. The expenses, arisen with the execution of the corresponding bank or postal order on payment of the fine to the participant, are born by the administrator.

3.5. The document that confirms the amount of the fine and date of its payment is as under:

3.5.1. In case the fine was paid to the fund's participant by bank remittance - the payment order by the manager of the bank's in which his/her current account is open, accounted and certified by this bank in the procedure established by the legislation as to the transfer of amount of fine charged to the relevant fund's participant or his/her successor. Day of submission of payment order by the bank is considered the day of its registration with this bank, attested by a corresponding stamp;

3.5.2. In case the fine was paid to the fund's participant by postal order - the document according to the current legislation that confirms the making of postal order by the administrator to the relevant fund's participant or his/her successor.

4. State control

4.1. State control over observance of requirements of this Procedure is exercised by the State Commission for Regulation of Financial Services Markets of Ukraine in accordance with current legislation.

4.2. In case of revelation of violations during the conduct of control over observance of this Procedure requirements there are measures of influence enforced that are stipulated by the legislation of Ukraine.

Member of the State Commission for Regulation
of Financial Services Markets of Ukraine - Director
of Department of Supervision over the
Non-State Pension Funds

A.A.Rybalchenko