PDTAU485

Implementing Poland's Private Pension System, Phase III
Finishing the Pension Reform Life-Cycle
Final Report
Task Order 801 (EPE-I-00-95-00043-00)

PricewaterhouseCoopers LLP
June 30, 2000.

BEST AVAILABLE COPY

TITLE OF REPORT:	Implementing Poland's Private Pension System Final Report for Phase 3
TASK ORDER:	Implementing Poland's Private Pension System
CONTRACT:	Omnibus II
PROJECT NUMBER:	110-0005-3-562-7075
CONTRACT NUMBER:	EPE-I-00-95-00043-00
TASK ORDER NUMBER:	801
CONTRACTOR:	PricewaterhouseCoopers LLP
USAID PROJECT OFFICE:	USAID/Warsaw Al. Jerozolimskie 56C 00-803 Warsaw Poland
USAID COTR:	Mr. Mikolaj Lepkowski
DATE OF THE REPORT:	June 30, 2000
ADDITIONAL INFORMATION:	Contact Tessie San Martin Telephone: + 1-703-741-2422 E-mail: tessie.san.martin@us.pwcglobal.com

PricewaterhouseCoopers provided assistance to the Government of Poland on pension reform for 5 years under USAID funding. During this period, we have had the pleasure of working with a large number of representatives from the Government of Poland and the United States Government. We would like to thank all of them for their cooperation, commitment and good humor. In particular, we would like to thank the Directors of the Office of the Plenipotentiary, Michal Rutkowski and Marek Góra, for the speed of their work, vision and utter determination. We have also appreciated the opportunity to work for three flexible and non-partisan, but decisive Plenipotentiaries, the late Andrzej Baczkowski, and Jerzy Hausner and Ewa Lewicka. We thank UNFE President Cezary Mech and V.P. Pawel Pelc for their hospitality, patience and hardwork. Special thanks also goes to Ryszard Petru, Agnieszka Chlon, Iwona Duda, Lidia Kukula, Leszek Bucior, Marcin Krupa, Karol Rajewski, Anna Nowak, Dariusz Lazar and the OP Public Education Implementation Team and the growing staff at UNFE. To USAID, we would like to express our appreciation for 5 years of cooperation to the understanding, flexible and knowledgeable team headed by Mission Director William Frej: Mark Kraczkiewicz, Vicki Peterson, Mikolaj Lepkowski and Pawel Krzeczunowicz.

Best Available Copy

Table of Contents

Executive Summary 2
Key Accomplishments 2
Pension Reform Lessons Learned 3
A. Introduction 7
B. Background of the Project 7
Overview of the New System 7
Institutions and Entities in the New Pension System 8
Major Institutions 8
Pillar II Pension Entities 8
Pillar III Entities 9
C. Task Order: Reporting Details, Team, Objectives and Critical Path 10
Reporting Details 10
Subcontractors 10
Phase 1 Objectives 11
Phase 2 Objectives 11
Phase 3 Objectives 12
Phase 3 Critical Path Issues 14
The Whole System 14
Pillar II 15
Pillar III 15
D. Pension Reform Life-Cycle 16
Review Lessons Learned 16
Design Policy 17
Miller Plan 18
Kolodko Plan 19
Security Through Diversity 19
Draft Legislation 19
Develop Public Education 20
Develop Institutional Capabilities 22
E. Major Project Accomplishments 23
Phase I Accomplishments 23
Phase II Accomplishments 23
Phase III Accomplishments 23
F. Lessons Learned 25
1. Lessons Learned: Systemic Reform Issues 25
2. Lessons Learned: Institutional Building of the Pension Regulator 31
3. Lessons Learned: Designing and Supporting the Public Education Program 34
G. Conclusion 37

Appendices:

Appendix A: Security Through Diversity
Appendix B: Phase I Final Report
Appendix C: Phase II Final Report
Appendix D: Communication Strategy
Appendix E: Public Education Final Report
Appendix F: Law on Organization and Operation of Pension Funds
Appendix G: Law on Employee Pension Programs
Appendix H: Law on the Reform of ZUS (Mother Law)

EXECUTIVE SUMMARY

Between October 1996 and April 2000, PricewaterhouseCoopers (PwC), under contract to USAID/Poland, provided technical assistance to the Government of Poland in the design and implementation of an ambitious pension reform program. The technical assistance included:

- Assessments of the regulatory and legal impediments to the development of a voluntary, private pension funds in Poland;
- Assistance in the development of comprehensive legislation required to establish private, capital based pension funds in the country;
- Development of a public education and information campaign; and
- Assistance in the establishment of the licensing, regulatory and supervisory infrastructure for private pension funds in Poland.

KEY ACCOMPLISHMENTS

Poland's new pension system is in many ways a benchmark for other countries. Regardless of whether a country is in the developed or developing world, their pension systems face similar issues: a demographic decline and financial instability. Thus the solutions of the new Polish pension system should be considered not only for other post-soviet bloc countries or developing countries, but also for the pension systems of Poland's European Union and North American partners.

Poland has designed and implemented a complex system that synthesizes the lessons learned of many countries, uses public education in an extensive manner, reforms exiting institutions, and builds new ones. The system diversifies many of the risks future pensioners and the system as a whole face by leveraging the strengths and mitigating the weaknesses of the public and private sectors.

This project played a key role is supporting the Government of Poland in its ambitious and successful pension reform effort. This experience and the cooperation between the Government of Poland, USAID and PricewaterhouseCoopers bear examination for application in other reforming countries. The project's key accomplishments over this time period have been:

- **Design and adoption of a pension reform policy**. The project helped to educate policy-makers about the challenges to and opportunities created by pension reform, and develop consensus among stakeholders on how to reform the existing pension system. In particular, PwC consultants helped inform Polish decision-makers about the issues surrounding pension reform, drawing their attention to the lessons learned from reform processes elsewhere. The PwC Team worked with the GoP to develop an effective public education campaign to educate all stakeholders in the process.

- **Create an effective infrastructure for implementation.** PwC helped build the institutional capability of the pension regulator, UNFE, to supervise the system and enforce compliance with the regulations. In particular, PwC assisted in:
  - ✓ The development of licensing procedures and criteria for pension fund societies;
  - ✓ The development of the management information and IT systems required to supervise Pillar II[1] (including procedures for the collection and analysis of information necessary for off-site and on-site inspections);
  - ✓ The development of a comprehensive training plan, and the delivery of training in key technical areas; and
  - ✓ The development of drafts and amendments to the laws and decrees of Pillar II and Pillar III.

- **Improve public participation.** The project educated the general public about the new pension systems, and their new responsibilities as individuals for the future of their pensions.

[1] Poland's pension system is divided into three Pillars. Please see page 11 for more details.

PENSION REFORM LESSONS LEARNED

The Poland Pension Reform project must be considered one of the Mission's success stories as USAID winds down its operations in that country. The way the project has been designed and implemented by USAID and PricewaterhouseCoopers, its contractor, provides a number of valuable lessons for other donor and government funded efforts in this arena in the years ahead. Key lessons learned from this project include:

- **Management of information systems for the social security system is critical.** The success of any kind of pension reform program depends on the security, accuracy and integrity of the information from the social security agency. If there are weaknesses in this area, the entire reform process may be jeopardized. Poland's new pension system faces many challenges, but among the most daunting is the inability of ZUS (the Social Security Institute), to identify individuals in the system, their account, the contribution to be assigned to that account and the second pillar fund which the individual has joined.

  A pension system with individual accounts requires a very precise collection and distribution process. PwC spent significant effort evaluating and analyzing the operational plans for the transfer of information, as well as the membership and collection processes. However, the problems with ZUS' systems were beyond the reach of the project, and thus, PwC's ability to address the heart of the problem was limited. In hindsight, donors should have focused more resources on the MIS situation in ZUS. Other related information technology and information systems management issues include:

  - **Encourage, as a matter of policy, the use of only one identification number per participant in the system**. The existence of a unique identifier for every individual seems a subtle and minor point, but financial and benefits systems cannot operate in a state of identity chaos. Policy makers in many countries have overlooked this issue, as they are focused on the high level marcoeconomics of the system. However, it is important to remember that identity and ownership are the basis of economic systems.

  - **Define detailed processes and user requirements *before* purchasing information technology solutions.** Implementers need to understand where and how the information and the money will flow through the system, and which institutions and individuals will have the responsibility for ensuring the integrity, timeliness and accuracy of this process.

  - **Keep the old technology running until it is proven that the new technology works.** The Polish system suffered when the old system at ZUS was turned off before the new system was proven. As word reached employers that the new information technology system was unable to identify payments or payees in a timely manner, or perhaps at all, many unscrupulous employers began delaying payments or stopped paying all together. This issue was only resolved when the old identification system was restarted and controllers began to chase contributions past due.

  - **Include Accountants and Information Technology Specialists in the Policy Design Team and in the Implementation Institutions.** In a pension system, there are two professions that play a particular role in the day-to-day functioning of the system: accountants and information technology consultants. Earlier attention to certain accounting, process and information technology issues may have resulted in a smoother transition from the old to the new system. Future reformers in other countries should consider writing specific requirements regarding accounting standards into the law, particularly if existing accounting regulations are insufficient or silent on some pension, investment fund or insurance issues. The regulator should

be strongly encouraged to include industry in drafting such documents.

- **Be Inclusive and Politically Savvy.** From the start of the policy design stage, the Office of the Plenipotentiary for Social Security Reform (OP) took pains to ensure that all responsible political segments were included in events (such as study tours) and informed about developments. The OP included responsible and interested parties in the process and set deliberate goals and performance targets. For instance, trade unions and employers were consulted via the Tripartite Commission from the beginning of the process. Later, in part due to the virtue of this co-operation, Ewa Lewicka from the Solidarity Trade Union would become the Plenipotentiary to oversee much of the reform's implementation.

  It should be noted that the structure of the OP, the institution charged with shepherding the reform process, seemed particularly well suited to lead the way to consensus. The OP was largely a virtual team of Polish economic experts, government officials and technocrats that drew members from various GoP ministries and agencies, as well as domestic think tanks and consultanties. Because OP membership was derived from a wide cross section, it had credible access to various responsible political camps and was able to survive, with the team and the proposed policy intact through the changing of government.

- **Promote Rational Investment Regulations.** Developing economies should look to the Western European and North American capital markets when setting investment regulations and policies. The following are of particular importance to a healthy private pension system:

  Investment Limits: Pension funds must be allowed to invest in a diversified portfolio to provide a basic minimum security to the system as well as enable the participant to obtain an adequate pension. Participant interest in a diversified portfolio and long-term returns should guide investment policy and outweigh parochial interests in supporting industries, sections of the economy or the domestic economy.

  Pension Fund Activities: Policy makers and regulators should also ensure that funds are not allowed to perform financial operations better left to other financial institutions. Pension funds are not banks or insurance companies and operations should be kept distinct.

  Valuation: Contributions must be invested in fairly and transparently valued instruments to protect and grow the value of the pension. The purpose of fund valuation requirements is to assure that pension fund assets are reported fairly. Fund valuation requirements typically follow generally accepted accounting principles, although certain assets have special valuation rules for pension funds. As a result, for publicly traded assets, pension funds typically use market values. However, for less liquid assets, such as thinly traded bonds, methodologies are specified to assure that these values are not manipulated.

  In defined contribution pension schemes, the pension amount depends on the value of the funds accumulated at retirement. Thus, flaws in the valuation system or principles used can have drastic consequences for pensioners and the state. Although the valuation of pension fund assets deals with relatively narrow, technical issues, the consequences of serious valuation errors, especially if they undermine confidence in the public pension system and securities markets, can be quite widespread.

- **Use an Appropriate Mix of US and Third Country Talent**. Pension reform is

an area where many other countries have a comparative advantage in terms of knowledge and experience. The strength of the pension reform project in Poland is that USAID leveraged effectively this worldwide knowledge and brought it to Poland.

- **Focus on Building the Pension Regulator.** The success of reform depends on more than the adequacy of the legal and institutional framework. The functionality of new and reformed institutions determines whether the new system will succeed. Phase 3 of the project focused correctly on this important aspect. The institutions must fully understand their role and competencies in the new system and proactively cooperate with other system institutions. Finally, institutions must provide professionals with an opportunity to develop and apply their skills and knowledge. The project contributed to developing procedures, processes and, most importantly, developing training programs for staff that would be replicable beyond the life of the project.

- **Develop Different Supervision Strategies for Pillar II and Pillar III.** Pillar II is a mandatory mechanism comprised of a small number of pension funds. Over time, economies of scale will further decease the number of these funds. As such, it is possible and desirable that the supervisors maintain detailed oversight into the activities of the funds. International experience from other developing markets demonstrates that an *automated systemic supervision system* that allows the regulator to check numerous details of participant accounts and investment actions and other fund operations does much to protect participant rights.

  Pillar III, on the other hand, is a voluntary mechanism and it is expected that there could be hundreds, if not thousands of employee pension programs within a 5-7 year period. In such a situation, it is unlikely that UNFE would have enough resources to provide the same level of detailed oversight that Pillar II receives. For this reason, we believe that UNFE and other regulators need to use *Risk Based Supervision*. Risk-based supervision may be defined as a supervisory regime where the degree of oversight applied to a pension program is graded according to the degree of risk associated with this program.

- **Promote Inter-Institutional Cooperation.** The nature of regulation is such that the regulators must trail the market. Furthermore, regulators in a democracy must use their authority judiciously and ensure that they are fully informed. For this reason, it is beneficial to promote sharing of information between the various financial sector regulators. Protocols of Agreement, Memorandums of Understanding or other methods should be used to help the regulators cooperate.

- **Develop a Flexible Public Education Strategy.** The public education strategy needs to be flexible in order for it to respond to the changing environment and the new opportunities. The Phase II project was successful in building critical mass of support for the reform. The strategy and campaign used a variety of tools to explain the need for the reform and to respond to legitimate, emotional and political criticism. Perhaps the best proof of the success of the public education campaign is that pension reform is one of the first major examples where politicians in Poland worked from "both sides of the barricade" to realize a major reform effort.

  The flexibility of the mass public education strategy became crucial when funding by the Government of Poland was reduced from originally expected levels. The flexibility of the strategy allowed the implementation team to respond with a variety of different tools to educate the public about their choices. Despite the implementation funding difficulties GoP experienced, at the conclusion of the Phase III public education campaign, more than 60% of the population knew where to find GoP sponsored information about the new pension system.

Many reforming market governments do not understand the value of public education campaigns. For this reason, such governments fail to provide sufficient information to citizens and voters on the how and the why of the reforms undertaken. More extensive public education about the need for reforms, directions taken and the expected outcomes, might reward various governments at election time.

Best Available Copy

A. Introduction

The purpose of this document is to communicate the lessons learned based on the entire life cycle of the pension reform process in Poland. These lessons learned are based on the technical assistance USAID and PricewaterhouseCoopers (PwC) provided to the Government of Poland from 1995-2000. To help highlight the lessons learned and other issues, this document also provides some of the key deliverables of the project as appendices.[2] We also provide a general history of the reform and relevant administrative information about the project.

This project was comprised of three phases between 1995-2000. The first two Task Orders allowed a part-time level of effort in support of the Government of Poland. The third and final Task Order allowed full-time, in-country staff to support the reform effort. Over this time period, this project worked closely with two GoP offices:

- Office of the Plenipotentiary for Social Security Reform (OP): This institution held primary responsibility for policy design and coordination of the new system. It also oversees development and implementation of the public education campaigns. OP was formally disbanded in March 1999. However, the position of Plenipotentiary continued to exist with very limited direct support. Nevertheless, many of the former key OP staff continued to play key roles in implementation of the system.
- Superintendency of Pension Funds (UNFE): This institution is responsible for protecting participant rights through the regulation of the second and third pillars of the pension system. UNFE was established in the spring of 1998.

[2] We cannot include all the deliverables because most of these are, naturally, confidential in nature and developed exclusively for UNFE's use. For additional information, please contact Lidia Kukula, UNFE's Director of the Dept. of Analysis and Social Communication, tel +48 22 99 00, or see the UNFE website at www.unfe.gov.pl.

B. Background of the Project

The goal of USAID's pension assistance was to help ensure that each Pole has a safe and adequate pension in old age. In a world of changing demographics and financial uncertainty, this is a complex public policy goal. From the start of the reform, it has been USAID's operational principle to support implementation. Generally, USAID has avoided extensive level of effort in policy-making issues, as US pension experience holds few lessons for the needs of Poland. The majority of the experience has been in the areas of public education and institution building.

Overview of the New System

The GoP initiated the pension reform process to create a multi-pillar pension system consisting of public and private, and mandatory and voluntary pensions. This new system is entitled *Security Through Diversity,* (see Appendix A) indicating the intention to secure pensions through diversifying the various risks pension systems and pensioners face. According to the vision of the policy makers, this reform consists of three pension pillars:

- Pillar I consists of adapting the previous pension benefits system that will continue under the administration of the Social Security Institute (ZUS).
- Pillar II is a mandatory contribution system in which the contributions are tax exempt but the benefits are taxable from the time they are received. Currently, the resources intended for this type of benefit are administered by 21 funds, which are supervised themselves by the Superintendency of Pension Funds (UNFE).
- Pillar III covers private pension plans where voluntary contributions to various asset managers are taxable but the benefits are exempt.

The basic components of the reformed Polish pension system, launched in January 1999, are summarized in the table below:

PILLAR	ENTITY	SUMMARY DESCRIPTION
Pillar I	ZUS – Social Security Institute	Mandatory social insurance. Benefits more closely tied to contributions using *National Defined Contribution* method.
Pillar II	Universal Pension Fund Societies (PTEs) & Open Pension Funds (OFEs)	Mandatory, privately managed pension funds. Individual accounts for participants. Funds invested in capital markets. Currently there are 21 licensed societies and funds. Benefits depend on accumulated capital at retirement. Licensed and supervised by UNFE.
Pillar III	Employee pension programs	Voluntary, employer-sponsored pension products with limited tax incentives. Options include pension funds, investment funds, and insurance programs. Benefits depend on program. Licensed and supervised by UNFE.

Institutions and Entities in the New Pension System

The new pension system introduced new institutions, reformed existing ones, and provided new market opportunities for other capital market participants. The key institutions in the first, second and third pillars include:

Major Institutions

Social Security Institute (ZUS):
This state institution is the core of the new pension system and administers individual accounts for all participants in the mandatory pension and health care system. Pension contributions paid by employers and employees are recorded in individual accounts to determine later benefits (notional defined contribution). A portion of an employee's contribution is forwarded to the appropriate second pillar pension fund (OFE). Contributions to pillar 3 are not subject to ZUS.
www.zus.pl

Superintendency of Pension Funds (UNFE):
The purpose of this organization is to protect participant rights in the private pension system. UNFE oversees and licenses pension funds in the second pillar and third pillar, as well as employee pension programs in the third pillar.
www.unfe.gov.pl

Office of the Plenipotentiary for Social Security Reform (OP):
This institution held primary responsibility for policy design and coordination of the new system. It also oversaw the development and implementation of public education campaigns.
http://reformaemerytalna.mpips.gov.pl/

Pillar II Pension Entities

Universal Pension Fund Society (PTE):*
The PTE is the management company/asset manager responsible for administering one second pillar open pension fund (OFE). Among its responsibilities to the OFE is the PTE's responsibility for record-keeping, investment decision-making and client (participant) relations. There are currently 21 PTEs in Poland, each with its own OFE. Under current law, each PTE may only have one fund or OFE.

Open Pension Fund (OFE):
An OFE is an approved pension fund for the second pillar of the pension system. The OFE is a legal entity that invests in the capital markets on behalf of the participants.

* The abbreviation of these two institutions, a Universal Pension Fund Society and an Employee Pension Fund Society, is the same in Polish (PTE). To help avoid confusion, remember that the former operates only in the second pillar and the latter only in the third pillar.

Transfer Agent:
In Poland, a transfer agent is a record keeping service provider. In some cases either PTEs or investment fund management companies will outsource this activity to a transfer agent. However, the PTE or investment fund management company maintains ultimate responsibility for the record-keeping.

Pillar III Entities

Employee Pension Program (PPE):
A PPE is an organizational fiduciary mechanism sponsored by an employer to invest money via an approved asset manager on behalf of employees. The PPE is the key institution of the third pillar.

Employee Pension Fund Society (PTE):*
An employee pension fund society is the management company/asset manager responsible for administering one employee pension fund (PFE). Among its responsibilities to the PFE, the employer is responsible for record-keeping, investment decision-making and client (participant) relations. This institution exists only in the third pillar and should not be confused with a similar named (and operationally similar) institution in the second pillar.

Employee Pension Fund (PFE):
A PFE is an approved investment vehicle for an employee pension program. A PFE is a legal entity that invests in the capital markets on behalf of the employee.

Investment Fund:
Investment funds are group investment vehicles and operate in a similar manner to British unit trusts or US mutual funds. In Poland, investment funds, like pension funds, are comprised of two distinct legal and organization entities: the management company/asset manager, and the fund. Investment funds in Poland serve as a potential asset manager for the employee pension program.

Group Investment Agreement Linked to a Life Insurance Policy:
This product is an asset manager linked to a life insurance product. The asset manager invests in the capital markets and is generally valued on a monthly basis. This asset manager is not an investment fund under Polish law. This product may be purchased through either a corporate or mutual life insurance company.

Best Available Copy

C. Task Order: Reporting Details, Team, Objectives and Critical Path

Reporting Details

Project Phase Title:	Phase 1: Poland Private Pension Funds Assessment Phase 2: Private Pension Fund Assistance for Poland Phase 3: Implementing Poland's Private Pension System
Contracting Officer:	Anne Quinlan, USAID/OP/B/PCE
Regional Contracting Officer:	Thomas Stephens (Phases 1 & 2), Michael Kenyon (Phases 2 & 3)
CTO:	Mark Kraczkiewicz (Phases 1 & 2), Vicki Peterson (Phases 2 & 3), Mikolaj Lepkowski (Phase 3)
USAID Project Office	Warsaw, Poland
Period of Performance:	October 1996 – April 2000

Subcontractors

The assistance to the Government of Poland required a wide range of international and local technical expertise. To meet this need, PwC partnered with several local technical providers over the course of pension reform life-cycle in Poland. These partner organizations assisted in the areas of public education and information technology implementation. These companies included Profile for both Phases II and III, and Corporate Profiles DDB, Hobbit and InfoViDE for Phase III.

Profile: Profile is a limited liability company established in 1992. This agency specializes in consulting in communication and public relations and in designing and carrying out promotion, public education and public affairs campaigns. The company's scope of capabilities includes:

- Consulting in the area of communication, mass education and public information, developing communication strategies, for both commercial organizations and public entities; and
- Carrying out information, promotion, public relations and public affairs campaigns (mass education, public information campaigns, supporting organizational reforms and social change, image building, product promotion), organizing public relations events and activities (press conferences, press releases, press documentation).

Corporate Profiles DDB: Corporate Profiles DDB (CP DDB) was established in 1995, when the most award-winning Polish advertising agency, Corporate Profiles, merged with the international network DDB. Today CP DDB Communication Group ranks 2nd in terms of sales and income, and is the largest corporation in the industry. In 1999, "IMPACT" monthly voted it the best agency of the first decade on the Polish advertising scene. Among the prizes won by CP DDB are the 1999 Empirion award for best campaign strategy in the history of Polish advertising, for the National Investment Fund Campaign, and Best Television Ad of the Year 1999, awarded at the prestigious Crackfilm Festival for "Prague," a spot for Tyskie Breweries. The CP DDB network has 206 offices in 98 countries.
http://www.ddbn.com/

Hobbit: Hobbit is an information technology company based in Poland that focuses on software and information technology analysis. Founded in 1998, Hobbit currently employees over 25 software analysts, project managers and developers.

Hobbit designs, develops, deploys and maintains dedicated application software (client-server and thin client). Areas of specialization include: dedicated application software, e-commerce, business analysis, data migration, and reporting software. Preferred tools and databases include: Oracle, Sybase, Progress, Microsoft and Open Shop. Hobbit is also a partner of Vasco Data Security (Belgium) and cooperates with domestic and global integrators. Hobbit's main customers are found in the financial, telecom and government sectors.
http://www.hobbit.pl/

InfoViDE: InfoViDE is a Polish training and consulting company that focuses on ensuring customers obtain strategic benefits from the use of software technologies. InfoViDE activities include the design and development of software solutions adjusted to the essential business needs of the customer. A major part of InfoViDE's activities is building software teams for its customers in the light of challenges created by competitors and a market economy.

InfoViDE is a leading provider of consulting services and know-how concerning project management, requirement analysis and the design of software solutions for businesses on the Polish market. The consulting team offers its services within various competence centers. Competence centers are a matrix organization structure allowing consultants to deepen professional knowledge and work in a variety of technology areas and information applications while preserving a common organizational culture and basic working tools.
http://www.infovide.pl/

PROJECT OBJECTIVES

Phase 1 Objectives

USAID/Poland requested technical assistance to assess opportunities and constraints for development of a voluntary, private pension funds in Poland. This project provided short-term level of effort for several consultants over a period of several months.

PwC assessed the financial markets, including the legal and regulatory framework, to identify potential impediments to private pension fund development. PwC also identified potential Government of Poland counterparts to work in this area. Technical recommendations were made to the Government of Poland and USAID for moving forward.

For more information, please reference the Phase 1 Final Report (Appendix B).

Phase 2 Objectives

This phase of the project was originally scheduled as a one year Task Order with part-time level of effort for various consultants. Based on political changes in Poland, swift progress of the reform, additional funding from USAID, and contractor flexibility, the contract provided short-term assistance for several consultants over the period of 24 months.

This phase of the project had the following objectives:

1. Help create and adopt comprehensive, implementable legislation to establish private, capital-based pension funds in Poland.
At the termination of this phase of the project, the Government of Poland had passed much of the key legislation and convinced key policy makers and parliamentarians from two successive governments about the need for and the direction of the reform.

2. Broaden and improve the quality of public information and discourse regarding pension reform issues.
This project assisted in the creation of a critical mass of support to push the reform ahead. With the assistance of USAID, PricewaterhouseCoopers LLP and Profile sp. z.o.o., Poland created the public and political will to develop a pension system based on international best practices, but also tailored to the needs of the Poland's environment.

The team assisted in the implementation of the public education strategy. The primary goal was to build support for a favorable vote on draft pension legislation in Parliament. This effort included market research, such as surveys and focus groups, preparation of brochures, organizing press conferences, preparation of Parliamentary political information kits, supporting seminars on pension reform, and arranging study tours to see the benefits of private pension systems elsewhere.

In January, March, September, and December of 1997 and July of 1998, study tours to Chile and Argentina took place for representatives of the Government of Poland, Parliament, private sector, and the media. A similar study tour took place in Hungary in January 1998. PwC led a series of five seminars on the transfer of contributions, asset management, pension fund supervision, and annuities. The team also provided technical assistance for television programs and serials discussing pension reform.

3. Assist in development of new Superintendency of Pension Funds (UNFE).
PwC assisted UNFE in the development of procedures to register and license Pillar II pension funds. The team drew on best practices from Mexico, Argentina, Chile and Peru. PwC organized a study tour in August 1998 to Chile and Argentina for UNFE staff. PwC ran training courses for UNFE staff and assisted in institution building, and helped develop procedures for Pillar II pension fund company and pension fund licensing.

For more information, please reference the Phase 2 Final Report (Appendix C).

Phase 3 Objectives
This 18 month project was extended to 20 months, and USAID requirements and funding permitted the assistance of three full-time long-term consultants for most of the project, as well as the participation of over 20 short-term consultants. This project was located on-site at UNFE. The project had two overarching objectives:

- To assist UNFE establish essential licensing, regulatory and supervisory functions over mandatory private pension funds; and
- To help UNFE and the Office of the Plenipotentiary (OP) ensure that affected workers will be informed of choices available to them and the value of pensions under the new system.

The Pension Reform Project Phase 3 was divided into 11 basic tasks:

1. Advise UNFE on regulatory policy, management and organization.
The Project Team advisors provided ongoing support to UNFE senior management on regulatory policy, strategic, operational and organizational issues. Our long-term resident advisors were located at UNFE offices, and provided day-to-day support to senior management. Key activities of this team of long-term advisors included:

- Identification and mobilization of short-term technical experts in key areas, as required;
- Quality assurance and review of all the work products and deliverables created by the project's short-term advisory team;
- Development and updating of the work plan as required;
- Informal discussions with the senior management team to provide guidance on specific issues/topics as they emerged;
- General advice and trouble shooting on the development of UNFE's organizational structures and systems

to meet the changing requirements of the market; and

- General support and assistance to the senior management team.

2. Assist UNFE in implementing procedures for licensing Pillar II Funds, registering Pillar III Pension Plans and resolving issues in the implementation process.
As determined by UNFE, by the start of the new system no additional assistance was required with the licensing process of Pillar II. PwC assisted in the development of registration strategy for Pillar III pension programs. As supervision in Pillar III is complex and overlaps between agencies, PwC assisted UNFE in beginning to coordinate closely with other GoP regulators (e.g. SEC, PUNU) to facilitate effective registration of pension issues within the capital markets in Poland.

3. Assist UNFE in developing procedures and tools for monitoring and enforcing compliance, operations, and performance of private pension funds, including through EDP audit.
PwC assisted UNFE in developing reporting standards and monitoring and enforcement procedures. These procedures included recommended reporting formats (electronic) and frequency, and off-site and on-site inspection procedures (financial and EDP audits). Activities in this task were coordinated with training activities and information technology issues.

4. Review procedures for transfer agent and custodial functions; suggest performance standards and methods to promote adherence that encourage efficient and timely transfer to private pension funds and safekeeping of fund assets in line with international standards.
PwC reviewed procedures of the centralized collection of contributions system managed by ZUS. PwC assisted in ensuring compatibility of UNFE oversight requirements with UNFE's automated reporting, monitoring/surveillance (IT) system with the collections system. Additionally, PwC identified a number of issues facing the new collections system that allowed UNFE to prepare for disruptions and malfunctions in the system.

5. Complete IT needs assessment and strategy for supervision, compliance, enforcement and public information.
The Project Team completed an assessment of information systems requirements and strategy. This strategy and recommendations were built on the work performed under Task 3. Under Task 3, our team established the groundwork to allow UNFE to monitor and enforce compliance including details pertaining to required reporting frequency, and areas subject to computerization for Pillar II.

6. Conduct a training needs assessment and recommend a training plan for UNFE and the Supervision Authority Committee.
PwC completed a training needs assessment that inventoried the skills of UNFE personnel and compared them with the skills required in different areas for UNFE to fulfil its responsibilities. Following the needs assessment, PwC created a training plan that resulted in a curriculum for UNFE to help determine how to allocate funds available to workshops and study tours, set a timeline for delivering the training, and identify targeted audiences. Based on the work performed in this task, the UNFE Advisory Committee allocated an additional $300,000 in co-financing for UNFE training activities.

7. Conduct training, including course materials, case studies and training trainers.
Based on the Training Plan, PwC conducted workshops on a variety of subjects and led study tours to several post-pension reform countries. These activities were coordinated to support the implementation of recommendations being developed in the areas of registration, monitoring, surveillance/inspections, and public education.

8. Advise on policies and rules of ethical conduct for pension funds and their

agents. (May include SRO for private pension funds and plans).
PwC provided advice on policies and rules of ethical conduct/fair practice for pension funds and their agents to minimize conflicts of interest, reinforce fiduciary responsibilities, contribute to the safety and soundness of pension fund management and increase public confidence. UNFE and the industry were introduced to the idea of self-compliance by the PTEs and the idea of transforming the Industry Association of Pension Funds into a self-regulatory organization (SRO) in order to standardize industry behavior and reporting.

9. Assist in the development of a transparent dispute resolution process.
PwC advised on the development of a transparent process to manage complaints related to Pillar II pension funds. This task was related in many ways to Task 8.

10. Advise UNFE on harmonizing supervision and regulation of mutual funds, pension funds and employee plans, as well as pension funds that are bank subsidiaries.
Because of a pension system's capital markets activities, custody requirements, and transfer via the bank payments system, regulatory harmonization and inter-agency cooperation are vital for the new system. UNFE cooperates closely with the SEC (KPWiG), the payments clearing house (KIR), the National Depository of Securities (KDPW), the Insurance Regulator (PUNU), and the National Bank of Poland.

11. Assist UNFE in updating its public information strategy to assure that workers have independent, objective information to make intelligent choices.
PwC assisted the OP develop a public education campaign strategy, develop materials and conduct public education training. In addition, the project helped UNFE develop its public information strategy, and ensured that the strategies of the two organizations were consistent.

As specified by USAID, the project's task was only to design the strategy. The production and distribution costs of the campaign were funded separately. The deliverables for this task included:

- Report on Public Information Strategy (OP) which will focus on the campaign to launch the pension program;
- Report on Public Education Strategy (UNFE);
- Development of Public Information materials (brochures, media advertisements);
- Maintain OP Web Page and develop UNFE Web page;
- Training on Public Information;
- Results from public opinion polls and focus groups;
- Press conferences and briefings with core journalists; and
- Press releases.

Phase 3 Critical Path Issues
While phase 3 of the project had a wide mandate to assist in the reform, the project team focused additional attention on just a few areas crucial for the system and UNFE's operation. Focus on these critical path issues helped ensure the successful launch of the system.

The Whole System
- The central collection system is the backbone of the new system. This system is primarily the responsibility of ZUS. However, UNFE must be informed of its progress and how delays/problems may affect the integrity of the entire system. PwC conducted a limited due diligence assessment of this system to help UNFE plan accordingly for the issues resulting from the less than full functionality of the ZUS system.
- Public information was critical for the successful implementation of pension reform. The population needed to understand its choices and understand the objectives of the reform and its implementation time line. According to Polish law, the PTEs began advertising February 16, 1999. Thus, a broad public information campaign was launched, in part, prior to that

date. Furthermore, UNFE developed the procedures for publishing economic and statistical bulletins following the April 1, 1999 start date of Pillar II.

Pillar II

- UNFE began supervision of licensed Pillar II funds in the spring 1999 (advertising/sales Feb/99, managing assets April/99). PwC concentrated immediately on assisting UNFE in the development of reporting standards for PTEs (Pension Fund Manager) and for developing monitoring and enforcement procedures.
- In order to efficiently implement the monitoring and enforcement process, UNFE needed to develop and build its own information technology system. PwC immediately began working with various UNFE departments to develop user requirements and define the system processes and architecture.

Pillar III

- Pillar III was set to start on April 1, 1999. However, serious concerns about aspects of Pillar 3 design at UNFE, in Parliament, and in industry led to a *de facto* delay in the start until February 2000. During the intervening time, various proposals were developed to both rationalize and make the law more attractive for employers and employees.

  Much of the assistance from this project was centered around advising UNFE in revising this law, based on US and Canadian experience, defining areas of supervision concern, as well as developing procedures for reviewing PPEs and associated asset managers. Particular attention was put upon trying to make the voluntary pension products associated with insurance companies more transparent to UNFE and participants. Therefore, UNFE needed to have its registration procedures in place prior to that date.

D. Pension Reform Life-Cycle

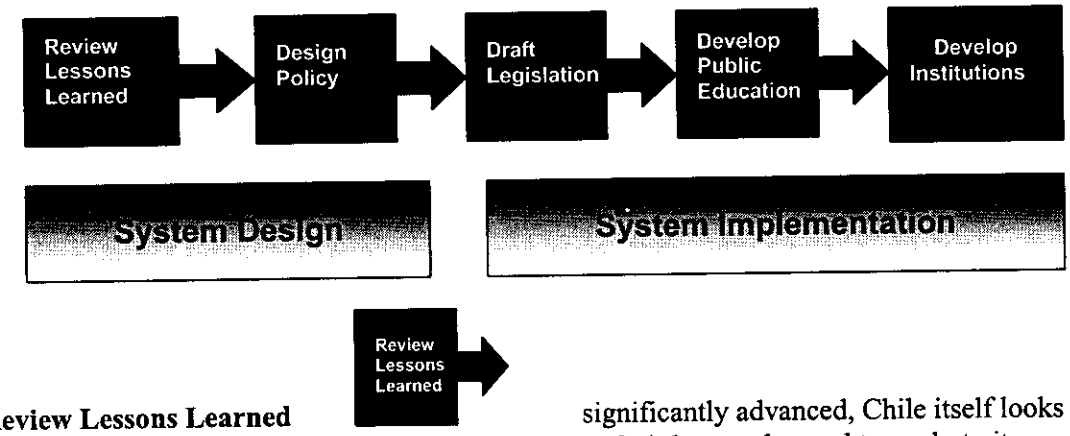
A reform process in a developing country goes through a variety of stages. At each stage, a different set of skills and a different type of experience and knowledge is required. The USAID program of assistance was effective because it recognized early on the need to adapt the technical assistance and the nature of the project to the needs of the reform at each stage.

The project provided assistance to the Government of Poland on a range of policy, change management and institution building activities. This assistance helped the Government of Poland through the entire reform life-cycle: from initial review and policy formulation to system implementation.

Specific stages of the life-cycle included: reviewing lessons learned in other systems, drafting a policy for Poland, drafting legislation, developing public education programs for various audiences, designing processes and procedures, and building institutions that operate in the new system.

Understanding the life-cycle of the reform process is vital to the success of a pension reform. The conditions and circumstances Poland faced through various stages of the life-cycle are discussed below. We present the main principles of the stage of the life-cycle, as well as Poland's experience, as an example.

Illustration 1. Pension Reform Life Cycle



Review Lessons Learned

Life-Cycle Principle: Each country needs to review the lessons learned from other pension reform efforts in the context of its own environment. In the area of pension reform, there are clearly different countries to examine, depending upon the type or pillar of the pension system that is being reformed. Many countries start with Chile, which started the pension reform revolution over 18 years ago. However, policy makers must look beyond the Chilean experience as other countries have taken some ideas further, developed other solutions, and have their own lessons learned to add to the policy debate. The Chilean system itself has evolved over 18 years, and certain aspects of their system look very different today than they did 10 or 18 years ago. Furthermore, as the reforms of other countries are now also significantly advanced, Chile itself looks at their lessons learned to apply to its own system.

Countries around the world face similar issues with regard to rising dependency ratios and falling replacement rates. These situations are brought in most cases by the resulting change in demographics as the reproduction rate falls. All countries must respond to these changes, and these responses can be classified generally into three categories:

- Many countries try to put the problem off, at least for the short-term. They do this by funding shortfall from general budgetary revenue, by continuing to raise social security contributions, or by relying to a greater extent on voluntary employer/individual sponsored pensions. More affluent

counties (France, Germany, United States) can pursue a mix of these policy options for a longer period of time. Many transition countries facing more difficult budgetary situations and lacking any private pension provision, quickly realize that this option cannot be sustained in the long-run.

- Other countries try to rationalize their pension system by increasing contribution rates, as in the first case, but also by lowering benefits or seeking other efficiencies (for instance better record keeping and enforcement). However, the basic mathematics of a declining working-age population coupled with an increased number of retirees makes such policies effective only in the short-term.
- The third response is to develop a system that is financially sustainable in the long-term. For the most part, the countries that have undertaken this option thus far tend to be developmentally middle-tier countries: neither so wealthy that they can afford to avoid the reform in the near term, nor so financially strapped to lack the resources for the reform. Some of the countries include Argentina, Bolivia, Chile, Hungary, Mexico, Poland and Uruguay.

Poland's Experience: Poland ultimately pursued the third option. In doing so, a key issue was the review of the other countries' experiences. The following is a list of the countries upon which Poland based major parts of its reform:

- Pillar I – Sweden: Generally, pay-as-you-go systems around the world tend to demonstrate the inferiority of cash accounting and the outcome of poor record keeping. The idea of the Swedish system is to resolve this in part by keeping virtual accrual accounts to record contributions and award benefits. The actual funding of the system continues to use the pay-as-you-go principle to fund the system, but pensions are based on the accruals of the virtual accounts and actuarial analysis.
- Pillar II – Chile, Argentina, Mexico, Peru: Many developing countries contemplating pension reform face similar economic conditions that characterized pre-pension reform Latin America: dominant role of the state in the economy, pay-as-you-go pension system, high social insurance contributions, strong sense of entitlement among the population, relatively shallow and illiquid capital markets.
- Pillar III – United States, Canada, Western Europe: The experience of North America and Western Europe is most applicable for creation of a voluntary, fully-funded pillar of the pension system. These countries have many years of operational experience with these systems. These countries also have useful lessons to offer in the development and regulation of the larger capital markets, design and implementation of information technology systems that pension systems require. However, due to the size and liquidity of markets in advanced economies such as Frankfurt, London and New York, the issues faced in emerging markets can also be quite different.

Design Policy

Life-Cycle Principle: The policy makers of a country undertaking reform need to design a policy that envisions an efficient collections, savings and payment system. As pensions are essentially investments for the long-term, the policy design should stress good investment management -- that is, diversification of risk. As much as possible, the policy designers should outline the processes that information and money will take through the process before implementation begins. Completing this exercise will help identify areas that require additional policy and regulatory attention.

Poland's Experience: In Poland, this phase of the life-cycle started in the early 1990's in the midst of the larger structural reforms Poland initiated. At that time,

Poland lacked both a legal and regulatory framework for private pensions. Nevertheless, demand for the products did exist.

The overriding issue facing private interests was the already high social security contribution (which included pensions, health care and disability benefits) to the existing pay-as-you-go system that crowded out most possibilities for additional voluntary contributions. This rate rose from 38% of gross remuneration in 1989 to more than 45% by the mid 1990's. Interviews with Poles at this time indicated both a desire for immediate pocket money through a reduced social security contribution, as well as a desire for a secure and adequate retirement income.

Like most countries, Poland's dependency ratio continued to fall, reaching close to 2 active workers supporting each retiree by the mid-1990's. Replacement rates remained relatively high at 60% of final salary, and were not related to the amount a person contributed to the system over their career. The average retirement age for women was 55 and 59 for men. Extensive privileges for certain sectors of the economy and lax disability requirements put further strains upon the financial stability of the pension system.

The need for pension reform was recognized from the beginning of Poland's transformation. By the early 1990's it was generally recognized by all responsible policy makers that something needed to change with the pension and social security system, particularly as unemployment resulting from privatization was disguised as disability pensions.

USAID and PwC joined Poland's pension reform effort in 1995, midway through the post-communist government's (SLD-PSL) term, and at the beginning of the end of the rationalizer *vs.* reformer debate inside this government for pensions in Poland. The USAID-sponsored, PwC administered, project's role was to help build consensus, assist Poland's policy makers in understanding the lessons learned in other countries, and decide among the policy options available to Poland. PwC filled this role by assessing for USAID and GoP the opportunities and constraints for the development of voluntary, private pensions in Poland. At that time, PwC reviewed the financial markets, including the legal and regulatory framework, to identify potential GoP counterparts to make the case for reform.

As the need for reform in Poland grew, two policy directions emerged--the Miller Plan and the Kolodko Plan--which preceded the *Security through Diversity* plan finally enacted. We discuss the three reform efforts here to demonstrate the richness of the policy debate and some of the starting points for the policy ultimately adopted.

Miller Plan

In December 1995, the Government of Poland announced its intent to reform the pension system. The Miller Plan, named for the then Minister of Labor Leszek Miller, was initially the Government's blueprint for rationalized reform. This plan proposed a three pillar model as follows:

- Pillar I – Publicly managed, mandatory social insurance system (ZUS) providing a basic benefit for old age, disability and survivorship.
- Pillar II – Privately managed pension pillar allowing employer-based and independent funds. Tax incentives for participation were expected. These pensions would have supplemented the public pensions. Proposals included making this pillar either voluntary or mandatory.
- Pillar III – Individual, voluntary private pension funds with associated tax incentives.

The intent was to reform the first pillar to reduce costs. Such cost reductions would come about through increasing the retirement age for women and reducing preferential benefits for certain groups. This plan was viewed as a rationalist approach, and was criticized by many as

one that Poland could little afford in the medium to long term.

Kolodko Plan
The Kolodko Plan, named for then Minister of Finance Grzegorz Kolodko, proposed adopting the Latin American approach to reform of the Polish pension system. The central idea of the Latin American model was to create a mandatory, fully funded pillar of privately managed pension funds. According to the Kolodko Plan, the second pillar in Poland would have initially consisted of ZUS and privately managed, defined contribution based pension funds. While participants in ZUS would have had the option to switch to the new system, workers entering the labor force would have had to join the new system.

As the financial situation of the social security system continued to deteriorate, politicians were pushed to deal with the issue. In an indication of the maturing political situation in the country, various politicians from both sides of the political "barricade" (post-communist vs. post-solidarity) found themselves variously working for or against the reform regardless of their pre-1989 political background.

The post-communist government of 1993-1997 was itself the battle ground of rationalizers and reformers. Only when "rationalizer" and Minister of Labor Leszek Miller moved away from pension issues to take the Ministry of Interior portfolio, was the way clear for significant reform of the pension system to begin.

Security Through Diversity
In 1997, the Office of the Plenipotentiary for Social Security (OP) was created to definitively design and lead the pension reform effort. The team at OP crafted a plan in the spirit of the Latin American reforms, particularly from the experience of Argentina. However, important components were also included from Sweden's reform effort (Pillar I) and the existing pension systems in the United States (Pillar III). The central idea of OP's reform was to create a three pillar risk diversifying system: a basic, minimum government pension; mandatory participation in a private second pillar; and a voluntary private third pillar.

Over the course of the next three years and two governments, the successive Plenipotentiaries (the late Andrzej Baczkowski, and Jerzy Hausner and Ewa Lewicka) and two office Directors (Michal Rutkowski and Marek Góra) succeeded in managing a virtual team of pension and financial sector reform experts to design and implement the policy. The title of this policy the OP team created received the name *Security Through Diversity*.

As the name suggests, the essential idea of the reform is to provide pensions via several mechanisms, both public and private, and mandatory and voluntary. In this way, the new system diversifies the risk all workers and pensioners face over the long term in the financial markets. For a much broader discussion of the reform details, please refer to *Security Through Diversity* in Appendix A.

Draft Legislation
Life-Cycle Principle: The new legislation has to turn the policy papers into rules and processes for day to day operation of the new system.

Turning policy papers and ideas into effective legislation is a complicated and time consuming activity. Draft legislation will undergo multiple revisions to ensure it meets the policy objectives and eliminates where possible vagueness and opportunities for overly liberal interpretation.

In many reforming economies, the existing law does not contain the basic concepts necessary for development of a private pension system, such as concepts of the trust, the fiduciary and the prudent man. These concepts require that the one entrusted with investing the pension funds of another act for the sole benefit of the beneficiary. In fulfilling the prudent man

obligations, this person must follow the standards of the investment profession at the level of a reasonably trained professional of the field.[3]

Poland's Experience: As Poland is a Civil Code country, such issues needed to be addressed via contractual doctrines rather than the conceptual practice in Common Law countries. Therefore, in addition to the general legislation, it was necessary to draft and pass a large volume of decrees and regulations. The pension reform effort in Poland has struggled with this issue, as government officials have had to learn a large variety of technical issues while the system was already in motion.

One of the major issues encountered in Poland was the drafting of such implementation regulations. As in most countries, major acts of legislation put public policy in place. Details of system operations are left to the regulator that works with the system on a day-to-day basis.

Shortly after the majority of the legislation was passed, forming the basis of the new pension system, Poland also changed its Constitution. Under the new Constitution, regulatory bodies such as the National Bank of Poland (NBP), the Securities Commission (KPWiG), the Insurance Regulator (PUNU) and other regulators were deprived of the right to issue regulations. This change in the basis of regulatory authority seriously hampered the new pension system, as even minor regulatory issues now needed to be an Act of Parliament.

UNFE and the other regulators do not have the ability to issue regulations or interpretive documents that would help smooth initial operations and answer questions resulting from legislation. Other areas of the young financial markets were less affected by this change in the Constitution, as NBP, KPWiG, PUNU had at least several prior years to the Constitutional reform to issue interpretive guidance and decrees. UNFE did not have this luxury.

The lack of authority to issue regulations, which govern the actions of the regulated bodies, has made UNFE's job particularly difficult, and will become more so. Any regulations have to be proposed by UNFE to the Council of Ministers or Parliament for consideration and passage. As the system expands, regulatory issues will become more detailed and complex. UNFE will need to expend significant resources to educate Parliamentarians and high-level policy officials about the importance or direction of needed changes. Furthermore, the regulatory process is open to limit politicization.

In this area, PwC provided review for OP of the Law on the Organization and Operation of Pension Funds in 1998. PwC also assisted UNFE with changes to the pillar III law and with drafting of an accounting decree, a valuation decree and a universal chart of accounts, as well as other regulatory issues.
Major legislation included:

- Law on Organization and Operation of Pension Funds (Appendix F)
- Law on Employee Pension Programs (Appendix G)
- Law on the Reform of ZUS (Mother Law) (Appendix H)

Develop Public Education

Develop Public Education

Life-Cycle Principle: Pension reform is a complicated subject area for which there are a number of deeply held misperceptions. These misperceptions interfere with communication about pension issues; they make it difficult for people to hear the facts about the program and the need for it. The abstract and intangible nature of the reform fosters these myths and misperceptions. Change can only happen if people clearly understand that it is essential.

Inherent contradictions need to be addressed carefully. People often expect

[3] See *Audit Guidance Series Insurance Companies, Dictionary of Insurance Terms*, Barron's Educational Series, Inc., 1987.

the system to change, but not too much. They expect to get more, but to pay less. They want change, but are tired of continuing government reforms.

Therefore, it is necessary to have a carefully thought out and tailored public education campaign. This public education campaign needs to communicate the case for change and needed action to the appropriate audiences. During and after the drafting of the legislation, public education becomes an on-going activity. At a minimum, public education must serve at least two audiences: key policy makers and the general public.

Furthermore, it is our experience that many people in government, whether political appointees or career civil servants, discount the usefulness of public education.

There are several reasons for this behavior:

- Uncommon Practice: In reforming economies, it has generally not been the practice to communicate with the population in a proactive manner.
- Waste of Resources: Public officials may feel that it is a waste of resources to educate the public.
- Benevolent Monarch: Public officials new to government may feel that because they are the "reformers" with the best interests of the public in mind, they do not need to spend resources to communicate with the public.

We observe, ironically, that it is usually the post-communist parties that first learn and become adept at public education and public relations. Reform interested parties might be more successful if they spent more effort in explaining what direction they are leading the country and why.

Poland's Experience: During the efforts to educate and convince Parliamentarians (Phase II), policy makers and government officials to support the reform, PwC and Profile, developed a public education strategy and assisted OP implement the campaign.

From the very beginning of the process, the OP recognized the value and the importance of developing a good working relationship with the media. OP deliberately cultivated relationships with key journalists in the national and local media environments with the goal of educating them about the complicated issues but simple messages of pension reform policy. To help deliver targeted messages, OP used public opinion polls, focus groups, individual interviews and press research, brochures, television and radio.

During this phase, public education was targeted at key-political decision-makers. This strategy was particularly successful in helping to convince key political decision-makers about the need for pension reform and the direction the OP had chosen. This deliberate and targeted public education strategy allowed OP to leverage its relatively small numbers to reach the maximum audience on a regular and as needed basis. This campaign was successful in helping to pass the major legislation.

The Project's attention then turned to the mass education campaign and the creation of a year-long strategy for communicating with the public during the implementation of Phase III of the project. In accordance with project strategy, the main aim of the campaign was to provide the public with full information that would enable people to make informed decisions concerning their pension. Another important objective of the campaign was to support a new image of ZUS and create a positive attitude for the reform itself, which is closely related to the creation of the image of the reform.

The campaign also assumed that the campaign would:

- Eliminate fears of persons not covered by the reform (persons aged above 50); and
- Prevent the feeling of being insufficiently informed – build confidence that information on the pension reform is available.

To reach these goals, the campaign used a variety of public education, public relations and advertising tools. Despite funding difficulties experienced by the Government of Poland, the objectives of the campaign were met. Near the end of the campaign, a survey revealed that over 60% of the population knew where to obtain government information about the new pension system.

For additional information, please see: *Communication Strategy: Promotion of the Pension Reform* in Appendix D and the *Public Education Final Report* in Appendix E.

Develop Institutions

Develop Institutional Capabilities

Life-Cycle Principle: A country undertaking pension reform on the scale that Poland and many Latin American countries have needs to develop the requisite institutional capabilities in the private and public sectors to operate the new system. This will involve both creating new institutions and reengineering old ones. The major issues that all institutions face is in the development of human capital and the development of processes for handling normal business in a transparent manner.

Poland's Experience: With regard to the development of human capital, the Polish financial sector has faced huge demands over the past 5 years. Within the last four years, the Polish fund market has grown from about 4 investment fund companies and one regulator to 35 investment and pension fund companies (with over 70 funds) and two fund regulators, namely, the Securities Commission (KPWiG) and UNFE. UNFE itself came into existence just over two years ago and now employs 150 staff.

Furthermore, pension funds are required to maintain a diverse portfolio and are allowed to invest abroad. In the insurance market, barriers to foreign entry have been lifted, and many play a significant role in the Polish market. This explosive growth has put strains upon the human capital of the financial sector with direct effect upon the development capabilities in institutions.

In the area of processes, even the simplest of activities can prove difficult and time consuming at first. As experience quickly grows, new and better ways of doing things will become evident. The risk the new institution faces is that despite all best intentions, it will appear to be non-transparent or unfair, as it treats its clients differently or by different procedures over a relatively short period of time for the same issue. To protect the reputation of the new institution, overwhelming emphasis must be placed on building transparency and a sense of fair play for all participants by explaining why procedures are changing and what the changes mean.

E. Major Project Accomplishments

This assistance has worked from the start to the finish of the life-cycle of the pension reform. Over the course of 5 years, this project has had direct impact upon a variety of pension related activities on behalf of UNFE and OP. Within these various areas, some issue's stand out.

Phase I Accomplishments

The major accomplishment of Phase I of this project was to summarize then current pension reform thinking in Poland and focus USAID's attention on key areas for further assistance at the start of the reform life-cycle. In Phase I of the project, a multi-disciplinary team comprised of regulatory specialists and practitioners reviewed Polish financial sector products as well as the legal and regulatory framework to assess constraints and opportunities for private pension fund development. Based on the success of PwC's assistance in this area, USAID awarded PwC the follow-on Phase II project on a sole-source basis.

Phase II Accomplishments

In Phase II, the assistance focused on the passage and promotion of pension reform legislation. Phase II of the project had the following major accomplishments:

- By examining pension system development and restructuring in Chile, Argentina, and Hungary, PwC consultants were able to use pertinent and comparable data as well as "lessons to be learned" in the development of private pension funds for Poland. Based on the team's findings, PwC prepared recommendations on the future legal and regulatory framework for private pension funds in Poland.

- The project supported the Government of Poland in the process of developing a multi-pillar pension system. PwC provided technical assistance on the issues of public education, training and institution building to help the Government of Poland create this new pension system.

- The project relied on both training and technical assistance, drawing on the expertise of practitioners in countries that have already undertaken such reform. This combination of activities was carefully planned to support Poland's reform efforts already underway. The project thus helped create and adopt comprehensive, implementable legislation to establish private, capital-based pension funds in Poland.

Phase III Accomplishments

Phase III of this project was successful in helping to establish a new, private, fully funded pension system in Poland. The project helped build the institutional capability of UNFE and helped educate the public about this new pension system. In particular, this project helped:

- UNFE license 21 pension fund societies (PTEs) and pension funds (OFEs), thus laying the groundwork for the creation of a competitive pension fund market. Over the period of approximately 9 months, UNFE reviewed over 25 applications for pension fund societies and pension funds. The project helped establish the initial procedures and criteria for reviewing applications.

- UNFE develop the knowledge and information technology capability to collect and analyze the pension fund portfolios and trades on a daily basis. The analysis is based on a growing information technology system. UNFE today has an operating system with clean databases that accepts over 150 types of data on a daily basis in electronic format from each pension fund. To conduct this information collection and analysis, UNFE uses software purchased with project funds. The project also provided training in capital markets analysis issues and the use of the software.

- Develop a comprehensive training needs assessment for UNFE. The training needs assessment identified

the skills and knowledge a pension supervisory would need, and then matched this to the current needs at UNFE. The project then helped meet some of these training needs. In addition, based on this project training needs assessment, the Government of Poland provided co-financing of over $300,000 over a period of one year to help meet the needed training.

- Develop a public education strategy for the pension system. The Plenipotentiary for Social Security Reform implementation team conducted an innovative pension reform public education campaign, based on this strategy. That project funds were well utilized is demonstrated by the results of an October 1999 survey, in which over 60% of the population declared that it knew where to obtain information about the new pension system.

- UNFE in drafting and submitting amendments to the Laws covering the Pillar III program.

- Support UNFE in the day-to-day regulations of the Pillar II pension funds in the areas of accounting, valuation, conflicts of interest and what information should be gathered by UNFE from the funds in these areas.

In addition, this project played a role in supporting the cooperation agreement between Mexico and the United States, known as the Merida Plan. The purpose of the Merida plan is to leverage the lessons learned of the Mexican economic reform process to assist other reforming countries, such as Poland. In cooperation with USAID/Mexico, the project helped leverage the Mexican pension reform experience for Poland.

F. Lessons Learned

As stated above, the key purpose of this document is to explore the lessons learned from the successful complete life-cycle implementation of pension reform in Poland, such that they may be used to assist in other reform efforts world-wide. The lessons learned from this project are divided into three areas:

- Systemic Reform Issues;
- Institutional Building of the Pension Regulator; and
- Designing and Supporting the Public Education Program.

Prior to reform, Poland had a pension system similar to that of many other countries in the region, and based on principles used world-wide. Poland itself examined lessons learned from Latin America, as pay-as-you-go systems tend to leave host countries and economies in similar situations, regardless of geographical location.

The basic economics of pay-as-you-go systems make them similar across countries, regardless of the stated ideology used. Where countries tend to differ is in the immediacy of the need for reform and other economic structural and institutional issues that may add to the problem. For these reasons, it is now vital that future reform efforts in other countries study the system level lessons learned of pension reform in Poland.

1. Lessons Learned: Systemic Reform Issues

Many of the systemic lessons learned deal with the design and implementation of process and information technology solutions. To date, most of the donor attention in terms of reform assistance has been drawn into the area of policy design and assistance with the development of the regulatory structure. Ultimately, however, one of the key lessons to be drawn from the project is that IT matters, and the longer it is ignored, the greater at risk is the reform *implementation* process.

In developed countries, the information technology that back mutual fund, unit trust, 401K and IRA type plans is assumed. Yet existing information technology, human capital and institutions in developing countries can be far from up to the task of designing and implementing these systems. Although the economies of the developed world may have less to offer in the way of policy development for pension reform, **the backbone of pension system operations should be based on the operational experience and procedures that meet internationally recognized and recommended standards.**

Within the first few months of the project, the PwC project issued a document identifying the weaknesses of the membership and collection processes and analyzing the system found at ZUS. Similarly, and over the course of months, opinions were issued about various operational procedures such as: registration of sales agents, transfer of funds from individual accounts, further details about membership and collection, and mergers.

Although these reports did not find a willing audience at the social security agency (ZUS) or elsewhere in government until the problems had occurred, they were able to help UNFE prepare for the subsequent difficulties that arose, since they had advance warning. UNFE itself is an end-user of some information from the central collections and record keeping system (KSI System). Although UNFE had little influence over the information it received, UNFE was to some extent able to prepare for the inevitable confusion in contribution ownership, fund membership and participant rights issues. Nevertheless, from the start of the new system, UNFE was inundated with complaints and inquiries from pension fund participants. The core driver of most complaints is the inability of the KSI system to identify with certainty any one participant or his or her status in the system.

The experience of the KSI system at ZUS has rightly motivated UNFE to move in a

cautious and deliberate manner in developing its own IT system. As a result, UNFE today has an operating system with clean databases that accepts over 150 types of data on a daily basis in electronic format from each pension fund. Based on this system, UNFE is able to track the investments of the pension funds to ensure that the funds are within proscribed investment limits, to investigate market irregularities in an informed manner, and to collect information about the system for further analysis. Establishing this system is one of the major successes of this project.

Keep the Information and Money Together
Poland's new pension system faces a number of challenges. However, the most significant challenge is the continuing inability of ZUS to identify individuals in the system, their account (or accounts!), the contributions to be assigned to that account, and the second pillar pension fund which individuals have joined. This issue threatens the very existence of the system.

For instance, Mexico suffered a system failure in 1994, when the same inability to identify participants and their money overwhelmed the system. Millions of unidentified dollars worth of contributions remain on account in banks to this day. The threat to the Polish system cannot be understated.

The new pension system needs to be able to identify contributions at every step of the process. If money is paid for an employee and the corresponding information is not consistent, the employee won't be recognized for the contributions at retirement. For the employee, it would have been the same as if the contributions were not paid.

Information about the contribution and the contribution itself must travel together at all times. A pension system with individual accounts requires a very precise collection and distribution process. In a "defined benefits" pension system, the money is kept in a general account for all employees.

However, in "defined contribution" pension systems **the detailed information about the contributions is as important as the money itself**. Further, it is actually the information about the contribution that is the most important, as the authorities can almost always chase or repossess money. However, as the Polish, Mexican and other pension reform cases demonstrate, recalling or recreating lost information is extremely difficult, if not impossible. Information can lead one to the money. In a market economy, unidentified money is useless.

Late in Phase II, and then more in-depth early in Phase III, PwC analyzed the operational plans for the transfer of information, and contributions models available from or provided by various governmental agencies. PwC also examined the membership and collection processes, through interviews held with ZUS, OP and UNFE officials to validate the feasibility of the processes and of the administrative and technological capacity of the Social Security Institute (ZUS) to implement these processes.

Allow Only One Identification Number for Each Participant
Each individual participant needs to have one, and only one, unique identity number. International experience demonstrates that the use of more than one identification number creates a large number of duplicate accounts and confusion in the system databases. As a participant's identity is the basis of the defined contribution system, compromising the participant's identity compromises the integrity of the system.

In Poland, as many as four numbers are used to identify participants. In such an environment, ZUS is unable to confirm how many participants the system has, who is a member of which fund, or transfer contributions for individuals to the proper pension fund account.

Define Detailed Processes and User Requirements Before Purchasing Information Technology Solutions.
Policy decisions are only the beginning of implementing a new pension system. Information technology implementers must design detailed processes of each user in each institution to meet the guidelines of the new pension reform policy. This means that the processes need to be defined first. Implementers need to understand where and how the information and money will flow through the system, and which institutions and individuals will have responsibility for ensuring that it does so.

Keep the Old Information Technology and Process Systems Running Parallel in the Background.
The new pension system should manage the risk of initial problems in the system by keeping the old systems running in the background. The systems should be run at a minimum level to ensure that the contributors can be identified. Although this will involve additional costs, it does provide the system with security until any start-up issues are resolved.

The Polish system suffered problems when the old system at ZUS was turned off before the new system was proven. As word reached employers that the new information technology system was unable to identify payments or payees in a timely manner, or perhaps at all, many unscrupulous employers began delaying payments or stopped paying them all together. This issue was only resolved when the old system was turned on again and controllers began to chase contributions past due.

Include Accountants and Information Technology Specialists in the Policy Design Team and in the Implementation Institutions.
Comprehensive pension reform is an extremely ambitious reform process and usually takes place in a complicated political environment. While policy is generally understood to be the realm of economists and lawyers, it is also valuable to ground proposals or certain policy ideas with professionals who will be left to implement and run the system.

In a pension system, there are two professions that play a particular role in the day-to-day functioning of the system: accountants and information technology consultants. Earlier attention to certain accounting, processes and information technology issues may have resulted in a smoother transition from the old to the new system.

Future reformers in other countries should consider writing specific requirements regarding accounting standards into the law, particularly if existing accounting regulations are insufficient or silent on some pension or investment fund issues. The regulator should be strongly encouraged to include industry in a drafting of such documents.

As a provisional benchmark, we propose that the purchase of any information technology take place only after the production of a detailed process map schematic and a list of user requirements.

Develop and Allow Strong Leadership.
This reform benefited from strong political support and shielding from the three individuals who served as Plenipotentiary: Andrzej Baczkowski, Jerzy Hausner and Ewa Lewicka. It is important to note that these three individuals come from different political backgrounds, but were nevertheless able to agree on and support the themes of the reform. The political skill and maturity of these three individuals did much to move pension reform from being policy talk between ministries, to stand as a concrete and innovative pension reform program. Significant credit for envisioning the policy direction of the reform, as well as managing the day-to-day reform effort, must also be attributed to the two Directors of OP, Michal Rutkowski (October 1996 to September 1997) and Marek Góra (October 1997 to March 1999).

Be Inclusive and Politically Savvy. From the start of the policy design stage, OP took pains to ensure that all responsible political segments were included in events (such as study tours) and informed about developments. However, it is important to note that OP leadership did not hesitate to rebut or correct public criticisms based on misinterpretations or misunderstandings. Thus, in a fairly short time span, pension reform in Poland jumped the gap from discussion to implementation. The OP was able to bridge this gap by relying on the credibility of its economic arguments, its strong leadership, and by cultivating an inclusive and deliberate work ethic. The OP included responsible and interested parties in the process and set deliberate goals and performance targets.

For instance, trade unions and employers were consulted via the Tripartite Commission from the beginning of the process. Later, in part due to the virtue of this co-operation, Ewa Lewicka from the Solidarity Trade Union would become the Plenipotentiary to oversee much the reform's implementation.

It should be noted that the structure of the OP, the institution charged with shepherding the reform process, seemed particularly well suited to lead the way to consensus. The OP is largely a virtual team of Polish economic experts, government officials and technocrats that drew members from various GoP ministries and agencies, as well as domestic think tanks and consultanties. Because OP membership was derived from a wide cross section of stakeholders, it had credible access to various responsible political camps and was able to survive with its team and the proposed policy intact through the changing of government.

Promote Rational Investment Regulations Rational investment regulations are critical for the long-term health of the pension system. Unless the funds are invested in a rational manner, the entire reform is compromised. Therefore, in this regard, developing economies should look to the Western European and North American capital markets when setting investment regulations and policies.

However, on a brief aside, based on our work in Poland and elsewhere in the world, it is our observation that many pension implementers and host government authorities have a tendency to focus excessively on investment regulations issues to the detriment of other pension issues. Where the money is invested, in what amounts, by whom, and expected performance are critical. **However, only after the reforming country develops a balanced pension reform policy and implements a system that properly tracks the information and money of the system, does the investment issue become truly relevant.** The strength or weakness of investment performance is of little importance if the money is unidentifiable.

Investment Limits: Pension funds must be allowed to invest in a diversified portfolio to provide a basic minimum security to the system as well as to enable pensioners to obtain an adequate pension. Participant interest in a diversified portfolio and long-term returns should guide investment policy and outweigh parochial interests in supporting industries or certain sectors or the domestic economy.

The growth of strong capital markets and the economy are better achieved through economic policy that will attract capital, rather than relying extensively on captive capital. Currently, pension funds in Poland are allowed to invest up to 5% of assets abroad in OECD countries. This limit is sufficient for now. However, Poland risks over pricing assets or the development of an asset bubble in the future if the limit on international investment is not raised, as it is unlikely that the Polish capital markets will grow with the speed **and quality** necessary to absorb the relentless increase in pension fund contributions.

The need for asset diversification will not be met only in the domestic Polish markets, as certain industries (for instance tires or tobacco) are not represented in

companies listed domestically in Poland and which are therefore unavailable as pension fund investments. Although mandatory defined contribution pension reform serves as an excellent method to develop the domestic capital markets, authorities in Poland will need to continually re-evaluate the proper balance between the need for a diversified portfolio, domestic capital needs and the health of the capital markets.

To this end, the Polish pension system should seek to participate in the free flow of pension fund capital when Poland accedes to the European Union. This of course assumes that the EU itself by that point will require such free flow of pension capital among it members, which it does not currently do. Many of the current EU members also maintain significant domestic investment requirements for pension funds.

Appropriate Pension Fund Activities: Policy makers and regulators should also ensure that pension funds are not allowed to perform financial operations better left to other financial institutions. For instance, pension funds in Poland are allowed to offer credits and loans. However, funds do not fall under the regulatory scrutiny of the banking regulator; nor do the funds maintain the risk management and loan servicing capabilities to ensure that the loans made have the proper risk; nor are funds required to keep a reserve to cover bad loans. Legislation is silent on how UNFE could oversee such loans in more than a basic manner. Shortly, millions of dollars in loans could be entering the economy under a poorly regulated credit and loan regime.

Valuation: Pension funds must invest contributions in fairly and transparently valued instruments to protect and grow the value of the pension. The purpose of fund valuation requirements is to assure that pension funds report the value of assets fairly. Fund valuation requirements typically follow generally accepted accounting principles, although certain assets have special valuation rules for pension funds. As a result, for publicly traded assets, pension funds typically use market values. However, for less liquid assets, such as thinly traded bonds, methodologies are specified to assure that these values are not manipulated.

In defined contribution pension schemes, the pension amount depends on the value of the funds accumulated at retirement. Thus, flaws in the valuation system or principles used can have drastic consequences for pensioners and the state. Although the valuation of pension fund assets deals with relatively narrow, technical issues, the consequences of serious valuation errors, especially if they undermine confidence in the public pension system and securities markets, can be quite extreme.

A brief enumeration of these problems could include any or all of the following:

- Inequitable distributions of market value between persons who currently are contributing to the system and those who are receiving benefits. As the system reaches maturity, the most important transfers resulting from mis-priced assets would be between workers and retired persons. At the current time, when there are few if any retirees in the system, this problem has not caused serious loss to any participant, but would be an issue in the future.

- Deliberate or accidental errors in pricing fund assets and calculating fund net asset values will affect the fees fund managers collect (based on a percentage of assets under management).

- The change in the fund's net asset value (NAV) and rates of return significantly influences a manager's ability to market and attract new participants (and their contributions) to the fund. This may provide an incentive to artificially inflate fund NAV's around reporting dates for marketing reasons.

- Pension funds are certain to become dominant participants in Poland's capital markets. Disincentives by the funds to hold particular types of assets, such as treasury bills or bonds because of unreasonable valuation requirements, can adversely affect the cost to the Treasury of financing government debt and the efficiency with which the central bank can conduct open market operations and monetary policy.

- Lack of confidence in the ability of regulatory bodies, such as UNFE, the SEC and others, to provide appropriate regulation for those portions of the financial markets under their supervision, can reduce the willingness of foreign investors to commit capital to the Polish markets.

Our assistance identified two serious valuation problems for fixed income securities in pension funds, Treasury bills and Fixed Coupon Treasury Bonds. Both problems resulted from how UNFE and others interpreted the Pension Fund Valuation Decree. Finally, in June 2000, following the close of our project, GoP resolved these issues in a new decree sponsored by the Ministry of Labor and Social Policy and UNFE via the Council of Ministers. However, we provide a discussion of the situation prior to the new decree regarding two important assets.

- *Treasury Bills.* Treasury bills, like most money market instruments, carry no coupons and provide returns to investors only in the form of discounts from par value. Their market value is, simply, the present value of their eventual payment at maturity. For short term bills, having 3-months or less remaining to maturity, market value is not likely to deviate significantly from cost plus straight line amortization of the purchase discount. The previous valuation decree, however, did not allow the amortization of short-term treasury bills. Rather, authorities required valuation of these instruments at the cost on the books of the funds, which was clearly inappropriate.

- *Fixed Coupon Treasury Bonds.* Pension funds were required to value these instruments on the price of trades on the Warsaw Stock Exchange. However, these instruments traded infrequently on the Warsaw Stock Exchange. Requiring valuation of these bonds in a market in which they are not actively traded and in a market which is known to be manipulated cannot be justified. Furthermore, such a requirement is not justifiable when an active domestic inter-bank market, and even an international inter-bank market for GoP treasury bonds exist and from which pension funds and the market can easily derive prices.

  There are a number of sources for such prices. One procedure would be to use the average, closing bid price for Fixed Coupon Treasuries of each maturity derived from the screens of three brokers who are active in the inter-bank market. Other procedures, involving an average of bids displayed on Reuters by active dealers in the bonds, also could be considered. Either would be a substantial improvement over the use of a quote on the Warsaw Stock Exchange, from a small transaction, which could be anywhere from one to five months old.

Use Appropriate Mix of US and Third Country Talent.
Pension reform is an area where many other countries have a comparative advantage in terms of knowledge and experience. US sponsored efforts should not preclude the use of these other countries' experience. It is more important that project staff have the right functional experience, and less important their country of origin. The proper mix for pension reform may include using the experience of reform from Latin America on policy design and implementation, and US experience in such areas as financial market regulation, pension fund

management, and information technology system design.

2. Lessons Learned: Institutional Building of the Pension Regulator

The functionality of new and reformed institutions determines whether the new system will succeed. The institutions must fully understand their role and competencies in the new system and proactively cooperate with other system institutions. Finally, institutions must provide professionals with an area in which to develop and apply their skills and knowledge.

Soon after the major elements of the policy framework were in place, this project correctly turned its attention to addressing the institution-building needs of the regulator. The lack of a strong and balanced supervisor that operates in a transparent manner prohibits markets from functioning efficiently and effectively.

The business of supervision is similar across the financial sector. Transparency in operations, flexibility in adapting to the growing market, cooperation with other financial sector supervisors and between the supervisor and industry, even-handed treatment of all industry participants, and protection of the individual investor's rights are key areas on which every supervisor should focus.

Over its decade long experience in Poland, USAID has developed a positive reputation in Poland on supervision matters, as it has played a key role in helping to build the securities and banking regulators. Therefore, it made great sense for USAID to use its comparative advantage and knowledge to work with the various GoP client groups in this project to focus attention on the importance of proper pension supervision development.

In terms of supporting the development of the regulatory institutions, it is critical to be able to mobilize the right types of expertise quickly and remain in tune with the clients' requirements, as needs emerge in the nascent organization. A new supervisory agency will find itself trying to define the working reality of its mandate. Legislation lays out the policy direction, and therefore, by its nature, is usually high level and may be seen as vague when it comes time for implementation. A supervisory agency will need expert advice to move from theory to practice—to determine quickly the proper interpretation of legislation for day-to-day activities.

In this regard, encouraging the new agency to establish linkages with other financial sector regulatory institutions in the country and abroad can be critical. Drawing on other regulatory experiences in the country can help the new supervisory body avoid the "reinventing the wheel" syndrome.

Promote an Understanding of the Processes to be Supervised.

Regulators need to understand the various processes of the system, whether they oversee all the processes in their entirety or not. This issue is critical, as in many developing economies such as Poland, there is a scarcity of human capital with significant long-term experience in the financial sector. A pension system is a holistic unit, and problems in one process area will cause problems elsewhere in the pension or financial system. The regulator needs to have the skills to identify where the problem resides, understand the roles of all the institutions, and act accordingly.

Two processes are particularly key to the health of the pension system: the affiliation process (i.e., the process of signing up pension fund participants) and the contribution collections process. Within the first few months of the project, PwC performed an analysis of these processes, identifying strengths and weaknesses. Unfortunately, most of the issues identified in this analysis are outside UNFE's immediate jurisdiction. As our analysis did not find a willing audience elsewhere in the system, it was necessary to wait until the issues emerged in their entirety before corrective action was initiated.

Similarly, and over the course of the project, PwC issued opinions about various operational procedures. These included: registration of sales agents, transfers of funds from individual accounts, transfer of participant information between funds, further details about affiliation and collection, portfolio investment and about pension fund mergers. In all cases, PwC encouraged UNFE to develop analytical understanding beyond the individual case at hand, and to try and understand the cause and effect of the issue and consider methods to correct the process.

Develop a Commitment to Training and Promote Staff Skill Diversity
A new regulator will need to master a large volume of information quickly. However, they must also learn to use their authority in a discrete and measured manner, and only when they have a high degree of certainty about the issue at hand. International experience demonstrates that the regulator must follow the innovations in the market closely while realizing it will continually evolve. This requires a comprehensive training program, which will provide an appropriate degree of restraint to be combined with skilled knowledge, and mature judgement.

Pension regulators need staff with a wide variety of skills. Lawyers, economists, accountants and information technology specialists are all vital in a pension regulatory agency. Where possible, and based on the experience of supervisors in other countries, pension regulators should source staff with strong audit and accounting skills.

With these needs in mind, PwC developed a comprehensive training needs assessment for UNFE. The training needs assessment identified the skills and knowledge a pension supervisory would need, and then matched this to the current needs at UNFE. The project then helped meet some of these training needs.

The original staff at UNFE is characterized by a large number of economists and lawyers. As such, issues surrounding accounting and information technology were often given less attention than would have been optimal early in UNFE's operation. Accounting is the very basis of the defined contribution system, in terms of recording contributions and tracking investments. Information technology is the key enabling tool for the regulator. Although UNFE recognized from the start that accounting and IT issues are key to successful supervision, certain actions and decisions were delayed while staff obtained required training or IT staff were hired. Furthermore, as a new reforming economy, Poland generally faces a lack of qualified accountants and information technology specialists. Thus, UNFE's strategy to grow these skills internally is justified in the long-term.

UNFE itself understands the need for a commitment to training, as fully 10% of staff time is devoted to training activities, and staff regularly attend courses until 7:00pm several times a week. There are few organizations anywhere with such a commitment to training. Furthermore, based on this project's training needs assessment that UNFE and PwC developed, the Government of Poland provided co-financing of over $300,000 over a period of one year to help meet the needed training.

Develop Different Supervision Strategies for Pillar II and Pillar III.
Although they are both pension saving mechanisms, Pillar II and Pillar III characteristics demand that each have a unique approach to supervision.

Pillar II Supervision Strategy. Pillar II is a mandatory mechanism comprised of a small number of asset managers (pension funds). As such, it is possible and desirable that the supervisor maintain detailed oversight into the activities of the funds. International experience from other developing markets demonstrates that an *automated systemic supervision system* that allows the regulator to check numerous details of participant accounts and investment actions and other fund operations on a real time or near-real time

basis does much to protect participant rights.

At the beginning of 1999, PwC and UNFE developed a general model for supervision through the use of an automated system. The module set forth the principal activities, which, based on the experience of international best practices, UNFE will need to check to fulfill its inspection and oversight responsibilities.

Work under this contract focused on defining user requirements, and, using this information, defining the data and process models. During the process of defining requirements, intense work was done to develop the supervisory mechanisms to be used by the supervisory agency, including financial, accounting and operational issues. The definition included follow-up on the correction of irregularities detected during the supervision and, ultimately, usage of the information received in order to obtain statistics on the system.

Furthermore, in mid-1999, USAID agreed to spend $100,000 to purchase Genio and Business Objects software. Set on the existing UNFE Oracle platform, this software created the basis of the automated system, provided UNFE with a basic functionality to check the investment activities of the funds, and provided UNFE with a testing ground to determine other data needs and user requirements. The project provided assistance via Hobbit and InfoViDE in order to define user requirements and build the system.

Pillar III Supervision Strategy. Pillar III is a voluntary pension mechanism and it is expected that there could be hundreds, if not thousands, of employee pension programs within a 5-7 year period. In such a situation, it is unlikely that UNFE would have enough resources to provide the same level of detailed oversight that Pillar II receives. For this reason, PwC proposed that UNFE use *Risk Based Supervision.*

Risk-based supervision may be defined as a supervisory regime where the supervisor grades the degree of risk associated with a program and applies oversight accordingly. Risk-based supervision may take different shapes and forms. For example, the supervisor may adjust the frequency and scope of on-site inspections in relation to a pension program's overall risk ratings. The supervisor will inspect the most risky programs yearly in an in-depth and customized manner. The review of financial statements and other documents filed on a regular basis may be made more extensive, or more frequent, or both for pension programs with the highest degree of risk.

Some of the criteria that can be used to determine risk include:

- Filing history
- Complaint history
- Compliance history
- Irregularity history
- Contribution remittance history
- Financial soundness of sponsoring financial institution/pension fund
- Competence of administrators of sponsoring financial institution/pension fund
- Willingness to co-operate of administrators of sponsoring financial institution/pension fund
- Quality of investment management
- Degree of risk of investment portfolio
- Quality of communication with participants
- Administrative performance
- Soundness of the employer
- Soundness of the employer's industry
- Number of participants
- Amount of assets under management
- Outstanding special situations like merger, division, liquidation, etc.
- Presence of unions
- Industry-wide or multi-company pension programs
- Poor investment results
- Fees, commissions and other charges
- Auditor
- Computer systems

Promote Inter-Institutional Cooperation
The nature of regulation is such that the regulators often trail market developments and are forced to be reactive. Furthermore,

regulators in a democracy must use their authority judiciously and ensure that they are fully informed. For this reason, it is beneficial to promote the sharing of appropriate information between the various financial sector regulators to ensure the widest possible understanding of market developments. Protocols of Agreement, Memorandums of Understanding, or other methods should be used to help the regulators cooperate.

In the case of Poland, regulating Pillar III requires significant cooperation as UNFE, the Securities Commission, the Insurance Regulator and others have influence and oversight over the system and its participants. In Pillar II, UNFE, ZUS and the Banking Regulator all need to trace the flow of contributions for their own reasons, but there is no need to duplicate work. UNFE and the Securities Commission share oversight of the Pillar II funds, as well.

Experience from mature markets demonstrates that regulation is more effective when the regulator acts in a proactive manner toward the market. The regulator needs to promote cooperation and a sense of good-will within the system. Such co-operation and good-will can be developed through working groups with industry on specific issues and providing periods for comments on draft laws and regulations.

As time has passed, UNFE has developed confidence and closer working relationships with other regulators. One of the capstone events for the project was a working group session between UNFE Pillar III supervisory staff and representatives from the Securities Commission and the Insurance regulator. UNFE's relationship with industry has also developed, as the initial apprehension on all sides regarding the initial licensing processes has faded and dialog has been undertaken on some points of mutual concern.

Leverage Internal Compliance to Enable the Regulator.
Regulatory agencies have limited resources. One method to maximize supervisory oversight with these limited resources is to promote a policy of internal compliance in the regulated institutions.

Interviews with PTEs, the Chamber of PTEs and UNFE disclosed not only an awareness of the importance of compliance but also the desire to promote a culture of compliance. Representatives of all PTEs interviewed had some form of documented compliance procedures, policies or a manual, and designated individuals that performed different aspects of the compliance function.

The compliance process begins with all individuals and entities associated with a pension fund. It is their responsibility to abide by the rules and regulations related to their respective areas. It is the responsibility of senior management to ensure that employees are informed of compliance requirements related to their functions. In addition, there should be a Compliance Officer at each pension fund.

The Compliance Officer's responsibility should be to monitor compliance and respond to customer complaints. It should be noted that it is not a Compliance Officer's responsibility to formulate policies and procedures. That is the responsibility of each operational unit and of senior management. The Compliance Officer's responsibility is to assess compliance with these policies and procedures, and to make recommendations regarding such guidelines as a result of a compliance review or provide input prior to formulation of these guidelines. The Compliance Officer and/or the Legal Department may assist senior management in apprising employees of compliance requirements related to their function.

3. Lessons Learned: Designing and Supporting the Public Education Program
From the very beginning, the OP recognized the value and the importance

of developing a good working relationship with the media. OP deliberately cultivated relationships with key journalists in the national and local media environments with the goal of educating them about the complicated issues but simple messages of pension reform policy. To stimulate informed public discourse, OP used public opinion polls, focus groups, individual interviews and press research, brochures, television and radio.

During Phase II, public education was targeted at key political decision-makers. This strategy was particularly successful helping to convince key political decision-makers about the need for pension reform and the direction the OP had chosen. This deliberate and targeted public education strategy allowed OP to leverage its relatively small numbers to reach the maximum audience on a regular and as needed basis.

Phase III focused on mass education, to help system participants understand their place and required decisions in the new system. This campaign took place as the creative and destructive chaos of system implementation began. As such, the campaign had to respond in a flexible manner to a variety of developments and chance tools as conditions and resources allowed. While the campaign was hampered by limited implementation finances, a highly motivated and skilled public education implementation team at the OP was the critical element that made the campaign a success.

Obtain (written) Commitment from the Host Government on Co-Financing
Co-financing is often a key mechanism to secure a host government's buy-in into the assistance process. When significant sums of money or controversial decisions are required, it would behoove USAID to negotiate a signed commitment to co-financing with the host government.

In the case of Poland, based on the verbal commitment USAID received from high level GoP officials, the original implementation budget for the public education campaign was to be between 7 and 10 million USD. However, over time this amount decreased. Furthermore, access to the funds was delayed, such that the public education campaign lost valuable time to communicate competition-free with the public.

Obtain Donor Agency Cooperation
International donors and lenders have a key role in the development of financial markets. It is therefore extremely important that they communicate with each other as to what assistance they can and cannot provide, as well as communicate to the appropriate host government personnel what conditions must be fulfilled to secure funding.

Donor cooperation in Phase II on a variety of issues was extensive. USAID, The World Bank, EU Phare, U.S. Department of Labor and the Government of Sweden are just some of the institutions that contributed to the overall success of the reform, as well as the education campaign to decision-makers.

Develop a Flexible Public Education Strategy
The public education strategy needs to be flexible in order for it to respond to the changing environment and the new opportunities created during an ongoing reform process.

In Phase III, in cooperation with OP staff, Profile and Corporate Profiles DDB developed a comprehensive communication strategy for mass education. This team worked to modify the strategy and implementation plan as reform circumstances and finances changed communication needs and possibilities.

For additional information, please see *Public Education Final Report in* Appendix E.

The Regulator Needs to Play an Active Role in Educating the Public
Pensions are a complicated subject of which every worker must have some understanding. As the primary subject matter expert in the on-going system, the

regulator has an obligation to engage the public in meaningful dialogue and explain participant rights and responsibilities.

Up to now, UNFE has only been able to commit limited resources to this area. UNFE has demonstrated more interest in developing scholarly reports and analysis about the operation of the system. As the system matures, participants can be expected to have greater expectations of UNFE's public education role. In particular, the public education role in Pillar III will be acute. Pillar III presents for the first time myriad financial, legal and product choices to employers and employees unfamiliar with voluntary pension issues.

Best Available Copy

G. Conclusion

For the past 10 years, Poland has undertaken numerous reform efforts in the administrative, agricultural, defense, financial, political, and social sectors. Until pension reform, these have all been in an effort to try and reach the level of systemic and operational sophistication common in Western Europe and North America. However, Poland's new pension system represents a benchmark for countries in the developing and developed world.

Certainly many of the other developing countries have already visited Poland to learn from their experience. Yet Poland's new pension system has implications and lessons for systems in the European Union and in North America. In certain regards, particularly the extensive use of diversity to provide security at the systemic level, this pension reform is the first reform effort where Poland has surpassed countries in these regions.

As the European Union and North America learn more about Poland's pension solutions, they may look to apply similar resolutions to their own over-burdened pension systems. Ironically, it is these countries that funded much of the development projects or provided much of the initial investment in the private sector. However, there could be no better return on investment than to have similar successes and options in their home countries.

As USAID closes operations in Poland, it can be satisfied that it has been part of Poland's pension reform success. The way the project has been designed and implemented by USAID and PricewaterhouseCoopers provides a number of valuable lessons for other donor and government funded efforts in this arena in the years ahead. This project played a key role is supporting the Government of Poland in its ambitious and successful pension reform effort, and USAID and other donor agencies leverage this experience for application in other reforming countries.

Best Available Copy

Implementing Poland's Private Pension System, Phase III
Finishing the Pension Reform Life-Cycle
Final Report - Appendices
Task Order 801 (EPE-I-00-95-00043-00)

PricewaterhouseCoopers LLP
June 30, 2000.

TITLE OF REPORT:	Implementing Poland's Private Pension System Final Report for Phase 3
TASK ORDER:	Implementing Poland's Private Pension System
CONTRACT:	Omnibus II
PROJECT NUMBER:	110-0005-3-562-7075
CONTRACT NUMBER:	EPE-I-00-95-00043-00
TASK ORDER NUMBER:	801
CONTRACTOR:	PricewaterhouseCoopers LLP
USAID PROJECT OFFICE:	USAID/Warsaw Al. Jerozolimskie 56C 00-803 Warsaw Poland
USAID COTR:	Mr. Mikołaj Lepkowski
DATE OF THE REPORT:	June 30, 2000
ADDITIONAL INFORMATION:	Contact Tessie San Martin Telephone: + 1-703-741-2422 E-mail: tessie.san.martin@us.pwcglobal.com

Best Available Copy

Table of Contents

Appendices:

Appendix A: Security Through Diversity

Appendix B: Phase I Final Report

Appendix C: Phase II Final Report

Appendix D: Communication Strategy

Appendix E: Public Education Final Report

Appendix F: Law on Organization and Operation of Pension Funds

Appendix G: Law on Employee Pension Programs

Appendix H: Law on the Reform of ZUS (Mother Law)

Best Available Copy

Best Available Copy

Security through Diversity

Table of contents

Introduction 2

1. Recent performance of the pension system 3

2. The struggle for pension reform 6

3. A description of the pension system 10

3.1 Financing and operations 10

3.2 The contribution rate 11

4. The reformed first pillar 12

4.1. The accumulation phase 12

4.2. The benefit-distribution phase 13

4.3 Relating benefits to lifetime contributions 14

4.4 The demographic reserve fund 14

4.5 A new role for the social insurance administration (ZUS) 14

5. The second pillar 15

5.1. Pension-fund regulations in the accumulation phase 15

5.2. Funded pension benefits 15

5.3. Regulation and supervision 17

5.4. Pension fund operations 17

6. The third pillar 20

6.1 The new occupational pension plans 21

6.2 Regulation, supervision and taxation 21

7. Special cases and other benefits 22

7.1 Sector privileges 22

7.2 Uniformed services pensions 22

7.3 Other benefits financed from the social security fund 23

8. Financing the transition 23

8.1. Switching from the old system to the new 23

8.2. Short- and medium-term financial consequences 24

9. Preliminary conclusions and lessons for other countries 26

10. References 27

Executive summary 28

Best Available Copy

Security through Diversity

The quest for pension reform: Poland's *Security through Diversity*[1]

Marek Góra and Michal Rutkowski[2]

Introduction

All over the world, pension systems have financing difficulties that need to be addressed. There are three ways of dealing with pension systems problems. The most affluent countries, especially in the European Union, have tended to opt for continued subsidies to pensions from general revenues. Countries that cannot afford large subsidies have exercised a second option: trying to rationalise their pension systems by seeking more revenues and reducing spending. The third option is fundamental reform, which is the only way of achieving a sustainable solution. But it needs a coherent vision for the new pension system's design.

Following the Chilean and other Latin-American pension reforms, it is often asserted that fundamental reform implies replacing a monopoly of a pay-as-you-go, defined-benefit system with a fully funded mandatory defined-contribution system. From the perspective of central and eastern European countries, this reform option, despite numerous advantages, has two essential flaws. First, it does not really diversify risks. A funded monopoly merely replaces a pay-as-you-go monopoly. Secondly, because of transition costs, this option is difficult to implement in countries with a sizeable pay-as-you-go system, as in most central and eastern European countries.

This is why Poland, followed yet another reform option. The essential concept is that the pay-as-you-go monopoly needs to be replaced with a multipillar system. Future pensions financing will be diversified. Labour and capital markets will play equally important roles through the pay-as-you-go and funded parts of the system. About 50 per cent (initially 62.5 per cent) of the mandatory retirement system will be financed through pay-as-you-go, while

---

[1] The paper is forthcoming in Pension Primer Country Case Studies, the World Bank.

[2] *Security through Diversity* team leaders. Marek Góra has been Director of the Office for Pension Reform of the Polish government since October 1997 and was previously Deputy Director (October 1996 to September 1997). Michal Rutkowski is Sector Leader for Social Protection in Europe and Central Asia for the World Bank and former Director of the Office for Pension Reform of the Polish Government (October 1996 to September 1997). We would like to thank Edward Whitehouse of Axia Economics for editing the paper, the entire*Security through Diversity* team for their brilliant work and Nicole La Borde for her excellent assistance. The views and opinions presented in the paper are those of the authors and should not be attributed to the World Bank, or any other institution or government.

Best Available Copy

the other 50 per cent (initially 37.5 per cent) will be funded. Since each of the pillars has different types of risks (Table1), the system's overall risk will be well diversified. Of course, pay-as-you-go and funding both offer individuals a measure of certainty about their future, but neither method can insure against common aggregate shocks. One should not 'put all the eggs in one basket'.[3] Finally, both pillars will operate in a defined-contribution-type framework. The aim is a transparent system, with pension based on lifetime income, fully adjustable to changing circumstances.

Table 1. Risks with different types of pension financing

Risk	Pay-as-you-go	Funded
Ageing	Exposed	Not exposed
Unemployment	Exposed	Not exposed
Political bargaining	Exposed	Less exposed
Financial market crisis	Not exposed	Less exposed
Inflation	Less exposed	Exposed

The Polish pension reform is still in the making. The first set of reform laws, including the law on organisation and operation of pension funds, passed in mid-1997. The second set of laws, including the law on the new pay-as-you-go pensions from the Social Insurance Institute, was accepted by the Government in April 1998 and is now being debated in parliament. The new multipillar pension system, consists of a notional defined-contribution, pay-as-you-go first pillar, a mandatory defined contribution, privately-managed, funded second pillar, and voluntary employee pension plans in the third pillar. The multipillar system is now set to begin on 1 April 1999. Licensing of pension funds began on 1 August 1998. Executive regulations for this process are ready.

This paper looks at parts of the reform specific to Poland, but draws more general conclusions. We look at the motivation for reform, the struggle of progressively minded experts and politicians to advance the reform agenda, the architecture of the new system, and issues arising during the transition. The final section offers tentative conclusions and lessons for other countries.[4]

1. Recent performance of the pension system

The crisis of the Polish pension system had much in common with the problems in other countries' pay-as-you-go defined-benefit schemes, such as a worsening demographic-dependency ratio. But it was augmented by a particularly inefficient set of special rules, both typical of most former centrally planned economies (such as low retirement age and

[3] See, for example, Barr (1998), chapter 9 and James (1998).

[4] For an overview of reforms in other transition economies, see Rutkowski (1998).

widespread sector privileges) and specific to Poland (such as generous disability provisions). Moreover, in the early 1980s and later in the early 1990s, additional privileges and special rules were added with little or no (in the 1980s) thought to the fiscal consequences. Difficulties appeared in ensuring the financial sustainability of the Social Insurance Fund (FUS). Consequently, the contribution rate grew rapidly from 25 per cent in 1981 to 38 per cent during 1987-1989, up to the present level of 45 per cent. The was caused by

- a sudden increase in the number of new pensioners, especially in 1991 (Figure 1a)
- a decrease in the number of contributors as a result of a decline in employment (1b)
- growth in the real value of pensions relative to real earnings (1c)

Expenditure on retirement and disability benefits grew, from 12.6 per cent of GDP to 15.4 per cent by 1994. In countries with a similar income *per capita*, spending does not normally exceed 8 per cent of GDP, and in the European Union, 11 per cent. Demographic forecasts showed a further deterioration in the ratio of contributors to beneficiaries after 2006 (Table 2). In the absence of reform, projections show a small decline in spending to 14 per cent of GDP by 2000, but then a rapid increase to 22 per cent by 2020. By 2050, projected spending is 27 per cent of GDP. OECD forecasts for its member countries show a similar rise, but from a substantially lower base: 8 per cent of GDP in 1990, 13½ per cent in 2020 and 18 per cent in 2050.

Not surprisingly, the crisis of the Polish pension system became apparent not only to social security professionals, but also to the public and politicians.

Table 2. **Demographic estimates and projections, 1985-2020**

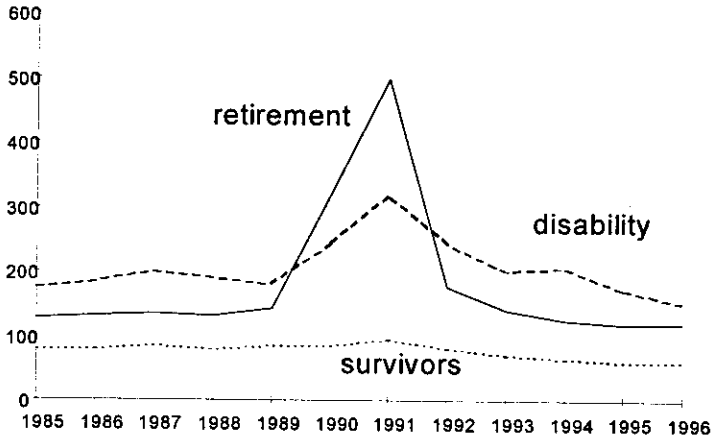
	1985	*1990*	*1995*	*2000*	*2005*	*2010*	*2015*	*2020*
Pension age (m)	4.5	4.9	5.3	5.6	5.7	6.1	7.0	7.9
Working age (m)	21.8	22.0	22.6	23.6	24.7	24.8	24.0	23.3
Ratio (%)	20.6	22.3	23.5	23.8	23.1	24.6	29.0	33.9

Source unofficial projections from GUS

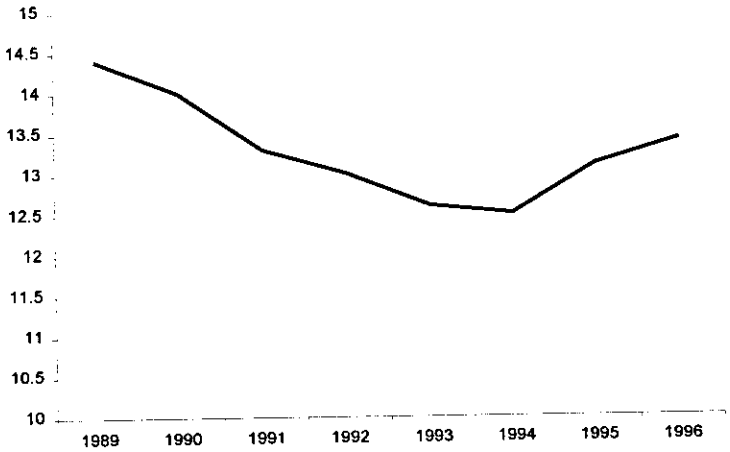
Best Available Copy

Figure 1. **Recent developments in the Polish pension system**

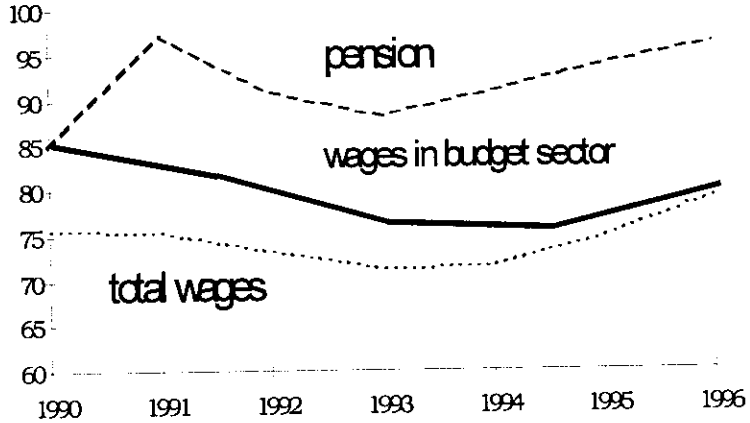
1a. **Number of new entrants to the pension system, 1985-96** (thousands)



1b. **Number of contributors, 1989-96** (millions)



1c. **Real pensions and real wages, 1990-96** (1989=100)



Source ZUS statistics, analysis and forecasting department

2. The struggle for pension reform

The most contentious point in the pension-reform debate among professionals since 1989 was whether the system should remain a pay-as-you-go monopoly. Three groups emerged, roughly reflecting the world-wide division of opinion. One group, the 'rationalisers', argued that mere the defined-benefit pay-as-you-go system should be cut back, but remain in the same form. A second group, the 'reformers', argued that the system should be fundamentally changed: reformed: either towards a fully funded system or a multipillar system. But both of these groups, until the early 1990s, were overshadowed by those who believed that short-term preventive measures — such as under-indexation of benefits — would be sufficient (the 'non-reformers'). However, by 1992-93, this last group was on the verge of extinction.

Best Available Copy

The rationalisers' argument was that a package of reforms to the pay-as-you-go system would stop the increase in pension costs, particularly under high economic growth. This package would include consistent price (or approximate price) indexation of benefits, increasing the real pension age from the very low levels of 59 for men and 55 for women and extending the calculation base period. However, even with these reforms, the system would be on the edge of financial sustainability. A significant, adverse macroeconomic change would cause serious disruption or even a breakdown of the system. Moreover, the system would not be immune to the demographic change expected after 2006. There was a broad agreement — involving both the rationalisers and the reformers — that these reforms should introduced as quickly as possible.

However, the reformers argued rationalisation alone would be neither *sufficient* nor *desirable*. Social-insurance reform should, if possible, not simply be associated with cuts and stringency, but with new opportunities for a generation with many working years before it. New horizons will show not only clouds of change, but also rays of new opportunity, which would make the reform more politically acceptable. Rationalisation would not be *desirable* because the crisis affects all single-pillar, pay-as-you-go pension systems. Pay-as-you-go is decidedly more subject to labour-market, economic, political and demographic pressures than funded systems.

Reformers argued for a social-insurance system with new opportunities for its participants and have a stabilising mechanism, to resist demographic and macroeconomic pressures. This requires a move from defined benefit to a defined-contribution system and the introduction of a funded component in the pension system. The first, pay-as-you-go pillar of the new system should be downsized and made more transparent, by introducing a closer link between individual contributions and individual benefits. In the second pillar, contributions would be invested in an individual account to generate a return. Finally, the existing third pillar for additional, voluntary savings would be developed.

The debate between rationalisers and reformers became quite heated after 1991.[5] Initially, this had little impact on politicians. However, an increasingly noisy debate, combined with growing difficulties in paying pensions put pressure on decision-makers. Backward-looking wage indexation of benefits meant that financial tension sharply increased periodically. This was reflected, above all, in the inability to prepare a budget without a dramatic choice between a huge rise in the budget deficit — undermining recently recovered macroeconomic equilibrium and reversing disinflationary trends — and major spending cuts on important programmes. The successful defence of macroeconomic discipline by successive ministers of finance meant there was no choice in practice. It became necessary to under-indexation benefits periodically. With the help of so-called supplementary budget legislation, it was technically possible to limit the expected rise in retirement and disability pensions.

[5] The description of the debate is based on Hausner (1998).

Pensioners and their representatives naturally opposed this policy. It became a major political burden and accounts for the sharp fall in support for the post-Solidarity government, and its eventual collapse in 1993.

The post-communist opposition that won the elections promised, among other things, a return to 'fair' benefits. However, the new government faced not only the same difficulties as before, but also some new ones. Public protests had been accompanied by formal appeals to the constitutional tribunal and the tribunal repeatedly ruled in favour of those who questioned the amended regulations. The new parliamentary majority could have formally overruled the verdicts of the tribunal. Nevertheless, in most cases it did not, feeling bound by its election promises. The verdicts of the tribunal came into effect and the state's unpaid debts to pensioners grew rapidly, forming a significant part of public-sector debt.

The constitutional tribunal consistently ruled the practice of repeated temporary suspension of the state's commitments to pensioners as unconstitutional. At the same time, it clearly stressed that this did not preclude the possibility of a permanent change in the regulations, provided there was appropriate legislation. Thus, it was only when legal and political factors prevented *ad hoc* manipulation of the pension system that the warnings of experts and the idea of major reform was taken seriously.

The coalition pact of the SLD-PSL government, which assumed office in the autumn of 1993, included a very general commitment to reform the social-insurance system. The idea was to improve the existing system rather than change it radically. Therefore, the plan was geared more towards protecting accrued rights than limiting them.

Only in June 1994 was the idea of radical reform — introducing a new mandatory funded pension — suggested, in the 'Strategy for Poland' economic programme. The government and parliament accepted the strategy presented by the deputy prime minister and minister of finance (G. W. Kolodko[6]). But no action followed in the pensions area, because of an a dispute immediate dispute with the minister of labour (L. Miller) over the plan to change the pension indexation rules, replacing the prices with earnings uprating.

The heated debate between the minister of finance (the 'reformer') and the minister of labour (the 'non-reformer' turned 'rationaliser') lasted a year and a half (from mid 1994 to the beginning of 1996). It was not only about indexation, but also about their competing visions of reform. The ministry of labour set out a plan for limited rationalisation and reorganisation of the pay-as-you-go system, with a marginal role for the funded pillar. The plan consisted of

- reducing the growth rate of pensions paid to the uniformed sector (police, army, *etc.*), by moving to the same indexation rules applied to other employees
- gradually increasing the contribution rate to the agricultural system
- introducing new rules for disability qualification

[6] See Kolodko (1996).

Best Available Copy

- gradually increasing the retirement age

These proposals, adopted by the government in May 1995, were then put out for public consultation. However, the minister of finance regarded them as insufficient, so an alternative model was prepared, based on the Chilean reform. It envisaged the replacement of the pay-as-you-go system with a fully funded plan and the introduction of a minimum state pension. However, this programme was never submitted to government. It was presented only with the intention of stimulating a debate that might produce alternatives to a modified pay-as-you-go system. It largely achieved this goal: public-opinion research showed the ministry of labour's plan was perceived as conservative and that people expected reform that is more decisive.

After the consultation process, the government recommended a revised programme giving a greater role to the funded segment in the autumn of 1995. This was submitted to Parliament for debate at the end of 1995, but the minister of finance remained opposed. The debate took place in April 1996, by which time a new prime minister (W. Cimoszewicz) and a new minister of labour and social policy (A. Baczkowski) were in office. The latter was also appointed the first plenipotentiary for pension reform. He strongly supported fundamental pension reform, and so announced in parliament that the government's programme still needed final 'touches'. In particular, he announced his intention to develop the idea of funded pensions, which had been included in the opposition's plans (Solidarity's proposed solution).

Because of Miller's opposition, price indexation of benefits was only introduced in the autumn of 1996, when Miller was no longer the minister of labour. The successful passage of the bill through parliament was critically helped by personnel changes at the ministry. Baczkowski put a great deal of effort into getting this bill passed to clear the way for fundamental reform.

The change in the cabinet meant there were now reformers in both essential posts of labour and finance minister. They began to co-operate closely. Baczkowski held a unique position in the government because he had originally been a member of the Solidarity. In 1992, while still an activist, had been deputy minister of labour. He demonstrated his excellent negotiating skills during the post-communist coalition (SLD-PSL) government, and became chairman of the tripartite commission on socio-economic affairs, established at the beginning of 1994.

Quarrels in the governing coalition had caused some members of the SLD leadership, including the prime minister to establish a dialogue with the opposition and awarding Baczkowski a ministerial post was a good way of winning their trust. With the support of the prime minister, the finance minister and the encouragement of the opposition, he began work on a completely new reform program. However, for political reasons, it was presented merely as an update and an expansion of the previous proposal. The office for pension reform — a team of experts assembled by Baczkowski — prepared the programme. The authors of this paper acted as deputy director and director, respectively. The new pension reform

programme, 'Security through Diversity' was published in February 1997, three months after the shocking, sudden death of Mr. Baczkowski.

Security through Diversity was wholeheartedly embraced by Baczkowski's successors, Jerzy Hausner (February-September 1997) and Ewa Lewicka, who took over in September 1997 after the return to power of the Solidarity-based coalition. Their sincere conviction in pension reform and their professional and political efforts made it possible for reform to proceed.

3. A description of the pension system

3.1 Financing and operations

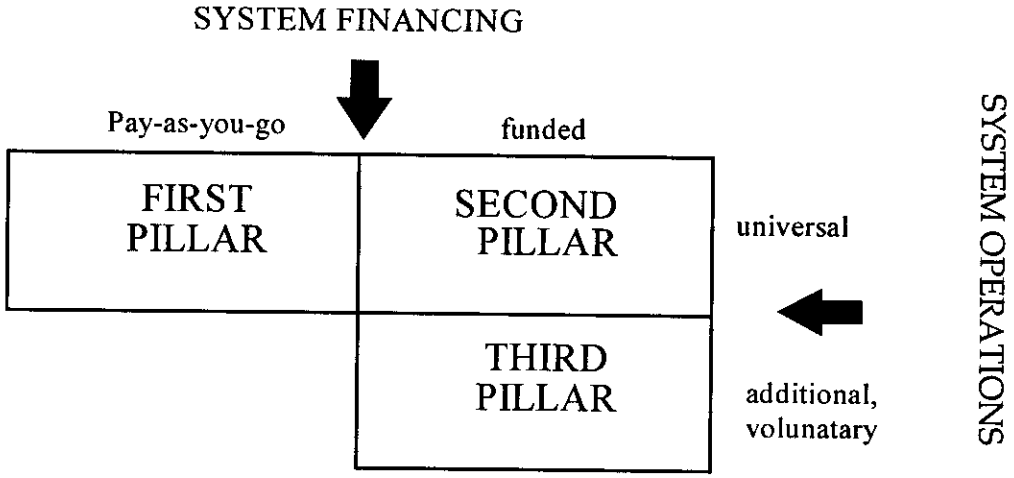
Under the new system, pension benefits will consist of three pillars. The first and second pillars will be universal and mandatory, the third voluntary. The first will be pay-as-you-go financed, the second and third funded. Figure 2 summarises the differences in the financing and operations of the three pillars of the new system.

The fundamental concept underlying the reform is that security comes from diversification of sources of pensions, hence 'security through diversity'. The first and second pillars are linked to the labour and capital markets respectively. The rate of return in the first pillar is the rate of growth of the wage bill, in the second and third, the rate of return on investments. Since these are not perfectly correlated, a system based on two markets is more stable than one based on a single market. The long-term target is that half the system will be funded, and half pay-as-you-go. This reflects a desire for diversification and not any fiscal or political constraint limiting the degree of funding.

The current pay-as-you-go system will be downsized and converted to a 'notional defined-contribution' system, forming the new first pillar. In both the first and the second, funded pillar, contributions will be registered in individual accounts, and the pension benefit will depend on contributions paid, not contributions that were due.

Figure 2. **Financing and operation of the new pension system**

Best Available Copy



3.2 *The contribution rate*

Under the current system, contributions of 45 per cent of earnings plus subsidies from the general budget finance retirement, disability, and other benefits, such as injury, sickness and family payments. Over half of contributions — about 24 percentage points — finance retirement pensions. In the reformed system, nine percentage points of the contribution will be diverted to mandatory funded pensions. This is equivalent to a fifth of the total contribution, or 37½ per cent of the retirement-pension contribution. The rest of the contribution will continue to finance pay-as-you-go benefits. The individual's notional defined-contribution account will be credited with 15 percentage points of the contribution. This and the final 21 percentage points will finance pay-as-you-go benefits.

The employer currently pays the entire 45 per cent contribution. Under the new system, the contribution rate will be unchanged, but both employers and employees will contribute. They will pay equally for old age and disability insurance, injury will be the responsibility of the employer and sickness of the employee. Employees' earnings will be grossed up to reflect their new liability, so the system will be neutral but should make benefit financing more transparent to employees. After the reform, the total contribution rate therefore falls to 45/(100+employee contribution).

Table 3 shows the structure of contributions to the new system. Each part of the contribution will be allocated to separate funds within the social-security fund (FUS). Each sub-fund will prepare its own actuarial forecast, improving the transparency and the sustainability of the system.

Table 3. **Social-security contribution rates**

Contribution	Rate (%)
Old age (employer/employee 50/50)	19.52
second pillar (employees)	7.3
buffer fund	1
Disability and survivors (50/50)	13
Sickness (employee)	2.45
Injury (employer)	0.81-8.12

One aim of the reform is to cut the contribution rate from its current, very high level. It is hoped that the defined-contribution element in both pillars of the mandatory system will make it easier to cut contributions in the future. There will be no accrued rights other than those derived from contributions paid by the individual.

The reform introduces an upper limit for contributions, set at 250 per cent of average earnings. Furthermore, the contribution will be reduced by 7 per cent if the appropriate amount is paid to a third pillar, employee pension plan. This will make it possible for employers to reward their employees with payments to their third pillar accounts without additional cost.

Public opinion showed support for reform. Some 73 per cent of people agreed that pensions should be closely related to contributions and the length of time they were paid, and 68 per cent that pensions should be derived from employee contributions, accumulated over their working life.

This support for funding led to a relatively large contribution to the funded sector: 9 per cent of earnings, compared with 6 per cent in Hungary and 2½ per cent in Sweden. Another reason for favouring a relatively large contribution is to dilute the impact of administrative charges for managing pension funds.

4. The reformed first pillar

4.1. The accumulation phase

Employer and employee contributions will be registered in the individual's ZUS account. These contributions will then be uprated in line with growth of the aggregate wage bill (*i.e.*, average wage plus employment). The sum of uprated contributions, 'virtual' or 'notional capital' will then form the basis for the individual's pension.

Each participant will receive information about his or her virtual capital account balance. ZUS will provide standardised estimates of the pension value under different assumptions of retirement age.

People who started their working life before 1999 have 'initial capital' added to their accounts in recognition of pension rights accrued under the old system. For people under age 50, initial capital will be calculated to deliver the same pensions benefit as the old formula (adjusted for age), as if everyone retired on the last day of the old system.

Indexation in line with the wage bill is designed to give contributions paid in early years similar weights in determining the overall pension value as those paid just before retirement. However, there has been debate over whether a lower level of indexation, between prices and wage bill growth, should be used initially, as a way of reducing pension costs and the pension contribution rate. Once the system is mature, the aggregate wage-bill index makes the system more stable than, for example, average-wage uprating, because the wage-bill is both the growth in contribution revenues and the growth in pension liabilities.

4.2. *The benefit-distribution phase*

The system will have a minimum pension age of 62 years for men and women. This policy was also controversial. Some conservative politicians were attached to a more traditional view of women's role in society and proposed differential pension ages of 60 for women and 65 for men.

Each additional year of work and contributions will be rewarded with a clear increase in the value of pension benefits. For example, a person who retires at 66 instead of 65 (with 46 years of service) will receive 9 per cent higher pension benefits. If the same person were to retire early at the age of 64, his or her pension benefits would be 8 per cent lower.

The virtual capital in the individual's account will be converted to an annuity based on average life expectancy at the time of the award. Consequently, the value of the pension will automatically fall as life expectancy increases, again increasing the stability of the system.

The new system will have a guaranteed minimum pension, set at the same level as the current system, and indexed in the same way as other pension benefits. It will be paid from age 65 to people who have contributed for a minimum of 25 years. This benefit will top up pensions (the sum of both first and second pillar) to the minimum level. It will be financed from general revenues, not from contributions to the pension system. This policy is designed to separate the redistributive role of the system from the lifecycle reallocation of income. It means that the financing of minimum pensions will be on broader base — including capital and transfer as well as labour income — than the rest of the pension system.

Benefits in payment in the first pillar will be indexed to consumer prices, unless real wages are falling, in which case they will be uprated in line with nominal wages (*i.e.*, cut in real terms). Regulations, however, allow for more generous uprating of pensions should economic performance and the system's finances allow.

Virtual capital is simply an account of rights. There is no money in the account: is not equivalent to a bank or pension-fund account. Thus, there is no allowance for virtual capital to be inherited by the heirs of people who die before pension age.

Best Available Copy

4.3 *Relating benefits to lifetime contributions*

The benefits in many pay-as-you-go systems are related to earnings only over a short period. In the current Polish system, the period is ten out of the last 19 years of work. If a person worked any longer than this period, the amount or duration contributions did not affect the pension value. The result is redistribution from people with longer working lives to people working for a shorter period, and from people with flat age-earnings profiles (generally manual workers) to people with steeper earnings paths (generally professional and managerial workers). The new system ensures that contributions count throughout the working life, and so removes undesirable redistribution.

4.4 *The demographic reserve fund*

The notional defined-contribution system is notional in the sense that funds are not built up: it is still a pay-as-you-go system. Thus, at any time it is dependent on the cohort of workers paying for the benefits of the cohort of pensioners, and so is vulnerable to demographic shocks. To stabilise the contribution rate in the system in the face of demographic fluctuations, reserves will be set aside. Reserves will be built up when a large, 'baby-boom' cohort is working, and drawn down when it retires.

The reserve system is equivalent to partial funding of the pensions' systems first pillar. The 'buffer fund' will consist of any surplus in the first pillar, privatisation revenues and, temporarily, one percentage point of total contributions. Interest, and any extra revenues of ZUS, will be added to the fund. The aim is to ensure that the pension system is entirely self-financing, will not need subsidies from the general budget and that contribution rates will remain relatively stable in future.

4.5 *A new role for the social insurance administration (ZUS)*

The role of the social insurance administration must also change to reflect the reforms to the pension system. Its new role will include

- Maintaining the old pension system for people aged over 50 when the new system is introduced
- Keeping records of individual's notional defined-contribution accounts
- Collecting contributions for the first pillar
- Managing the sub-funds of the social security fund, such as old age and disability, and preparing actuarial analyses
- Supervising the (contracted out) management of the demographic reserve fund
- Calculating and paying out first-pillar pensions
- Collecting second-pillar contributions and transferring them to the pension fund chosen by the worker

- Maintaining the central database of second-pillar participants

ZUS needs substantial restructuring to meet the challenge of the new pension system. This modernisation has begun, but the bulk of the task must be completed by the end of 1998, a formidable target.

5. The second pillar

Nine percentage points of the social security contribution will be diverted to a pension fund chosen by the participant. Contributions will be collected, one half due from employers, one half from employees, by the social insurance administration (ZUS) and then transferred to the fund. After 2 to 3 years, it is expected that approximately 10-12funds will operate in the second pillar, although the number of funds is anticipated to be larger initially.

All people under age 30 at the time of the reform's introduction must participate, and people age 30-50 will have the option of diverting part of their contribution to a second-pillar account.

5.1. Pension-fund regulations in the accumulation phase

During the accumulation period, pension fund assets will be protected by

- separation of the pension fund's assets, to be held by an independent custodian or depository), from those of the pension-fund company
- rules for the diversification of a fund's investment portfolio and limits on particular investments, especially those considered risky by international standards
- a minimum required rate of return for pension funds, relative to the average return of all funds
- the right to change funds with no charge or penalty after a statutory minimum 12 month period of contribution to a fund
- independent monitoring of the system by a new pension fund supervision office (UNFE)
- a legal requirement to inform members of the activities of the fund

Each person can select only one fund. There will be free choice between the funds: they will not be permitted to refuse entry or restrict the right to transfer to another funds, either directly or indirectly, through the imposition of charges.

5.2. Funded pension benefits

Members must purchase an annuity from an insurance company when they retire (defined as the time they draw their first-pillar pension). Only licensed insurance companies will be allowed to participate. This market, too, will be regulated strictly, because pension assets will accumulate tax-free and the public sector will guarantee the benefits. Thus

- fully paid-up share capital of at least Ecu 25m will be required to obtain a licence (which can be increased as the discretion of the council of ministers depending on the insurance company's commitments
- insurance companies offering annuities will not be able to sell other types of insurance
- annuity-company licences will not be issued until one year before the first participants reach the minimum retirement age (around 11 years after the implementation of the reform)
- in addition to prudent norms defined in the Insurance Act, the council of ministers should be able to introduce investment limits for insurers
- an insurance guarantee fund (along the lines of the pension benefit guarantee corporation in the United States) will ensure full payment of benefits in the event of an insurance company's bankruptcy, underwritten by treasury guarantee
- the state insurance supervision office (PUNU) will be able to monitor insurance companies' reserves and order capital increases and restrict investments as it sees fit

To protect the pension's purchasing power, benefits must be indexed at least to consumer prices, although increases up to and including average wages will be permitted. The annuity rate offered can vary only with the age of the purchaser, not by sex, health or region. Companies will be unable to refuse to provide an annuity. All companies will offer a set of standard pension benefits

- single life annuities, paid until the death of the annuitant
- guaranteed (or survivorship) annuity, where benefits will be paid out for at least ten years, to the annuitant's survivors in the case of death during that period
- joint annuity, paid until the death of the second spouse, with survivors' pensions at least 75 per cent of the original annuity
- joint, guaranteed (or survivorship) annuity, where benefits are paid out for at least ten years, even in the case of the death of both spouses during that period

Longer periods of guaranteed benefits and different spouses' benefits will also be possible. However, all contracts must be lodged with the insurance supervisory agency (PUNU), which will have the right to prohibit certain contracts.

Individual annuities may only be sold with the written consent of the (uninsured) spouse. At the request of an annuitant, the insurance company is obliged to convert and individual to a joint life annuity. For example, if one spouse retires while the other continues working, the couple may choose to take a single life annuity until the second spouse retires.

Companies will also be responsible for withholding personal income tax due on benefits.

5.3. *Regulation and supervision*

Licences will be issued to managing companies by the pension-fund supervision office (UNFE). Pension funds must meet a number of requirements

- a minimum of Ecu 4m fully-paid capital
- requirements for the probity of shareholders and board members of managing companies (for example, they may not be convicted criminals or in arrears with tax or social security payments)
- shareholders may not directly or indirectly hold stakes in more than one pension-fund company
- individuals holding influential positions in capital markets cannot serve as a director of a fund or work for the supervisory agency

Any changes to the fund's shareholders, board members, articles of association or custodian must be reported immediately to the supervision office. Initially, each company will be able to manage only one pension fund, except in the case of liquidation or merger, when more than one fund may be operated for a transitional period of a year.

The fund's articles of association must be submitted to the supervision office for approval. Any proposed amendments must be published five months before introduction, and again must be approved, except when a shorter period would be in members' interests.

5.4. *Pension fund operations*

Pension funds will operate much as other open investment (mutual) funds. Contributions will be converted into 'settlement units' (or a share of the fund) on a date of conversion, at least four times a month. This will generate a relatively smooth flow of assets into the fund and prevent monthly cycles in securities markets because of periodic demand from funds. (There will be a substantial surplus of contributions over benefit withdrawals for at least 20 years.)

The fund's value will be assessed primarily on market prices, according to standard rules set by the supervision office. The balance on retirement will be calculated as the number of accumulated shares (or settlement units) multiplied by the unit value five days before the funds are withdrawn.

5.4.1 *Pension-fund assets of married couples*

Accumulated pension assets will constitute a part of a married couple's common assets. In the case of divorce, the family and guardianship code will specify the division of assets. Assets will not be paid out, but transferred to the spouse's account with the fund. During the first 12 or so years after reform, a spouse who does not participate in any fund will be entitled to participate in a divorced or deceased participant's pension fund.

5.4.2 *Transfers between funds*

Transfers of all assets accumulated in one fund to another fund will take place only on the last day of the last month of each quarter. This allows a clearing-house mechanism for settlement of transfers out of funds net of transfers into a fund, restricting the need to sell assets to finance transfers. The clearing house will be the national securities depository, which already acts in this capacity for brokers.

5.4.3 *The legal form of pension funds*

Pension funds will be a legal entity, which clarifies ownership, and the rights and obligations of participants and managers. The alternative — that the fund is commonly owned by the participants — would demand major modification of the joint property concept of the civil code. Currently, Polish law regulates trusts through contract law, but this does not adequately cover the relationship between beneficiaries and trustees. Having the fund as a single legal entity ensures that the property of the fund, the participants and the pension-fund company are all kept separate. It strengthens participants' rights in the case of insolvency of the managing company. Regulations affecting the managing company should not affect the fund's property.

5.4.4 *Portfolio decisions*

The investments of the pension funds will be the decision of the managing company, but the minister of finance will determine the maximum level of foreign investment. The council of ministers will be able to impose other restrictions. Assets must be bank deposits or publicly traded securities, including securities issued or guaranteed by the treasury or the central bank (the national bank of Poland) and open-ended investment funds. Funds may also invest in non-traded bonds, but not derivatives, except as a means of limiting exchange-rate risk in foreign investments.

Pension funds will not be able to hold more than 5 per cent of assets in the securities of one issuer, except for mutual funds, short-term bank deposits and public-sector securities. This is designed to ensure a prudent level of diversification. To avoid possible conflicts of interest, the fund may not be invested in securities issued by a pension-fund company or its shareholders, as well as their controlled, controlling or associated entities.

From 1 January 2005, every pension company will be able to operate two types of fund. Type 'A' will invest as above, while type 'B' will be restricted to fixed-income securities. People approaching retirement age will then be able to select a lower risk fund, albeit at the cost of lower expected returns.

5.4.5 *Management fees*

Fund assets may only be used to finance some of the fund's operations, such as capital market activities and safekeeping of assets, including the custody fees. The pension-fund

Best Available Copy

company can also pay management fees from the fund' assets, but these must not exceed 0.05 per cent of asset value per month and the fee must be defined in the articles of association. The only other fee will be a defined percentage commission deducted from contributions by the company, which must be the same level for all participants, with reductions permitted for longer-standing contributors. The goal is a transparent fee structure, to allow members and potential members to compare costs. The reduction for long tenures in a fund is to discourage transfers.

5.4.6 Custody

The fund's assets must be held by a custodian or depository, selected by the fund and confirmed by the supervisory agency. The depository must be a bank with at least Ecu 100m of assets and no capital affiliation with the pension-fund company. The national securities depository will also be allowed to play this role. The custodian will be liable for damages resulting from the pension fund's failure to comply with legal requirements, and must inform the supervisory agency of any irregularity. This should guard against misappropriation of pension-fund assets, with additional security provided by the assets of the custodian.

5.4.7 Rate-of-return guarantee

At the end of each quarter, the supervisory agency will calculate the average rate of return, weighted by size of fund, achieved for the last 24 months by all pension funds in operation. Any fund management company which fails to achieve a return 50 per cent or four percentage points (whichever is the larger) below the average real return for all funds will immediately make additional payments to the fund. These payments will be made in the first instance from a special reserve of between one and five per cent of total fund assets, depending on the size of the fund. These assets will be managed as an integral part of the fund. From 2005, the returns for type 'A' and type 'B' funds will be calculated separately. If the reserve and the assets of the fund-management company itself do not meet the shortfall in the return, then the managers will be declared bankrupt.

In the case of insolvency, the guarantee fund financed by all the pension-fund companies will make up the shortfall. The custodian will take over management of the assets and participants will then be free to choose another fund.

5.4.8 Disclosure

Pension fund companies will be obliged inform both participants and the supervisory agency (UNFE) of their activities. Participants have the right to a prospectus containing the fund's articles of association and the rights of fund participants (as defined by UNFE). They must also be told of changes in the prospectus and the financial results of the fund. Every 12 months and on demand, the fund must give participants a statement of account showing the number of units held and their total value on the last valuation day.

Reporting to UNFE will include information about the state of assets and the results of investment policy. UNFE can also demand other information related to the fund's activity.

5.4.9 Taxation

Contributions will be tax deductible, as in the first pillar. The fund's investment earnings will be tax exempt. The pension-fund company will be subject to tax. Assets transferred to claim pension benefits on retirement will not be taxed. Only when participants begin to receive their pension will they begin to pay personal income tax on the benefits on a current basis. Thus, the second pillar will have an expenditure-tax or EET (exempt-exempt-taxed) treatment.

Following the death of a participant, assets transferred to the spouse's account in a fund will be exempt from tax. These assets will be taxed when the spouse begins to collect benefits. In all other cases, such as payments to other beneficiaries, including close family members, the assets will be subject to personal income tax at a fixed-rate of 20 per cent.

6. The third pillar

A voluntary third pillar will supplement the universal, mandatory part of the pension system (the first and second pillars). This makes the system more flexible, allowing each individual to reallocate income across the lifecycle according to their own preferences and needs. Eventually, the third pillar is expected to form a substantial part of retirement income.

The third pillar is more flexible than the first two pillars, with choice over the timing and amount of saving and the ability to bequeath the capital without restriction. It will consist of a number of long-term savings plans and occupational-pension programmes.

The last feature of the third pillar is new, building on present schemes. Many employers currently take out group insurance with a life insurance company, with the plans negotiated individually for each workplace. This insurance is attractive to employees because they avoid the information cost selecting from available products and assessing the risks of different insurers. Because of the pooling of risks among the employees of a particular company, the adverse selection risk for then insurer is reduced, so there is no need for individual medical interviews or health examinations. The cost is deductible to employers, but employees are taxed on the employer contribution as a benefit in kind. This system will continue as part of the employee pension programs.

Growing awareness of the uncertainty over the *real* solvency of the present pension system is the reason why employees are increasingly willing to agree to exchange current wages for future pension benefits. Group life insurance policies with a set time for benefit withdrawal with optional life insurance are becoming popular. Group life insurance is definite progress in improving security and diversity of people's future retirement incomes. Nevertheless, because it requires employers voluntarily to establish schemes, it is limited in scope.

6.1 *The new occupational pension plans*

After the reform, employers will have the right to direct employee contributions to group insurance with a joint-stock or mutual life-insurance company, an occupational pension fund or to open investment funds.

An occupational plan must meet the following criteria

- all eligible employees have an opportunity to participate
- eligibility conditions can only cover the employee's tenure or status in the company and at least half of employees must be eligible
- payments on behalf on an individual employee cannot exceed in seven per cent of earnings assessable for social security contributions
- benefits be paid out until age 60, except in cases of death or permanent disability

The detailed rules for the functioning of an occupational plan must be defined in a company pension contract negotiated with employees' representatives.

Contributions paid on behalf of the employee will be a deductible expense for the employer. They will be included in personal income when the employee is taxed, but up to the seven per cent ceiling, they will not be assessable for social security contributions.

Although the terms of group insurance will be negotiated between the employer and the insurance company, there will be some legal requirements to qualify as an employee pension programme.

Occupational pension funds will operate along similar lines to second-pillar schemes. However, there will be fewer portfolio restrictions, no minimum rate of return, more influence for participants on the fund's investment policies, including the possibility of investing all the assets in an open investment fund.

Employers will also be able to make employee participation dependent on the contribution of a (uniform) proportion of the company's shares received during privatisation of the enterprise within five years. This limits the risk that a large part of the company's shares return to the market following an initial public offering after the two-year waiting period imposed on employees. This overhang of shares is a significant fear among potential investors.

The legislation also aims to make occupational pensions portable when employees change jobs. The employee will have the right to transfer the assets to the pension plan of the new employer or to an insurance company, open investment fund or a non-employer-sponsored plan.

6.2 *Regulation, supervision and taxation*

Since the third pillar involves a range of different institutions, supervision will be spread across different authorities: bank supervisors, the state insurance supervision office

(PUNU) and the securities and exchange commission (SEC). The pension-fund supervision office (UNFE) will cover employees' rights in occupational schemes.

The third pillar will be taxed using the pre-paid expenditure tax approach, where contributions are made out of taxed income, but investment returns and benefit withdrawals will be tax free (*i.e.*, taxed-exempt exempt or TEE). Although this means a similar or even the same present value of tax will be paid, it brings forward the revenues to government to the time contributions are made rather than the time benefits are received (see Whitehouse, 1998).

7. Special cases and other benefits

7.1 Sector privileges

The reform aims to eliminate all privileges in the old universal pension system, with equal treatment of all participants with regard to retirement age, means of paying contributions and calculating benefits. Sector privileges were largely an inheritance from the planned economy era — many were introduced in the 1980s during the period of martial law — but some had a much earlier provenance (railway workers were privileged by the Austro-Hungarian emperor in the 19th century). Successful elimination of all privileges would improve the pension system's finances enormously. The 'cost' of early retirement alone is equivalent to 12 percentage points of the total 45 per cent contribution.

The problem of privilege-based early retirement is compounded by the ability to work after drawing early pensions, almost without restriction. There is an enormous incentive to take the early retirement pension, but then continue to work.

The draft second part of the pension reform package presented to parliament allows for special regulations for groups that need them, but any privileges must be financed in a transparent way. Additional rights will be created only if an additional contribution paid, by employees, employers or the government. First and second pillar pensions will be paid from the normal retirement age. Additional contributions will finance a 'bridge' pension paid from the early retirement age to the normal age. The contributions for bridge pensions can be paid into the first or third pillar, although the first is only an option for government. This will make the trade-offs in granting special privileges clearer.

The problem is the treatment of special privileges relating to people's accrued rights. One extreme position would be to recognise that all people in a particular occupation own the privilege from the day they begin work. The current proposal requires a minimum of five years employment in a privileged job for accrued rights to be recognised.

7.2 Uniformed services pensions

The uniformed services, mainly the army and police, have a special pension system with completely different rules. The scheme is non-contributory and benefits are paid directly from the general state budget. The reform plans to include them in the universal system, but the question of the age groups covered by the new scheme has not been settled. Although the

uniformed services do have different pensions needs, having an entirely separate system could reduce mobility between the uniformed sector and other jobs. Including the uniformed services I n the universal system will not impose substantial additional costs.

7.3 Other benefits financed from the social security fund

The social security fund (FUS) will establish separate funds for sickness (including maternity leave and rehabilitation), work-related illness (including accidents) and a reserve fund. Contributions for work-related illness will be paid by employers, and the contribution rate will vary according to actuarial estimates of the risk of accident or disease in particular occupations. The reserve fund will hold the surplus of contribution revenues over benefit payments, and will be available to cover shortfalls in the other two funds.

The rules for disability benefits will also be reformed. Disability benefits will only be granted for permanent incapacity to work. If there is any possibility that the individual's health might improve, then a temporary benefit will be paid. Partial benefits will be paid if residual working is below 50 per cent. A pre-pension rehabilitation system will also be established.

8. Financing the transition

The new pay-as-you-go pension pillar will only affect people age 50 or below who do not meet the conditions for early retirement. Those who will be eligible for early retirement within three years of the introduction of the new system are similarly unaffected. As described above, special rights for worker sunder age 50 will be eliminated, with extra contributions required to pay for special rights in the new system. In 1997, almost all employees under 35 years of age not yet earned early retirement rights and would not acquire them within 3 years. In total, 24 per cent of employees have these rights. Women will lose the right to retire early, at age 55. People with category I and II disabilities will no longer have the right to retire 5 years early. Finally, the plan will forbid *early* retirees from working and drawing a pension.

8.1. Switching from the old system to the new

People who are under 50 (with the above exceptions) will be able either to choose the pay-as-you-go, notional defined-contribution system alone or to divert one fifth of contributions to a funded, second-pillar pension. There is no option to remain in the old defined-benefit, pay-as-you-go plan.

Two transition paths were originally proposed that were both thought to be easily financed. First, all employees under 40 would have to take the two-pillar, partially funded option, but people aged over 40 would not be allowed the second-pillar option. Secondly, compulsory participation in the two-pillar system for new labour-market entrants, while people aged 50 or younger already in the labour market could choose between the partially

funded option and remaining in the reformed pay-as-you-go system. In the first, the transition would last around 30 years, and in the second, 45 years. A faster transition reduces the cost of maintaining two systems side-by-side, but it also implies a higher cost: approximately 1.5 per cent of GDP a year, compared with 1 per cent for the second, slower option.

In the end, a third way was taken. Participation in the second pillar will be compulsory for people aged up to 30, and voluntary for people aged between 30 and 50. This option introduces an element of choice, which is socially, economically and politically desirable (Palacios and Whitehouse, 1998). However, this raises the problem of predicting how many people will choose different options and makes it more difficult to get a clear picture of long-term obligations (Holzmann, 1997).

8.2. *Short- and medium-term financial consequences*

Predicting the decisions of people aged between 30 and 50 on whether to switch from the first pillar to the mixed first and second pillar option is a difficult task. One possible source of information is opinion polls. These suggest that most people will choose to join the second pillar. A second source is experience in other countries, of which the most relevant is Hungary. Opinion polls there suggested people were very optimistic about funded pensions and pessimistic about the state scheme (see Palacios and Rocha, 1998 and Palacios and Whitehouse, 1998).

Three projections of participation were prepared — low, medium and high — as shown in Table 4. We anticipate that participation will decline with age. The compound-interest effect means that younger workers will get a higher return from the funded pension, and so have a larger incentive to switch. This age-related pattern also occurred in all other countries introducing a reform involving some element of individual choice: Argentina, Chile, Colombia, Hungary, Peru, the United Kingdom and Uruguay (Palacios and Whitehouse, 1998).

Table 4. **Expected participation in the second pillar by age**

per cent	*-30*	*31-35*	*36-40*	*41-45*	*46-50*	*50-*
Low	100	90	60	20	10	0
Medium	100	90	60	30	20	0
High	100	90	80	80	80	0

During the first year of the reform, the speed at which people switch to the second pillar will have a large impact on the finances of the system. We expect a large number of people to join initially, followed by a plateau, followed by a second rush at the year-end. Younger people, who are forced to switch, have six months to choose between different funds. Some of them will delay the decision towards the end of this period, and in the meantime, their contributions will continue to flow into the social insurance fund. Table 5 shows the

expected effect of all the elements of the reform in the first year, 1999 and the fifth year of the reform. The loss of revenues from contributions diverted to the second-pillar accounts is the largest item in the Table, costing 0.82 per cent of GDP in the first year and 1.68 per cent in 2003. Most savings will come from price indexation of benefits, which of course compound over time. By 2003, this is expected to save more than 1 per cent of GDP. Overall, spending cuts balance out the cost of the second pillar, leaving a small yield from the reform of 0.06 per cent of GDP following a small net cost in the first four years of the new scheme. The alternative projections for participation in the second pillar give a range for the total cost depending on individuals' decisions.

If participation exceeds expectations, the effect will not be disastrous. As we argued in the *Security through Diversity* proposal, much of the revenue diverted to funded pensions will return to the state treasury through increased demand for bonds, allowing non-inflationary financing of the increased deficit. The other part will be invested in the capital market. In other words, higher household saving offsets the reduction in public sector net saving. These arguments were supported by the OECD's (1998) analysis of the reform in its economic survey of Poland.

Privatisation revenues will be used to help finance the deficit in the social-security system, as specified by the first part of the pension reform package (1997). According to the treasury's plans, PLN 53bn will be available to support the reform (about 14 per cent of GDP), with PLN 4bn allocated in the preliminary 1999 budget.

Table 5. **Expected effect of reform on revenues, 1999 and 2003**

per cent of GDP	*1999*	*2003*
Change in revenues	**-0.82**	**-1.98**
second pillar	-0.66	-1.68
contribution ceiling and third pillar	-0.16	-0.30
Change in spending	**-0.65**	**-2.04**
uniformed services	-0.08	-0.38
work restrictions	-0.04	-0.32
price indexation	-0.23	-1.04
group lay-offs and sickness benefits	-0.30	-0.30
Overall effect (- cost/+ yield)	**-0.17**	**+0.06**
Low second-pillar participation	*-0.12*	*+0.15*
High second-pillar participation	*-1.34*	*-0.70*

Best Available Copy

9. Preliminary conclusions and lessons for other countries

It is too early to draw conclusions from the Polish pension system. The reformed system will start operating on 1 January 1999 and the first pensions will be paid about ten years later. However, it is well worth the factors that enabled such a fundamental reform to be put together and legislated after a long period of fruitless discussions.

First, **the contents of the reform package**. There was broad popular support for a pension reform that included a closer link between contributions and benefits and a greater role for the private sector at the expense of the social insurance institution (ZUS).

Secondly, **the leadership**. The governments of prime ministers Cimoszewicz and Buzek recognised the need for a plenipotentiary for pension reform with an office independent from political influences and free of the task of day-to-day management of the pension system. The plenipotentiaries —Baczkowski, Hausner and Lewicka — have successfully shielded the office for pension reform from political fights, enabling it to focus on its professional tasks.

Thirdly, **co-operation with trade unions**. *Security through Diversity* was consistently supported by the Solidarity trade union and OPZZ (at least until the end of 1997) and both were intimately involved through several consultations. Solidarity had published its own reform proposal in 1995, which included the creation of mandatory funded pillar.

Fourthly, **moving quickly to grasp opportunities**. All three of the plenipotentiaries understood the need to move quickly and decisively to take advantage of the public consensus behind pension reform, as the old system became discredited and the implications of demography became widely known. Mistakes can always be corrected later. It is vital to remain ahead of opponents to avoid the reform being postponed indefinitely.

The main conclusion from Polish pension reform is that when an opportunity presents itself it should be seized. Politicians should foster appropriate conditions both for experts to design and implement the proposal and for a broad consultative process to foster support.

Best Available Copy

Best Available Copy

10. References

Barr, N. (1998), *The Economics of the Welfare State,* third edition, Oxford University Press.

Hausner, J. (1998), *Security through Diversity: Conditions for Successful Reform of the Pension System in Poland*, Collegium Budapest Working Paper, March.

Holzmann, R. (1997), 'On the economic benefits and fiscal requirements of moving from unfunded to funded pensions', American Institute for Contemporary German Studies, Research report no. 4, Washington D.C.

James, E. (1998), 'New models for old-age security: experiments, evidence and unanswered questions', *World Bank Research Observer*, vol. 13, no. 2, pp. 271-301, August.

OECD (1998), *Economic Survey: Poland,* OECD, Paris.

Palacios, R. and Whitehouse, E.R. (1998), 'The role of choice in the transition to a funded pension system', Social Protection Discussion paper no. 9811, World Bank, Washington D.C.

Palmer, E. (1998), *The Swedish Pension Reform Model - Framework and Issues*, mimeo.

Office of the Government Plenipotentiary for Social Security Reform (1997*a*), *Polish Pension Reform Package: Part One,* Warsaw.

—— (1997*b*), *Polish Pension Reform Package: Part Two*, Warsaw, forthcoming after adoption by Parliament.

—— (1997*c*), *Security through Diversity: Reform of the Pension System in Poland,* Warsaw.

—— (1998), *Polish Pension Reform Package: Execution Law (Decrees),* Warsaw, English version forthcoming.

Ministry of Labour and Social Policy (1995), pension reform proposal [in Polish].

Ministry of Finance (1995), pension reform proposal [in Polish].

Palacios, R. and Rocha, R. (1998), 'The Hungarian pension system in transition', Social Protection Discussion Paper no. 9805, World Bank, Washington, D.C.

Rutkowski, M. (1998), 'A new generation of pension reform conquers the East — a taxonomy in transition economies', *Transition*, vol. 9, no. 4, pp. 16-19, August.

Thompson, L. (1998), *Older and Wiser: The Economics of Public Pensions*, The Urban Institute Press, Washington, DC.

Whitehouse, E.R. (1998), 'The tax treatment of funded pensions', Social Protection Discussion Paper, World Bank, Washington, D.C.

Best Available Copy

The quest for pension reform: Poland's *Security through Diversity*

Executive summary

Following the Chilean pension reform, and other Latin American reforms, it was believed that a comprehensive pension reform, as opposed to a mere rationalization of an existing system, had to be based on replacing a monopoly of a PAYG defined-benefit system by a fully funded mandatory defined contribution system. From the perspective of Central and Eastern European countries, this reform option, despite numerous advantages, had two essential flaws: first, it did not really *diversify risks* because a PAYG monopoly (within a mandatory system) is merely replaced by a funded system monopoly. Second, because of transition costs, this option is hardly implementable in the countries with a sizable PAYG system, such as most of the Central and Eastern European countries.

This is why Poland, with its *Security through Diversity* reform, follows another option. The key concept of the reform is the PAYG monopoly needs to be replaced by a *multipillar* system. Sources of future pensions financing are to be diversified. Both the labor and the capital markets are to play equally important roles through the PAYG and funded part of the system, respectively. The aim of the system is to provide people with an effective and safe way of allocation of income during their lifetime. About 50 percent (initially 62.5 percent) of the mandatory retirement system will operate in a PAYG logic, while the other 50 percent (initially 37.5 percent) will be funded. As each of the pillars is exposed to different types of risks, the system's overall risk will be well diversified. Both pillars will operate in a defined contribution framework to ensure the system will be fully transparent, with a pension based on lifetime income, and fully adjustable to changing circumstances.

The Polish pension reform is a process in the making. The first set of reform laws, including the law on organization and operation of pension funds (funded pensions) was passed in mid-1997. The second set of laws, including the law on pensions from the Social Insurance Institute (new PAYG pensions) was accepted by the Government in April 1998 and is now debated in the parliament. The new multipillar pension system, that consists of a notional defined

Best Available Copy

contributions (NDC)-based PAYG first pillar, a mandatory defined contribution privately-managed funded second pillar, and a voluntary employee pension plans in the third pillar, is now set to begin on April 1, 1999. The process of licensing pension funds started on August 1, 1998.

The origins of the reform are closely linked to an increasingly poor performance of the old system, based on a PAYG monopoly. Not only was the system unsustainably generous, with 15% of GDP spent on retirement, disability, and survivorship pensions, but demographic forecasts indicated that without a reform, those expenditures would have to increase to 27% of GDP in 2050. Even with those dismal forecasts widely known, putting the reform package together and getting it approved by the Government and Parliament has been a tremendously difficult task, primarily because of multiplicity of special interest groups and lobbies involved in defending the status quo. After several years of rambling through, in 1996 the special post of Government Plenipotentiary for Pension Reform was created, and the Plenipotentiary's Office was empowered to come up with a comprehensive reform package. By that time, it was increasingly recognized, that Poland has to escape the fatal logic of a PAYG monopoly and move to a system which allows for taking advantage of capital market developments. Making the system sustainable meant reducing its dependency on intergenerational solidarity, specifically payroll taxation. Introducing a funded pillar such that it will coexist with a thoroughly reformed PAYG pillar became a central feature of the reform program, along with a radical increase in the system's transparency through the elimination of numerous sector privileges and special provisions, and a bold move to a defined-contribution principle in all the pillars.

Beginning on April 1, 1999, Poland will have a retirement pension system based on three different pillars. The first pillar will continue to be the PAYG pillar, however, in contrast to the present system, it will be based on the principle of Notional Defined Contributions (NDC), pioneered in Sweden. Under NDC, retirement benefits will be closely related to the notional capital (appropriately indexed sum of contributions paid) accumulated by every participant during his/her working life. When the person retires, this capital will be divided up by the average life expectancy at the age of retirement to determine the annual pension. Therefore, the pension will be strongly dependent upon the choice of the participant with regard to his/her retirement age, and a strong incentive to work long. The NDC retirement system mimics the funded system, except that retirement benefits are still to be financed by current contributions. Everybody below 50 will have to join the system with its first pillar based on the NDC principle. In order to recognize pension rights acquired under the old system people who started their working life before 1999 will be granted an "initial" notional capital that will be registered on their individual accounts. Initial capital will be calculated for people under 50 using the old system pension formula (adjusted to individual age) as if everybody, in spite of his/her age retired on the last day of the old system. Pensions from the old system will be recalculated into amounts needed in the old system to pay benefits out after all those individuals reach pensionable age.

Best Available Copy

To take care of the size differences of cohorts (demographic fluctuations) demographic reserves for the 1st pillar will be accumulated. Because fluctuations in the size of cohorts are predictable, the value of those reserves may be accurately adapted to predicted needs. The reserve fund will be enlarged when relatively large groups pay contributions and small groups take benefits. The fund will be downsized in the opposite situation. The reserves – being a part of the PAYG pillar – will be invested. This will let the 1st pillar be self-sustainable with no need to adjust the contribution rate.

The second pillar will be based on open pension funds, that is privately managed by pension fund societies (pension fund asset managers). Pension fund societies will have to joint stock companies. The basic concept follows an "AFP" approach known from Latin America. 9 percent of payroll will be mandatorily channeled to a pension fund chosen by an employee. The following basic rules will apply:

complete separation of the pension fund's assets from the universal pension fund society – this separation, both legal and physical, will be due to the requirement that an independent depository hold the fund assets;

required diversification of a fund's investment portfolio and investment limits – this key limit prohibits pension funds from investing in assets considered risky by international standards;

a minimum required rate of return for pension funds – this requirement assures a participant that the rate of return of his fund will not significantly differ from the average rate of return of all funds, thus providing a minimum guarantee of safety;

the participant's right to change funds with no charge or penalty when the statutory condition has been adhered to, that is the minimum period of participation in the fund;

the new Pension Fund Supervision Office's (UNFE) continual monitoring of the system and the activity of its participants;

the obligation of pension funds to provide participants with systematic information within a legally defined scope.

After implementation of the 2nd pillar the social aim of the system, namely providing old people with income, will be ensured by both the public and private sectors. Introduction of the 2nd pillar is not a reduction in the role and scale of social security. The 2nd pillar allows the social security system to work more effectively thanks to the private sector involvement.

The only way to use capital accumulated in the 2nd pillar will be in the purchasing of an annuity from an insurance company. The participant chooses the insurance company which must be licensed to sell guaranteed annuities. The purchasing of an annuity must occur at the same time that a participant decides to retire from the 1st pillar.

Originally the *Security through Diversity* reform proposal set the minimum retirement age at 62 for both women and men. However, in mid-1998, the Government and Parliament decided not to change the pensionable age, but to keep it at 60 for women and 65 for men. However, even no change in the nominal retirement age in the new system is an achievement as that age

Best Available Copy

is binding in the new system legislation. In the old system the actual age was 55 for women and 59 for men despite the nominal 60/65 limit.

To lower administrative costs, the collection of all contributions will be done by the Social Insurance Institution (ZUS), which will transfer 9 percentage points of contribution to the pension funds. This requires a serious administrative reform of the Social Insurance Institution so that it is able to run individual accounts both for the first (NDC) and second pillar.

The 1st and 2nd pillars create the basic part of the new old-age pension system. It is fully standardized. The reform also introduces a new flexible, voluntary and supplementary, third pillar, based on employee pension plans. This pillar will, of course, operate in addition to the existing numerous possibilities of individual retirement savings through investment funds or insurance companies. Within the new arrangements, the employer and employees together will have the following group arrangements options:

taking out group insurance for employees at a life insurance company which operates in the form of a joint stock company;

paying employee contributions to a mutual insurance company;

paying employee contributions to employee pension funds;

paying employee contributions to an open investment fund or a specialized open investment fund.

The criteria for acknowledging actions undertaken by an employer as an "employee pension program" would be the fulfillment of the following conditions:

ensuring all employees meeting criteria defined by the employer have equal opportunity to participate in the program. These criteria may only concern the working life at a given workplace;

actual possibility that no less than half the employees will enter the program;

payments on behalf on an individual employee in an amount not higher than 7% of average earnings covered by the social insurance system contribution;

monetary assets may be paid out no earlier than after reaching age 60 or permanent, confirmed inability to work or death of the program's participant.

The second and third pillars will have different taxation arrangements. The 1st and 2nd pillar will operate in the EET framework, meaning pensions are going to be taxed, but contributions are going to be paid from income before taxation. The third pillar will operate in the TEE framework, meaning contributions are to be paid after taxation, but the pension will be free of income tax. There will be a relief from social security contributions up to 7% of payroll in the third pillar.

Introducing a multipillar system, in particular, setting up a mandatory funded pillar, creates transition costs that result from the fact that a part of contributions is not available any more to pay for current pensions. The Polish reform envisages that the new system has to be joined

Best Available Copy

in its entirety by everybody under 30. People who are over 30 but under 50 will have the option to:

shift a part of their contribution to a pension fund of the second pillar and have their future benefits paid out from the reformed (NDC) first pillar and second one as well;

keep paying the entire contribution only to the first pillar which means their entire benefit will originate in PAYG (NDC) pillar.

There is no option for staying in the old (PAYG defined benefit) system for people under 50. People over 50 cannot join the new system.

The transition to the new system means, in essence, dividing the contribution paid by both employers and employees into two parts. Of the total contribution (45% of payroll) 80% (36% of payroll) will remain in the old ZUS-managed Social Insurance Fund to pay for NDC retirement pensions (ca. 15% of payroll), disability and survivorship pensions (ca 21% of payroll), and 20% (9% of payroll) will be directed to an employee-selected pension fund. The latter number is the contribution loss that needs to be financed. The Government decided that all the costs are going to be financed by a combination of expenditure adjustment and revenues from privatization (no debt-financing).

The shift to the second pillar would cost around 0.7 percent of GDP in the early years and rise to twice as much over the next 15 years under the baseline scenario. Additional costs result from the loss of contributions associated with the introduction of the cap of 250 percent of the average salary which is covered by a payroll tax (for both first and second pillar), and the loss of contribution associated with the third pillar payroll tax relief up to 7% of payroll. The total of the two is about 0.4 percent of GDP. There is also a one-time cost for the reform of the Social Insurance Institution (ZUS). The cost for enabling it to run individual accounts approached 0.2 percent of 1998 GDP.

Today, the Polish reform is limited to reforming the retirement pension system for employees in non-agricultural sectors, which is by far the largest of all social insurance schemes. There are only tentative plans for a future overhaul of a retirement system for farmers, as well as the reform of disability provisions. Still, under the circumstances, the Polish reform has made huge step forward. The reform has been prepared in difficult circumstances and against substantial odds. Five factors made the success possible:

(1) <u>the contents of the reform package</u>. The reform team recognized that there was a lot of potential social support for pension reform, as long as the reform was identified with: (i) linking benefits and contributions very closely, such that benefits will reflect lifetime contributions; (ii) the role of private sector in pension provision is going to be increased, at the expense of the formerly omnipotent Social Insurance Institution. The social support was identified through opinion polls done prior to completing the reform package. The package did not copy any other reform, instead it could have been presented as drawing upon the best experience from other countries, Latin America, Switzerland, Australia (second pillar) to

Sweden (first pillar). Its focus on risk diversification, as opposed to funding alone, was appreciated by the public.

(2) the leadership. The government recognized that there was a need to create a post of the Plenipotentiary for Pension Reform who could set up an office independent from political influences and free of the tasks of daily management of the pension system. The Plenipotentiaries have done a superb job in shielding the Office for Pension reform from political fights and enabling it to focus on its professional tasks.

(3) working together with trade unions. *Security through Diversity* has been consistently supported by both major trade unions groupings. Through the process of working out the reform package, both trade union groupings were intimately involved in several consultations.

(4) the pace of works on the reforms has to be substantial. Opportunities for pension reform come and go. Political support varies depending on circumstances that may have little to do with pension reform. It is critical that the reform team stays "ahead of time". The leaders of the reform movement understood very well the role of time and the need to move ahead quickly and decisively.

(5) the sheer passage of time makes the circumstances more conducive. The public becomes better informed and old system becomes increasingly discredited when the implications of demographic scenarios become publicly known.

Therefore, if there is one conclusion from the Polish pension reform, it is that when the right time comes, the opportunity should be seized and the politicians should create appropriate conditions for the professionals on the one hand, and for the broad consultative process on the other.

Best Available Copy

USAID POLAND

PRIVATE PENSION FUNDS ASSESSMENT

DRAFT FINAL REPORT

March 15, 1996

TABLE OF CONTENTS

EXECUTIVE SUMMARY i

I. SCOPE OF WORK AND METHODOLOGY 1
A. Scope of Work 1
B. Approach and Methodology 2
C. Definition of Pension Fund 2

II. FINDINGS 4
A. The Current Private Pension Market 4
B. Tax Treatment of Private Pensions 10
C. Capital Markets 11
D. Pension Reform Plans 14

III. ISSUES 17
A. Private Pension Market 17
B. Tax Incentives 18
C. Regulatory Framework 18
D. Capital Markets 20

IV. BACKGROUND ON MINIMUM LEGAL AND REGULATORY REQUIREMENTS 22
A. Rationale 22
B. Objectives 25
C. Minimum Legal Requirements 26

V. RECOMMENDATIONS 32

VI. NEXT STEPS 35

Best Available Copy

EXECUTIVE SUMMARY

- **Project Purpose**

USAID/Poland requested technical assistance from Price Waterhouse LLP to assess opportunities and constraints for development of a voluntary, private pension funds in Poland. This report reviews the current financial markets, including the legal and regulatory framework, to identify potential impediments to private pension fund development. We also identify potential Government of Poland counterparts to work in this area. The technical recommendations contained within this report represent alternatives for consideration by the Government of Poland and USAID.

- **Poland currently does not have a "true" voluntary private pension fund market.**

Investment companies and life insurance companies market products which could provide a pension. But because investment products allow withdrawals on demand and insurance policies can be refunded, these products are not designed for long term investing. Insurance policies are designed to pay benefits in case of death, not to provide a retirement income. People are interested in private pension funds, however, to assure that they will have adequate income in retirement. These issues are addressed in detail in pages 4-11 of the report.

- **Private pension fund market development would benefit from fiscal incentives.**

The Government of Poland offers no tax exemptions, tax credits, or other form of incentive for private pension funds. The market acceptance of insurance products sold as pension products and investment funds sold as pension programs reveals much. The insurance products are popular, although they may be used primarily to evade taxes. The Pioneer investment trust retirement program, offered by 400 companies enjoys no tax privileges and has modest employee acceptance.

Best Available Copy

I. SCOPE OF WORK AND METHODOLOGY

A. Scope of Work

USAID/Poland requested technical assistance from Price Waterhouse LLP to assess opportunities and constraints for development of a voluntary, private pension funds in Poland. The private pensions system is expected to supplement the pensions paid by the Polish state system, *Za~klad Ubezpieczeń Spolecvlych* (ZUS). Although state pensions are considered inadequate, ZUS operates at a deficit and has a deteriorating financial condition. According to the experts, ZUS may be insolvent within a few years, thus reform is essential. This technical assistance project is designed to support the Government of Poland's plans for pension system reform. The scope of work involves the following principal tasks:

• **Assess the current private pension fund market in Poland.**
This task requires identifying the players in the market and products offered, to the extent that these exist. Products must be analyzed to see if they meet the criteria for pension funds. Also, this task requires assessing the potential demand for voluntary private pension funds.

• **Assess the legal and regulatory framework to support pension fund development.**
This task requires identifying the players in the market and products offered, to the extent that these exist. Products must be analyzed to see if they meet the criteria for pension funds. Also, this task requires assessing the potential demand for voluntary private pension funds.

• **Assess the legal and regulatory framework to support pension fund development.**
To carry out this task, the legal and regulatory framework for capital markets and insurance must be analyzed from the perspective of private pension funds' requirements. These analyses will indicate areas where existing legislation may be unsuitable for private pension funds.

• **Assess the capacity of financial intermediaries to support private pension funds.**
Because private pension funds typically invest in the financial markets, financial intermediaries play a key role in private pension fund development. The breadth and depth of the capital markets, the ability of financial intermediaries to carry out transactions, and market transparency must be evaluated.

• **Identify Potential ways to remove structural impediments to private pension fund development in Poland.**

B. Approach and Methodology

The Price Waterhouse (PW) approach called for a mufti-disciplinary team comprising pension funds, capital markets, and local specialists to assess the potential for the private pension funds market in Poland. This work was carried out during November and December 1995. Our methodology was to collect information related to private pensions from primary and secondary sources. The team conducted interviews, reviewed official statistics, collected market reports, and studied academic papers.

The PW team interviewed financial sector market participants and regulators in the following areas: insurance, capital markets, banking, and, of course, pension funds. Each of these financial sector participants are related to private pension funds. *Insurance companies* typically sell pension type products and dominate the private pension market in some countries. The *capital markets* are essential to pension funds as an avenue for investment. If the capital markets do not exist or do not function well, then the prospects for private pension funds diminish somewhat. The *banking system* underpins the entire financial sector because of the payments function.

Private pension funds typically rely on the banking system to collect and/or transfer pension system collect and/or transfer contributions to fund managers. The banking system also may be used to make pension payments, for example, if retirees receive their pensions in check form. Finally, pension funds themselves, to the extent that they existed, were studied. The list of meetings with contact information is provided in calendar format as Appendix A to this report. We have also included minutes for each meeting with market participants in Poland. These minutes are presented as Appendix B.

This report is based on a limited review of Poland's financial sector undertaken in a relatively short period of time. While a number of key participants in mapy of the major market institutions were interviewed, due to the exigencies of time not every key participant could be interviewed. With those caveats in mind, we offer these preliminary findings, and recommendations.

C. Definition of Pension Fund

Part of the scope of work is to assess the existing private pension fund market in Poland. To do so requires a working definition of a pension fund. This definition is important because in some economic transition countries such as Russia, Ukraine, and Moldova, team members have observed entities which call themselves pension funds but are not. At best, such entities might be investment funds; at worst, they are pyramid schemes.

Loosely defined, a pension fund is a vehicle for *providing income to retirees* and people who can no longer work due to disability, as well as their survivors. For purposes of this paper, private pension funds refer to *privately managed* pension funds belonging to individuals or entities sponsoring them, such as employers. A primary difference between private and public pension systems is that the former tend to accumulate assets to pay future pensions, while the latter often operate on *a pay as you go* basis. The exception is

book reserve private pension plans, such as German corporate pension plans. Book reserve pension plans obligate companies to pay pensions, but do not require assets to be set aside to meet this liability. Book reserve pensions are not advisable for emerging markets because of the high uncertainty of pension payment. For the purposes of this paper, we also assume that private pension funds *accumulate monies for long term investment.* Because pensions are long term obligations, pension fund managers generally seek long term investment alternatives. These criteria for defining private pension funds will be applied to various investment vehicles in Poland as part of the market assessment.

Best Available Copy

II. FINDINGS

A. The Current Private Pension Market

Poland does not currently have a private pension market. Certain products sold by insurers or trust funds are packaged as pension programs. These products do not meet the definition of Poland private pension funds because they tend to act as shorter term savings products. Participants generally have access to these funds at their discretion and for purposes other than to provide retirement income, as described below.

Although the products sold in Poland do not meet the definition of pension products, there is demand for Buch products. The demand is from individuals who perceive problems with the public social insurance system, consisting of general social insurance (ZUS) and farmer's social insurance (KRUS), which pays inadequate pensions. Even though pensions are low, pension expenditures exceed contribution revenues. Because ZUS operates on *a pay as you* go basis, the Government of Poland makes up the difference. State subsidies have increased from 14.5 % of total revenues to the social insurance fund in 1990 to 24.3 % in 1994 as shown in the table below[1].

SOCIAL. INSURANCE FUND INCOME 1990-1994 (Billions of old Polish zlotys*)					
Source of Funds	**1990**	**1991**	**1992**	1993	**1994**
Total Revenues	60,674.0	113,312.5	188,944.0	251,192.0	340,562.0
Contributions	83 .9 %	78.9 %	73.3 %	73.3 %	75.4
State subsidies	14.5 %	19.5 %	26.2 %	26. 3 %	24.3
Others	1.6%	1.6%	0.5%	0.4%	0.3%

* The exchange rate was 22,500 old Polish zlotys per US$1 in 1994

These financial problems persist, despite the high contribution rates to ZUS. Pension contribution rates increased from 38 % to 45 % from 1990 to 1992. Current contribution rates to ZUS are broken down as follows:

- Unemployment and disability: 3.3 % of taxable wage base
- Pensions and retirement: 45% of taxable wage base

These public pension contribution rates are among the highest in the world. The employer pays the entire contribution for his or her employees. As expected under these conditions, employers use legal and other means to evade contributions to ZUS. The taxable wage base for social insurance has no upper limit. However, the social insurance taxable wage base excludes certain forms of compensation, such as life insurance premiums paid by the employer on behalf of the employee. Tax issues are considered later in this paper.

[1] Sofia Czepulis-Rutkowska, "Pension System During Transition", Social Policy in 1993-1994: Main Problems in Transition Period. Warsaw, Poland: Institute of Labor and Social Studies, 1995.

1. Trust Funds

a. Overview

Trust funds are the Polish equivalent of American mutual funds. The Act on the Public Trading of Securities of March 1991 regulates these open-ended funds which must be licensed by the Polish Securities Commission, referred to as the Commission. The trust fund sponsor is required by law to act in participants' best interests, although the law does not define this concept. We treat this issue and fiduciary concepts on pages 21-23 of the report. In addition, the trust fund sponsor also must be licensed by the Commission. Trust funds sell participation units to investors via brokerage houses, although theoretically they may use other distribution channels.

Trust fund participation units are more closely related to bank accounts than to. securities: Investors can redeem participation units, but cannot sell the units to third parties. Ownership of a participation unit gives the investor a claim against the trust fund assets: the trust fund manager holds title to the fund assets. The trust fund manager invests the assets in according to the fund's investment philosophy. Trust fund bylaws disclose not only the investment policy, but also sales charges, net asset value computation, and other important information for investors. Notably, that although Polish law does not require trust funds to maintain separate accounting for sponsor and investor assets, both Pioneer and Korona do so.

b. Market

Two companies currently offer trust funds in Poland: the Pioneer group out of Boston, and Korona, a Polish/Austrian joint venture. These two companies manage a total of four funds and have approximately $400 million under management. A number of foreign companies may be preparing to enter the Polish trust fund market, including CS First Boston, Franklin Templeton, Kleinwort Benson, and ING Bank. The Polish Securities Commission denied a third fund management company, Fidelia, the right to offer participation units. We received conflicting explanations of the Commission's decision.

i. The Pioneer Funds

The Pioneer group of funds, based in Boston, launched the first Polish mutual fund in July 1992. The manager and underwriter of the fund is Pioneer First Polish Trust Funds JSC, 100% owned by Pioneer International Corporation. Pioneer sells participation units at more than 500 outlets belonging to banks and private brokerage houses. The minimum investment is 100 Polish zlotys (PLN 100). The fund charges a 5.5 % load on investments up to PLN 25,000, which is reduced to 2.5 % for investments over PLN 500,000. The fund also charges a 2 % management fee based on the value of the average monthly assets under management. As of the middle of 1995, the fund had PLN 835,580,000 under management or about US$334 million, down from PLN 1.43 billion or roughly US$572 million at the end of 1994 and PLN 911 million or about US$364 million at the

end of 1993. As of the middle of 1995, the fund had about 37 % of its portfolio invested in Polish equities, 62 % in Polish debt and the rest in foreign securities.

Besides the Pioneer First Polish Trust Fund, Pioneer has a debt fund, the Pioneer Debt Securities Fund and plans to offer an aggressive growth fund that will target Polish equities. In addition, Pioneer markets *a retirement plan.* This product, which uses the trust funds for investment, is sold primarily to employees of companies with over 50 employees as well as to individual investors. The initial investment is PLN 100 but subsequent investments can be as .low as PLN 50. Approximately 400 companies participate in Pioneer's retirement program. The program is individually tailored to meet company needs, so fund contributions may come from employees, the employer, or both. The investment funds are portable for the employee. Employer contributions are taxable to the employee and increase the employer's wage base for calculation of payroll taxes.

Information on the number of employees participating in this plan was not available to the consulting team. Pioneer management characterized the retirement plan as giving Pioneer a chance to market their investment funds to a company's employees. This characterization suggests that participation is not high. According to Pioneer, the lack of fiscal or tax incentives is an issue for employee participation in their retirement plans. However, this pension program is not really a retirement plan because investors do not have to keep money in the plan until retirement. Rather, this program is akin to a savings account as employees may withdraw funds at any time at their discretion.

ii. The Korona Fund

The Korona fund, a joint-venture between Creditanstalt of Austria and Bank Gospodarki Zywnosciowej, began operations of August 7, 1995 with a balanced fund investing in Polish debt and equities. Creditanstalt Securities was the first foreign brokerage house to operate in Poland while BGZ is one of Poland's leading banks and was the first brokerage house in Poland to obtain a licnese to provide investment advisory services. Like Pioneer, Korona has a sales commission of up to 5.5% depending in the amount invested and a management fee of 2% of the fund's average daily assets. Korona's portfolio is invested 40% in equities and 60% in debt. The company does not offer a retiremnt plan, but expects to do so in the future.

2. Other Forms of Collective Investment Vehicles

Largely due to Poland's tax laws, at presentr the only form of collective investment vehicles is the open ended fund regulated by the Act on Securities. Because closed end funds are not subject to any special regulation, unlike open ended funds, they would be organized either as joint stock companies or limited liabilities. Both of these organizational forms are defined and subject to the Polish Civil Code. Neither form, however, is practicable for the development of investment vehicles.

An investment company in the form of a joint stock company subjects participants to *double taxation,* as profits are taxed both at level of the corporation and the individual.

This double taxation occurs because corporations pay tax on profits, then pay dividends. Individuals must pay taxes on dividend income, even though the corporation has already paid a profit tax. As such, joint stock companies are a less attractive collective investment vehicle. Although limited partnerships do not suffer from that requirement, the cumbersome process of establishing such entities make them unsuitable as investment vehicles. Although recommendations have been made to the Government that would eliminate double taxation, these recommendations have not been enacted. Tax law is complex and rapidly changing in Poland, as the Government struggles with competing needs to reduce budget deficits and create conditions to foster economic growth. Tax considerations are treated more fully later in this section.

3. Insurance Companies

a. Overview

In August 1995, Poland adopted a new insurance law which modifies previous legislation. Insurance companies must comply with capital adequacy requirements, submit to examinations, distribute products via licensed brokers and agents, and contribute to a guarantee fund. The Ministry of Finance issues and revokes licenses to insurers, while the new regulator licenses brokers and agents. The new insurance regulatory agency, referred to by its Polish acronym, PUNU, had not been established when the project field work took place. The law embodies the philosophy of regulation through solvency requirements. As a consequence, insurance products are not subject to any regulatory approval. But because the regulator sets capital requirements for specific products, the Government regulates the products sold[2].

As mentioned, consumers are protected by an insurance guarantee find. Insurers pay 1.9% of gross premiums to the fund. The Ministry of Finance sets the premium. The new law reduces coverage for life insurance claims, which are generally voluntary coverages, from 100% to 50% of the claim up to a maximum of 30,000 european currency units (ecu).

b. Market

Polish law requires the separation of life insurers and property and casualty insurers. These companies are separately capitalized, although cross-shareholdings are permitted. Of the 40 licensed insurance companies in Poland as of May 1995, 12 were life insurers,

[2] Insurance companies behavior is influenced by laws and regulations such as minimum capital requirements. Government regulators set capital requirements which affect the cost of offering insurance products. In general, the higher the capital requirement, the higher the cost of providing the product. The capital requirements are related to the risks involved, such as event or mortality, investment, interest rate, and other risks. Where regulators do not approve specific insurance products, they tend to classify them for reserve and capital purposes. Insurance companies thus design products to meet market demand but generally seek to minimize the capital requirements. This approach to insurance regulation exposes consumers to market failure if minimum capital standards are too low. High capital and reserve requirements tend to reduce competition and lead to higher prices in the market. In both cases, regulation shapes the insurance market.

although data is available for only 11 of these companies. Information published by Reczpospolita on March 4, 1996 shows that life insurance premiums increased sharply in Poland in 1995. At the approximate year-end exchange rate of 2.5 Polish zlotys per US$, 1995 life insurance premiums totaled nearly $740 million.

ESTIMATED POLAND INSURANCE MARKET (in millions of Polish zlotys)				
Company	**Premiums**		**Equity Capital**	
	1994	**1995**	**1994**	**1995**
PZU Life S.A.	1,216.34	1,615.05	110.00	145.00
Commercial Union Life, S.A.	36.53	119.50	11.55	11.55
AMPLICO Life, S.A.	25.82	84.68	2.00	2.00
Heros Life, S.A. (Founded 1994)	NA	8.61	NA	14.00
Nationale Nederlanden (Founded 1994)				
AGF Life Insurance, S.A.	5.29	7.07	4.75	4.75
Gryf Life, S.A. (Founded 1994)	0.10	NA	2.00	NA
Benefit, S.A. (Insurance Company of Cooperative Saving and Credit Bank)				
Polisa Life	NA	0.77	NA	6.20
Petrus, S.A. (Founded 1994)	0.00	0.02	4.51	4.51
Azur Life, S.A. (Founded 1994)	0.00	0.01	2.50	3.75
TOTAL	1,284.36	1,849.65	144.31	196.76

Key: NA means information not available.

Poland demographically is an attractive market for life insurers. With a population of over 40 million, per capita premiums are about US$ 18.50 in Poland. This level of penetration is low compared to Western European countries. The potential market is at least 5 times these levels, according to conservative estimates from the insurance industry. Successful macroeconomic growth and stability could as much as double these estimates. This market potential has attracted a number of new insurance companies to the Poland insurance market. Despite or perhaps because of increased competition, life insurance premiums grew by 44% in 1995 alone. Robust growth is likely to continue for the foreseeable future. Estimated life insurance market shares are shown in the table below.

ESTIMATED MARKET SHARE – POLAND INSURANCE MARKET		
Company	**Market Share (%)**	
	1994	**1995**
PZU Life S.A.	94.7	87.3
Commercial Union Life, S.A.	2.8	6.5
AMPLICO Life, S.A.	2.0	4.6
Heros Life, S.A. (Founded 1994)	0.0	0.7
Nationale Nederlanden (Founded 1994)	NA	0.5
AGF Life Insurance, S.A.	0.4	0.4
Gryf Life, S.A. (Founded 1994)	0.0	NA
Benefit, S.A. (Insurance Company of Cooperative Saving and Credit Bank)	0.0	0.1
Polisa Life	NA	0.0
Petrus, S.A. (Founded 1994)	0.0	0.0
Azur Life, S.A. (Founded 1994)	0.0	0.0
TOTAL	100.0%	100.0%

Key: NA means information not available.

Although the state-owned insurer, PZU Life retains its dominant position, its market share has declined from 94.7% to 87.3% over the last year. Such a decline is not unusual after a market has been opened to competition. Prior to 1991, PZU had a monopoly on the market. Competition, particularly from Commercial Union at the affluent end of the market, has led to new product introductions and more choice for consumers.

c. Products

This report concentrates life insurance products, particularly *annuity* and *endowment* products, because of their similarity to pension products. An *annuity* is a contract between the insured and an insurance company whereby the company agrees to pay a certain amount to the insured at regular intervals, typically monthly. These payments are like pension payments. Annuities are not commonly sold in Poland. A likely reason is because annuities in Poland typically have not kept pace with inflation. In fact, some annuity contracts do not provide for indexation. Although annuity products exist which allow policyholders to participate in the insurer's investment performance, the policyholder still bears the risk if the investment returns do not exceed the inflation rate.

Endowment policies are life insurance policies which mature when the person reaches a certain age, typically age 65. At maturity the policyholder receives a benefit as defines in the policy. Annuities and lump sum payments are the most common form of endowment benefit. If the policyholder dies before the policy matures, benefits are paid to the beneficiary. Because policyholders may receive an annuity as a payout from an endowment policy, insurance companies claim that these are pension products. However, *endowment policies in Poland do not meet the criteria defined for private pension funds* in two ways. First, an endowment policy does not necessarily provide retirement income. The policyholder can choose to cancel the policy at any point in time and receive a refund. This policy feature explains the second reason why endowment policies do not meet the pension funds: they are not necessarily long term investments. All the moajor life insurance companies in Poland offer an endowment product, although sales and market information on these policies was sketchy, conflicting, or considered sensitive. The consulting team requested policy sales, lapse, and cancellation, but did not succeed in obtaining it.

Endowment and other similar life insurance policies are sold to individuals and groups in Poland. Insurance companies market certain group insurance policy as pension products. Employers piurchase these life insurance policies, typically endowment policies, on behalf of their employees. The employer pays the premium, which is considered an expense for corporate income tax purposes. The employee holds the policy and pays income tax on the amount of premium paid by the employer on his or her behalf. Analysis of such a policy offered by PZU Life suggests that these policies can also be canceled at the employee's discretion after a moratorium of a few years. Prior to the moratorium period, steep penalties apply[3]. After the moratorium period, premium

[3] The policyholder appears to forfeit all premiums and interest to the insurer if the policy is cancelled during the first three years after the policy is issued.

payments plus interest would be refunded to the employee. The employee pays no income tax on the refund because taxes were paid on the premium amount. As such, these *group life insurance policies in Poland are more like savings schemes than pension funds.* Market participants imply that these policies are being used to increase employee wages but avoid the payroll tax.

Although life insurance may be paid as annuities or as a lump sum, the latter is more popular. Many annuities, particularly for older policies, are not indexed to inflation. For this reason, PZU Life faces litigation from life insurance beneficiaries whose monthly annuity payments were severely eroded by inflation. Each beneficiary must file a lawsuit to request a one-time only adjustment of these benefits. Part of the rationale for the case-by-case approach is because each individual has a separate contract with PZU Life. This situation highlights a weakness of using contract law to protect individual pension interests. Some individuals will lack the resources to take PZU to court to obtain the adjustments to their pensions to which they are entitled.

PZU now offers fixed or indexed annuity benefits. Indexed annuities participate in the insurer's profits. Such indexation may be sufficient to prevent erosion of benefits by inflation. *Indexed annuities only protect beneficiaries' purchasing power if they keep pace with price inflation.* In other words, the insurers' investment portfolio returns must equal or exceed inflation. Indexed insurance policies are also starting to appear in the market, primarily in the form of foreign currency policies. Typically, foreign currency policy premiums are established in foreign currency, such as dollars. Policyholders can pay the premium in zlotys based on the current foreign currency exchange rate. Insurers are unlikely to offer policies indexed to inflation until they have investment alternatives which are fully adjusted for inflation.

B. Tax Treatment of Private Pensions

The Government of Poland currently *grants no tax incentives to private pension funds.* Financial sector participants repeatedly cited this policy as an obstacle to private pension fund development. The products marketed as pension products have different tax treatment. This section reviews the tax treatment of trust funds and insurance policies described above.

1. Trust Funds

Both Pioneer and Korona pay no dividends, choosing instead to reinvest all trust fund income and realized gains in the funds. Investors realize gains when they redeem participation units. As such, investors earn capital gains or losses on trust fund investments. Under 1995 tax law, capital gains are not taxed, however, they are expected to be taxed in 1996. Under current law, investors place post-tax money in trust funds. Trust funds are also subject to inheritance tax.

When a trust fund investment is used for pension fund purposes it receives no tax exemptions. Employee investments use post-tax income. Employer contributions in

behalf of an employee not only raise the employee's taxable income, but they also raise the taxable wage base for social insurance (ZUS) purposes. In other words, each 100 zlotys paid by the employer on behalf of the employee Pioneer's retirement program raises the employer's expenses by 148 zlotys. Under these circumstances, trust funds are at a competitive disadvantage compared to life insurers.

One alternative for Polish trust funds might be to establish a pension program in conjunction with an insurer. This alternative would be viable only if the insurer can legally invest in trust funds. Trust funds might find this alternative attractive, giving them access to tax-sheltered savings. However, the trust funds would have to give insurers an incentive to combine forces.

2. Life Insurers

Life insurance policies have four types of favorable tax treatment in Poland. First, although individuals purchase life insurance policies with post-tax monies, benefits are exempt from tax. Carrying this logic forward, premium refunds for canceled policies are also tax-exempt. Second, when companies can purchase life insurance policies for their employees, the premiums are tax-deductible expenses for the company. The employee thus includes the premium as part of his or her taxable income. Third, companies purchase group life insurance policies, the wage base for calculating payroll taxes to ZUS remains unchanged. So, an employer paying a 100 zloty premium for insurance increases his expenses by only 60 clotys assuming a corporate tax rate of 40%. Finally, insurance is not subject to inheritance tax.

C. Capital Markets

Private pension funds typically are important investors in the capital markets. For this reason, the PW team assessed Poland's capital markets to determine if the structures can support development of private pensions. This section contains an overview of the capital markets in Poland. For further information on the legal and regulatory framework and market operations please refer to Appendix C.

1. Introduction

Although at present, Poland has no private pension system, the country has many, though not all, of the necessary institutions in place. Private, publicly traded companies exist. Debt and equity is issued and traded on the Warsaw Stock Exchange. Basic legal, regulatory and market institutions function. Compared to many of the countries in the region, Poland's capital markets have a relatively comprehensive and well-developed legal framework with an increasingly developed institutional and regulatory capability and relative transparency. While not as developed as many Western markets, Poland's capital markets are certainly adequate to support the development of private pension reform.

The primary law governing Poland's capital markets is Act of the 22 March 1991 *On Public Trading in Securities and Trust Funds* referred to as the Act on Securities. This law establishes and regulates the Polish Security Commission, Brokerage and Advisory Activities, the National Securities Depository, and Trust Funds among other things related to capital markets.

2. The Warsaw Stock Exchange

The Warsaw Stock Exchange (WSE) reopened in 1991, 52 years after it was closed. The WSE, Poland's only stock exchange, is a self-regulated organization, the rules of which must be approved by the Polish Securities Commission. Parties to transactions on the exchange may only be broker shareholders of the exchange. There is no over the counter market in Poland at present, though one is scheduled to commence in February 1996.

The WSE equities market is modeled on the French *call* market. The market consists of a main market and a *parallel* market, depending on the size of the listed company. When the WSE opened on April 12, 1991, seven brokerage houses traded shares in five companies with a total turnover of approximately $2,000[4]. As of October 1995, 66 companies traded on the WSE. Approximately 49 issues were listed on the WSE's main market and 20 issues were listed on the parallel market[5]. At the end of the third quarter of 1995, the total capitalization of the listed companies on the Warsaw Stock Exchange was approximately $3.6 billion while the parallel market was capitalized at approximately $82 million.

a. Equities

The WSE's trading system is order driven and dematerialized. Equities are traded five days a week with orders accepted from brokers up until 11:00 am on trading days. The main feature of the WSE is that a single price per share emerges at the end of each trading session as a result of the orders submitted. Investors place orders with the broker using either a limit or market order. Limit orders may vary from the previous price by no more than 10%, i.e., no more than either 10% higher or lower. Prices of individual securities are fixed by a specialist, an employee of a brokerage house under contract to the issuer. Price determination uses an algorithm based on two major criteria: maximizing turnover while minimizing the difference between demand and supply as well as the price in the current trading session and the previous one. Transactions are then executed at that price, known as the *equilibrium price*. In the event that the market is unbalanced, i.e., the difference between demand and supply exceeds the upper or lower limit, the specialist may either correct the imbalance or fail to conclude the transactions, depending on the circumstances.

[4] This report follows the convention of the WSE of counting separately the buy and sell side of each transaction. Figures in United States dollars are calculated on the basis of an exchange rate of PLN 2.5 to $1.

[5] Data in this paragraph is drawn primarily from 10 Papiery Wartosciowe (October 1995).

As of October 28, 1995, the WSE adopted new listing requirements. For the *main* market, securities may be admitted to trading following approval by the Commission if, among other things, (i) the value of the listed shares is not less than PLN 7 million (US$2.8 million); (ii) the company's book value is not less than PLN 9 million (US$3.6 million) or in the case of banks or insurance companies not less than PLN 15 million (US$6 million); (iv) the company has pre-tax combined profits for the past three fiscal years of at least PLN 3 million (US$1.2 million); and (v) the company has disclosed audited financial statements for the last three years. The parallel market's listing criteria are similar to the main market, but slightly less stringent. In addition to these quantitative criteria, the Exchange's Supervisory Board must take certain qualitative criteria into account before listing a company. These criteria include profitability forecasts and creditworthiness, management quality, and safety of the market's participants.

The equity market has three market indices. Market indices are useful tools to benchmarking investment funds and pension fund performance. The existence of equity market indices as well as transparent equity markets bodes well for the development of private pension funds in Poland.

b. Bonds

Because there are no publicly traded fixed income securities issued by private companies in Poland at present, the WSE's bond market is limited to government bonds. Treasury bills are not traded on the WSE but, rather, on the interbank market, run by the National Bank of Poland[6]. Certain bonds are traded on the so-called *single price market*, which uses the same principles as the equities market. However, bond prices may vary by no more than 5% from the previous session compared to 10% for equities. Large investors, mostly banks, may trade large blocks of bonds on a system of continuous trading, also known as the *block market*. Quotations on the block market are performed using the continuous trading system where the opening price is determined according to the single-price quotation system.

It is worth mentioning that Poland passed a corporate bond law in June 1995. The unfavorable interest rate environment, coupled with economic uncertainty, probably account for the absence of corporate bond issues to date.

3. The National Securities Depository

Started five years as a subsidiary of the WSE and independent for little more than a year, the National Securities Depository is the only central facility for clearing and settlement of securities in Poland. All publicly traded securities, except Securities issued by the Government of Poland, must be deposited with the National Depository. These shares are fungible and trade on the WSE only in book-entry form. Clearing and settlement must occur within three days of the transaction.

[6] Each Monday, the National Bank of Poland auctions on a discount basis T-bills in various denominations and maturities ranging from 4 weeks to 52 weeks and denominations ranging from PLN 10,000 to PLN 1 million.

The National Depository records the nominee owners, rather than keep a record of the beneficial owners of the securities. The National Depository also operates a guarantee fund aimed at guaranteeing the mutual solvency of the parties to a trade. No claim has ever been made against the National Depository's guarantee fund. This dematerialized trading system facilitates market activity, facilitating securities sales and purchases for all investors, particularly high volume institutional investors such as pension funds.

4. Brokers and Investment Advisors

Brokers may buy and sell securities as a principal, i.e., dealer, or as an agent for their clients. A broker acting as a dealer must have a minimum capital of PLN I million (US$400,000). A broker operating solely in the capacity of a broker must have a minimum capital of not less than PLN 130,000 (US$52.000). A brokerage firm offering investment management services must have a minimum capital of PLN 1.75 million (US$700,000). As of the end of 1995, there were 54 brokerage bonuses, including 32 non-banking brokerage houses and 22 banking brokerage houses with 708 customer service outlets.

D. Pension Reform Plans

1. The Miller Plan

a. Synopsis

In December 1995, the Government of Poland announced its intent to reform pensions in Poland. The Miller Plan, named for the Minister of Labor, is the Government's blueprint for reform. Poland plans a three-pillar pension system as follows:

- First Pillar - Publicly managed, mandatory social insurance system (ZUS) providing a basic benefit for old age, disability, and survivorship.

- Second Pillar - Privately managed pension pillar allowing employer-based and independent pension funds. Tax incentives for participation are expected. These pensions will supplement public pensions. Although this pillar is supposed to be voluntary, some members of Government favor making this pillar mandatory.
- Third pillar – Individual, voluntary private pension funds. Tax incentives are likely for this pillar as well.

The first pillar would be reformed to reduce its costs. Examples of reforms are increasing the retirement age for women and reducing preferential benefits for privileged groups. These changes are expected to be politically sensitive. For this reason, the Government plans to undertake simultaneous efforts to reform the first pillars and develop the other pillars.

b. Status

The Council of Ministers sent the Miller Plan to Parliament. They designated the Ministry of Privatization to work with the Institute of Labor and Social Studies on draft private pension funds legislation. However, a group in the Insurance Department of the Ministry of Finance is also working on draft legislation for private pension funds. This technical assistance is being funded by PHARE. The law firm, McKenna and Co., was retained by the Ministry of Finance to prepare this draft legislation. This law firm has a reputation for offering solutions which benefit the insurance industry.

c. Analysis

The Ministry of Finance observes that this plan is slow to address the financial problems of ZUS. Reservations from the Ministry of Finance are included in the version of the Miller Plan which was passed to Parliament. Other critics observe that ft Miller Plan does not go far enough. In our opinion, without a significant decrease in payroll taxes for the public pension system, the private system may only attract people with enough resources to benefit from pension tax incentives. But *limited reform is better than the current situation of low pensions, high contributions, social insurance deficits, and no private pension system to help people save for their retirement.*

2. The Mazur plan

a. Synopsis

The Mazur Plan proposes a Chilean-stylc reform of the Polish pension system. This reform creates a three tier pension system: a basic, minimum government pension; mandatory participation in the second tier, and a voluntary third tier. The second tier initially would consist of ZUS and privately managed, defined contribution based pension funds. While participants in ZUS would have the option to switch to the new system, workers newly entering the labor force would have to join the private system.

The Mazur Plan was prepared and revised with the help of leading experts in the pensions field. Mazur and his team, who work in the Ministry of Finance, travelled to Latin America to study the Chilean-style reforms. The Foundation for the Development of Social Security was established to provide a mechanism for technical assistance. The Mazur plan includes financial projections and various simulations of different scenarios for the government budget and economic growth[7].

b. Analysis

Political feasibility and speed of reform make the Mazur plan a radical reform alternative for Poland. In comparison to the Miller Plan, it has high immediate costs. The Mazur Plan requires the Government of Poland to recognize pension obligations now that

[7] The US Department of Labor may have helped develop the simulations.

otherwise would not be payable for decades. But this reform alternative also would bring about a faster accumulation of savings and resolution to the pensions challenges in Poland. Such savings would likely be channeled into the capital markets in Poland, supporting domestic economic growth. For these reasons, *in our opinion, the Mazur Plan is probably a technically better solution for Poland. But this plan may not be politically feasible according to some Government officials*. Legislators may have access to the Mazur Plan to allow them to make comparisons to the Miller Plan[8]. Widespread government support for the Mazur Plan was not evident to the consulting team.

3. Other Pension Proposals

One type of proposal discussed by the Government of Poland is using privatization assets for pension funds. The basic concept is to distribute assets which have not yet been privatized, such as bank shares, to capitalize pension funds. These assets might compensate public sector workers for past promises which the Government has not yet fulfilled or pay back pensions, for example.

The primary advantage of linking privatization to pension funds is that the transaction does not require cash. However, many criticisms may apply. First, there is the question of what the shares are worth. If privatization does not also involve sale to external investors via the capital markets or a strategic investor, then the share value is open to debate. The book value may not reflect the true asset value. In the absence of a market for shares, how will they be valued in future? Can pension fund managers or pensioners sell them? If so, how and under what conditions?

A second set of issues relate to the purpose of privatization. Ownership change and strategic partners are ways to improve operations, transfer technology, and increase profitability. Another privatization objective is to broaden share ownership. While the privatization via pension funds would broaden share ownership, the other objectives might not be achieved with this program. One way to link mass privatization and pension reform is to use the Bolivian model. A strategic investor acquires half of the shares of the company to be privatized and management control. A bidding process is used to select the strategic investor. The remaining shares am distributed to all adult Bolivians via newly created private pension funds. However, because many Bolivians are unlikely to make future contributions to the pension system, it is not clear how the private pension funds will cover their administrative costs. Shares cannot be sold until a person qualifies for retirement. But it is not clear how this share market will develop in Bolivia. The Government of Poland should consider these issues in any program design.

[8] This may represent an attempt to replace the Miller Plan with the Mazur Plan.

III. ISSUES

A. Private Pension Market

Although Poland lacks both a legal and regulatory framework for private pensions and private pension products themselves, demand for these products exist. The potential market size for a voluntary pension market is limited without fundamental reform of ZUS. Tax incentives would increase the potential market size, however it is difficult to say by how much. The 48% contribution paid to ZUS leaves little room for contributions to a private, voluntary system. If pension contributions did not increase the taxable wage base for ZUS, employers would find these deferred compensation arrangements a less costly way to increase wages. However, interviews with Poles suggested that even though they are interested in pensions, many would prefer money in their pockets to money in a pension fund which they cannot access until retirement. Offsetting this desire is concern for a secure, adequate retirement income.

We analyze the potential market size of a voluntary pension market using Polish labor statistics from year-end 1994. In December 1994, 141 million people contributed to social insurance: 12.6 million active workers in ZUS and 1.5 million agricultural workers in KRUS. Nevertheless, the potential market size is significantly less than this number for reasons explained below.

- *Public Sector Workers* – 7.9 million of the active workers participating in ZUS work in the public sector. Public sector workers are less likely to participate in private voluntary private pension funds for two reasons. First, their employer, the Government of Poland is not likely to contribute on their behalf in this area of fiscal restraint. Second, these workers tend to have lower salaries and so are not likely to finance private pensions themselves.

- *Agricultural Sector* – The agricultural sector is not organized in corporations, so workers would have to finance their own private pensions. As such, demand for voluntary private pension funds in this sector is expected to be low. Even with tax incentives, the high level of tax evasion among this group means that they will derive little benefit from such measures.

- *Small enterprises* – Small and medium-sized enterprises comprise a significant portion of private sector employment. These firms are not likely to sponsor private pension funds. As such, participation is likely to be low from this group.

Of the 14.1 million active workers in Poland, we estimate that the market potential for voluntary private pension funds is only 4.5 million people. Assuming market penetration of 25% in the early years, the estimated voluntary private pension market is 1.1 million participants. This market size is sufficient to sustain an industry specialized in pension products. Although this small, supplementary pension market will not be sufficient to resolve the public pension crisis in Poland, it may be a step in the right direction. A

small, voluntary, private pension system could be the foundation for a more profound reform of the overall pension system.

B. Tax Incentives

Tax incentives have played an important role in development of private pension funds in countries such as the United States, the United Kingdom, New Zealand, Hungary, the Czech Republic, Chile, Peru, and Argentina. Pension products have no tax incentives in Poland at present. *The lack of fiscal incentives is a major obstacle to development of the private pension market in Poland.* Since employer contributions are not tax deductible, there is little incentive for any employer to establish a pension plan for its employees.

C. Regulatory Framework

The existing legal and regulatory framework does little to encourage the development of private pension funds. Polish law does not contain the basic concepts necessary for the development of a private pension system, such as the concepts of the trust, the fiduciary, the prudent man and so on. Finally, Poland currently lacks the institutional capability to regulate private pension plans. Legal issues related to the development of private pension funds in Poland are described below.

1. Fiduciary Concepts

Unlike common law countries such as the United Kingdom, the United States, Canada, Australia, India and New Zealand, for example, Poland's Civil Law system does not recognize certain concepts necessary for the development of private pension plans, including the concepts of *trust, the fiduciary, the sole benefit rule and the prudent man investment standard.* These concepts underlie the Employee Retirement Income Security Act (ERISA), the basic federal regulation of U.S. pension plans, and require that one entrusted with the standard of care that the archetypal *prudent man* would in investing money for another. Rather than relying on the common law and federal statutes, as in the U.S., Poland, as a Civil Law country, addresses these issues through contractual doctrines regulating the relationship between the fund and the investor.

This situation is an obstacle to pension reform but is not insurmountable. One way to deal with the absence of these concepts would be to draft comprehensive regulations, patterned after those in the United States. This process would be very time consuming and be subject to vast political uncertainties. In the end, such regulations might prove unworkable since Poland's legal system is very different from ours.

One Polish legal expert believes that these matters can be addressed contractually. The standard of care would have to be set precisely enough to achieve what common law achieves through the concept of fiduciary, for example. Only minor adjustments would be needed to existing legislation and the development of a form contract. This contract could be approved and mandated by the Securities Commission or an appropriate

regulatory body that holds the pension fund manager to the obligations of a fiduciary. However, contract law has certain weaknesses which are addressed in the next sections.

2. Trust Concepts

a. Description of Polish Situation

Existing Polish law for trust funds is not well suited for pension funds because of a weakness in the trust concept. According to Dr. Andrzej Kawecki, a leading Polish legal authority, the trust concept requiring pension funds to act in the best interests of investors, similar to the fiduciary concept, has no intrinsic meaning in Poland. The concept was grafted from common law; no precedent exists for it in Polish law or civil code. Common law states general principles and allows case law to decide application of these principles. Under civil law, by contrast, judges refer to the law or code and apply it to the fact. What this means for trust funds is that the law does not provide specific provisions to protect investors from certain forms of fraud. The trust fund by-laws, which are basically contracts, govern the relationship between the investor and the trust fund. Contract law is a weaker form of law. Disputes are decided by judges with limited experience in financial markets cases given Poland's relatively recent experience in this area. According to Dr. Kawecki, the risk is that the participants may not be adequately protected.

For example, unless trust fund by-laws forbid it, trust funds could pledge investors' assets as security for their own loans. This situation is possible because assets are in the name of the trust fund itself. If the trust fund could not meet its obligations, such assets could be seized by creditors. Further, allowing pension fund assets to be pledged as collateral for loans conflicts with the goal of long term capital accumulation. Pension fund investments should strive to balance safety of principal with high rates of return. Another weakness is that trust funds do not have to maintain separate accounts for their own and trust fund assets. Commingling of funds creates the conditions for conflicts of interest, at a minimum, and facilitates fraud or embezzlement at worst.

b. Lessons Learned from Other Countries

Historical experience in the United States and United Kingdom indicate that trust law does not always adequately protect participants. Prior to the passage of the Employee Retirement Income Security Act (ERISA) in 1974, pension fund investment abuses were all too common. Funds were lost and people were left without pensions. In the recent Maxwell pension scandal in the U.S., the Maxwells diverted pension monies to other corporate purposes, effectively draining assets from the pension fund. The political ramifications of a similar pension scandal in an emerging market could be extraordinary.

c. Conclusions

We conclude that additional refinement of the concept of conflict of interest is needed to support healthy development of a private pension fund industry in Poland. Specific measures to deal with these potential weaknesses are:

- Define what it means for trust funds or pension funds to act in the best interests of others. The Employee Retirement Income Security Act (1974) and U.S. Department of Labor regulations define such standards and might serve as a guide.

- Require trust funds and pension funds to keep participant assets separate from the fund manager's assets. In other words, do not allow commingling of participant and fund manager assets. Similar standards should apply for fund administrators and other service providers in the industry.

- Establish investment limits or guidelines for pension funds to assure that participant assets are invested appropriately.

Further study is needed to determine what safeguards would be required in Poland.

3. Insurance Regulation

The new legal and regulatory framework for insurance is being implemented at present. The new regulatory body had not yet been established as of December 1995, although legislation was passed several months earlier. It is too soon to evaluate insurance regulation in Poland. However, we observe that although insurance products have similar features to pension funds, they are not necessarily the same. In general, insurers assume risk when they sell products. For pensions, the list of risks includes mortality, investment, interest rate, default, and even political risk. However, with private pension funds either the employer or the individual bears some or all of these risks. Pensions, therefore, require different legislation from that of insurance. Some of the basic principles, such as protection of participants' rights, may be the same, but they require different application because they serve different purposes in pensions and insurance.

D. Capital Markets

The Polish equities market is characterized by thin trading and extreme volatility. Most professional participants in the market attribute this to the absence of institutional investors and the prevalence of small investors who view the WSE more as a casino than a place for long term investments. Although WSE statistics do not reveal much about its investor profile, the exchange's representative was of the opinion that the bulk of the trades were made by small investors. This view was seconded by the brokers we interviewed. The one relevant statistic maintained by the WSE shows that:

- 92% of WSE transactions are for $1,000 or less
- 4% are between $1,000 and $4,000
- 4% are over $4,000

The total value of transactions breaks down as follows:

- 21% of the transactions are for $1,000 or less
- 11% are for $1,000 to $4,000
- 68% are for over $4,000

While these statistics are not definitive, they suggest that the bulk of activity on the WSE is very small trades by individual investors.

The Polish market is deeper than some emerging markets, but not as deep as others. For example, in U.S. dollars, the monthly value of stocks traded in the three month period between July and September 1995, averaged approximately US$249 million[9]. By contrast, during the same time period, the Hungarian and Turkish markets averaged monthly trading values of approximately US$45 million and US$4.3 billion, respectively. In the same three months, the market's capitalization, averaged about US$4.1 billion. By contrast, the Hungarian market, during the same period, was capitalized at approximately US$29 billion. Converted into US dollars, for the period November 1994 through October 1995, the smallest average value of a buy order on the main market was approximately US$3,000 in March 1995 and the largest average value of a buy order was approximately US$8,000 in October 1995.

Measured on a quarterly basis, the equity market was characterized by dramatic swings in price: for example, returns in Polish zlotys on the WIG Index were a positive 17.9% for the third quarter of 1994 followed by a return of a positive 40.9% for the second quarter of 1995.

The lack of indexed investment instruments is another area of concern for the development of private pension funds. The few indexed securities available in Poland tend to vary only the interest rates paid and not the principal amount. In addition, private pension funds seeking to invest outside of Poland would probably face low limits such as the 5% of assets that Pioneer is allowed to invest abroad. Real estate investments, normally an effective hedge against inflation, are risky in Poland due to problems with the property registry system. Secret tax liens against property allow the Ministry of Finance to claim property unwittingly purchased from a debtor. The Polish capital markets thus offer investors few ways to protect capital against the effects of inflation at present.

[9] The statistics in this paragraph are for 10 Papiery Wartosciowe (October 1995).

IV. BACKGROUND ON MINIMUM LEGAL AND REGULATORY REQUIREMENTS

A. Rationale

The case for private pension fund regulation serves to prevent market failures, assure equity, or both. The three primary financial market weaknesses which may affect private pension funds are:

- Asymmetrical information
- Externalities
- Monopolies

Government regulation also may be used to enhance equity, adequacy, or security of pension arrangements. When pension tax benefits are granted, governments often want to assure that the system can provide adequate pensions and that participants are treated fairly. Although the industry may form self-regulatory organizations to help assure compliance, these are unlikely to be sufficient to protect the interests of participants. Governments thus play an essential role in private pension fund regulation.

1. Asymmetrical Information

a. Description

Information asymmetries occur when the purchaser of financial services finds it difficult or expensive to obtain sufficient information about the quality of service. In this instance, pension fund participants, those individuals associated with the pension system, may not be able to evaluate the quality of the pension fund or fund manager due to lack of information or inability to obtain information. At a minimum, these asymmetries expose pension fund participants to possible investment losses or mismanagement; at worst, to failure of the pension fund. Because pension fund investments comprise a significant portion of participants' savings accumulated over a long period of time, such losses can financially devastate individual participants.

Corporate or group participants presumably have more purchasing power than the individual participant. This purchasing power gives corporations more bargaining power, hence access to better information. The information asymmetry is thus more a weakness of the individual than of the corporate private pension market. Nevertheless, corporations benefit from government measures to prevent these asymmetries in the pension market by assuring that certain minimum information will be available from all providers.

b. Potential Government Measures

At a minimum, the government and the pension fund industry have an interest in assuring that information asymmetries do not undermine faith in private pension funds. At best, such government measures promote development of a health pension funds industry. *The legal and regulatory framework for private pensions in Poland should address these information c through disclosure and reporting requirements*, which are discussed later in this report.

2. Externalities

a. Description

Externalities occur when actions by certain agents have consequences for others in the sector. The risk of contagious bank runs is a typical example provided in this case. This risk may also hold for the pension sector, particularly in emerging markets where confidence in the financial markets is still shaky[10].

Some may argue that pension funds are at less risk because they tend to offset long run assets with long run liabilities; the collapse of pension funds in Russia and Ukraine in 1995 proves otherwise. Both the Aurora pension fund in Russia and the Oberig pension fund in Ukraine operated more like pyramid schemes than long term savings vehicles. In other words, these pension funds promised outrageously high short term rates of return to investors in the funds. Early investors achieved those returns, not from actual investment results, but with funds coming from other investors. When the growth rate of new participants slowed, these pension funds could no longer fulfill their promises. Investors tried to recover their deposits, creating a run which caused the pension funds to collapse. Because the private pension fund markets in both countries were completely unregulated, investors had not protection and little recourse against these fund managers.

b. Potential Government Measures

Governments might best deal with externalities in private pension fund markets by establishing a sound legal and regulatory framework for private pension funds. However, specific measures to deal with these externalities present other risks. Solvency requirements and minimal capital requirement for pension funds or fund managers may help reduce or limit externalities. A *guarantee* is another commonly used measure to protect pension fund participants from failure of a pension fund. However, whether government-sponsored or privately organized, guarantees introduce *moral hazard.* That is to say, pension funds at risk of failure have little incentive to reduce risks because if they fail, the guarantee will take care of participants. In fact, a guarantee may encourage pension funds to take more risks, raising the cost of the guarantee. The experience of the

[10] It is interesting to note that in Poland's case an externality, the financial difficulties of ZUS, actually helps create demand for private pensions.

Pension Benefit Guaranty Corporation in the United States suggests that private pension funds or fund sponsors behave this way.

3. Monopolies

a. Description

Monopolies occur when there is only one provider of a good or service. The monopolist usually looks after its own interests first, charging maximum fees while providing goods and services as required. Monopolies are often characterized by inefficient management, high costs, high fees, and poor service. For example, social security systems often have a monopoly on state pension provision. The costs have continued to rise, but service quality is notoriously low in many social security systems.

Monopolies also may exist in private pension funds under at least two conditions: compulsory participation and limited association. Compulsory participation in an employer-sponsored pension plan may tempt the employer to structure plans favoring the employer or certain special groups, such as management. Pension funds may not be portable, pensions may be low, or other rules may be used to keep pension costs low and look after the employer's interests[11]. Some pension fund sin the United States demonstrated these characteristics prior to the adoption of the Employee Retirement Income Security Act (ERISA) of 1974. Similarly, if pension fund association is limited, then participants may not be able to "vote with their feet", making the pension fund market less efficient.

b. Potential Government Measures

Different approaches exist to prevent monopolies. In the case of compulsory participation, allowing pension fund participants to switch from one pension fund manager to another is essential to curb monopoly abuses. Pension fund managers then will be motivated to compete for business. Limited association, regardless of whether the pension system is voluntary or mandatory, requires measures to protect participant rights. Such government-mandated measures include:

- Vesting requirements determining how and when participants are entitled to pensions or pension assets
- Portability requirements assuring that participants may be able to prepare pension fund assets

[11] Compulsory pension fund participation without vesting and portable benefits also may have undesirable economic effects, such as reducing labor mobility.

- Non-discrimination requirements assuring that participants are treated equitably
- Funding requirements
- Investment limits or guidelines

B. Objectives

The nature of pension plans, especially if these enjoy tax exemptions, requires a legal and regulatory framework that protects both the contributors' and the State's interests. The legal and regulatory framework for *private, voluntary* pensions in Poland would benefit from achieving these objectives:

a) Increase the safety of the pension system by reducing the probability of capital losses by participants. Capital losses often lead investors to ask for assistance from the State to bail them out. A sounder approach is to encourage development of a healthy private pension industry which does not need bailouts.

b) Grant fiscal incentives only for true pension savings.

c) Create an industry which could serve as a basis for a future private pension system which integrates social security.

To assure that these objectives are met, the legal and regulatory framework must be *designed exclusively for the interest of the pension industry.* No matter how attractive using pension fund legislation to promote other economic or political objectives might be, we strongly recommend against such linkage. In particular, the Government should not try to make legislation fit the needs of industry hobbies or the privatization process.

If a mandatory private pension system were to be introduced, the legal and regulatory requirements would be stringent. Because the Government of Poland is not currently considering that alternative, we focus more on the voluntary requirements in our recommendations, pointing out where mandatory requirements would differ from these.

C. Minimum Legal Requirements

The legal requirements for private pension funds address the same topics regardless of whether the private pension system is mandatory or voluntary. A mandatory privately managed pension system needs stricter legal requirements to protect the interests of individual participants whose position is weak relative to the private pension fund manager. Although a private, voluntary pension system requires safeguards to protect participants, its very nature gives pension fund managers a greater incentive to follow sound business practices. Participants may leave the system if its benefits do not outweigh its costs.

1. Licensing or qualification of pension funds

Private pension funds licensing or qualification serves two purposes. First, licensing assures that pension funds are established to help participants save for their future retirement. By so doing, the Government helps bestow credibility on the new industry from the onset. Second, licensing allows the Government of Poland to assure pension funds meet the requirements to receive fiscal incentives. Fiscal incentives are addressed later in this section. The Government also retains the ultimate sanction of revoking a private pension fund license or qualification due to flagrant violations of the legal and regulatory framework.

Licensing requirements may include *minimum capital requirements* for pension fund managers, *qualification of fund sponsors or managers*, e.g., they are not convicted felons, *establishment of a board of directors or trustees* for the fund, *legal organization, and/or approval of the pension fund itself.* The first two requirements help discourage or bar dishonest players from entry to the industry. The legal form will depend on decisions made during the private pension system design process in Poland. As explained earlier in this report, each of the legal forms has weaknesses which make them inappropriate to be used for private pension funds at present. These weaknesses, such as double taxation and permitted commingling of participant and fund manager assets, need to be addressed as part of private pension system design process.

The pension plan, if the system is voluntary, also must be reviewed to assure that it meets the criteria to qualify for tax benefits. The pension plan defines the terms and conditions of pension fund participation. Many of these terms, such as vesting and portability, are defined below. Mandatory systems typically mandate the pension fund terms, participation, and benefits. As such, the pension plan is embodied in the legal and regulatory framework.

Licensing of pension funds may have more stringent requirements for a mandatory system that for voluntary system. The Government may wish to set higher minimum capital requirements to assure that private pension fund managers are serious about the pension fund business. For a mandatory pension fund system, particularly in an emerging market, we also suggest considering separation of the pension fund management industry from other segments of the financial sector. The reason why is to remove the temptation

for banks or even insurers to shift poor risks to the private pension fund. For example, a bank client seeks a loan for a risky project, but the bank board declines the loan. Bank management, wishing to keep their client happy, arranges for the client to issue bonds which will be purchased by the pension fund. One way to prevent this sort of conflict of interest is to separate the financial services industries, at least during the early years of private pension fund development. Investment limits, which are discussed below, are a second way to address this conflict of interest.

2. Protection of Participants' Rights

"Participants" refer to the individual workers associated with the pension system. For both mandatory and voluntary private pension systems to operate effectively, the participants' rights must be clearly defined and protected. We treat key areas of pension rights, such as vesting and disclosure, as separate topic below.

In the case of mandatory private pension systems, the law typically defines the participants' rights, while regulations cover implementation details. In the case of voluntary private pension systems, the law and regulations generally set the parameters within which private pension funds must operate. For example, the participant has the right to a pension upon reaching a certain age or meeting certain conditions such as permanent disability. In the mandatory system, the rules for determining the pension amount are likely to be stated in the law or regulations. However, in the voluntary private pension system, the legal and regulatory framework may merely state that a person has right to tax-deferred savings.

3. Portability and Vesting

For both mandatory and voluntary private pension systems, participants should always be vested in their own contributions. Vesting periods should be reasonable for employer or sponsor contributions. We suggest a period of 5 years for vesting, after which participants would be entitled to the employer's contribution. There are various ways to apply the principle. Cliff vesting gives the participant no claim prior to a certain cut-off date. As such, cliff vesting can be abused by employers who intentionally discharge employees just prior to the vesting date. Gradual or rolling vesting also may be used, allowing participants 20% per year. Portability of private pension funds is a minimum requirement as well. Portability eases labor mobility, which may enhance economic efficiency. Participants should be able to transfer vested assets to another pension fund.

4. Disclosure

Under both voluntary and mandatory private pension systems, pension funds should be required to disclose financial information to participants. Investment fund value, investment performance, and the funded status of pension funds should be required to be disclosed at regular intervals. In addition, pension fund managers should disclose information about their operating expenses and administrative costs regularly. Consistent standards should be used to prepare these statements and pension fund managers should

be required to prepare information on a consistent basis applying generally accepted accounting principles. Pension fund financial statements must be audited and certified annually. While disclosure requirements may be similar for voluntary and mandatory pension funds, the latter should mandate more disclosure and impose stiffer penalties for failure to comply with the law.

5. Reporting Requirements

Closely related to disclosure are the reporting requirements. Pension funds should be required to report to participants, sponsor(s), and the government regulator. Participant reports typically communicate contribution history, account values, fund performance, and information about the fund manager. Communicating the funding situation and investment results are often the purposes of reports for the sponsor. Finally, government regulators seek to protect participants and assure that pension funds are eligible for tax exemptions.

6. Conflicts of Interest

Private pension fund regulation is designed to avoid conflicts of interest. Such conflicts arise from investments with parties related to the pension fund, investments in assets of the fund sponsor or fund management, contracts with parties related to the pension fund, and so forth. To prevent abuse of discretionary power in contracting services and making fund investment decisions which harm pension participants, conflicts of interest should be clearly defined and prohibited. Self-improvement should be severely restricted or prohibited as well.

7. Investment Guidelines or Limits

Investment guidelines or limits aim to protect pension fund participants. Such limits should consider the delicate balance between the need for higher investment returns and the need for security of principal. Another consideration is the need for flexibility on the part of investment managers.

a. Mandatory and Voluntary Systems

Voluntary private pension systems rely more on guidelines, such as the *prudent man rule* in the United States. This rule requires pension fund managers to invest as a prudent man would. The courts have interpreted this rule to require sensible portfolio diversification. Pension fund investments should generate reasonable investment returns.

Mandatory private pension systems tend to use stricter investment limits than voluntary systems. The reason is the same as for many other areas of regulation: participants need greater protection because of externalities and information asymmetries. Also, investment limits may reduce the possibility of pension fund failure, which is an even bigger concern for mandatory than for voluntary private pension systems. The political fallout from such failures could be disastrous for elected government officials.

b. Types of Investment Limits

Private pension systems use several types of investment limits:

Asset class or type of instrument, e.g., equities, corporate bonds.
Issuer, e.g., the company or organization backing the investment.
Issue, e.g., not more than 10% of the bond offering.
Investment risk, i.e., based on investment ratings.
Sector, e.g., not more than x% invested in the financial sector or abroad.

These investment limits may be an absolute or relative measure, applied independently or in tandem. An example of an absolute measure would be allowing pension funds to invest only is securities rated "A" or better by Standard and Poor's. Relative limits are often some expressed as a percentage of the pension fund portfolio.

Pension fund investment limits may be expressed as a minimum or a maximum. Minimum limits require investment in certain assets, often government securities.[14] Such requirements artificially inflate the demand for certain types of investments, effectively lowering their yields. Maximum investment limits allow pension funds to invest up to a certain amount in specific assets. Pension fund managers thus may allocate assets to maximize returns and assure security of principal. We prefer the latter approach because it allows the market to set investment rates competitively and with fewer distortions than minimum investment limits.

In Poland the decision on investment limits will depend on whether the private pension system is to be voluntary or mandatory. A voluntary system may use guidelines, rather than limits. However, we would recommend investment limits for a mandatory, privately managed pension system.

8. Fund Valuation

The purpose of fund valuation requirements is to assure that pension fund asset values are reported fairly. Fund valuation requirements typically follow generally accepted accounting principles, although certain assets have special valuation for pension funds. As a result, for publicly traded assets, pension funds typically use market values. However, for less liquid assets, such as thinly traded bonds, methodologies are specified to assure that these values are not manipulated.

9. Funding Requirements

Funding requirements generally refer to pension fund solvency. Governments often impose funding requirements to assure that pension funds have adequate resources to fulfill pension promises to participants. For defined benefits schemes, the obligation is based on a formula including salary and years of service. Pension obligations change

[14] This measure forces pension funds to finance government budget deficits.

constantly as new participants join, staff retire, salaries change, and years of experience increase. Funding standards require pension funds to value assets and perform actuarial calculations of liabilities at regular intervals. The asset value is compared to the liability value to determine the funded status. Regulators can set a minimum funded standard. For example, defined benefit pension fund might have to have assets greater than or equal to 80% of pension obligations.

Under defined contribution pension schemes, the pension amount depends on the value of funds accumulated at retirement. As such, defined contribution pensions are always funded. The Government of Poland is leaning toward defined contribution type private pensions. As a result, this area of private pension regulation is not expected to be necessary in Poland.

10. Requirements for Fund Managers

For both mandatory and voluntary systems, requirements for pension fund managers are similar. Typically, individuals who will work in the industry must have no criminal record. This requirement is common in other segments of the financial sector dealing with other people's money, such as the securities markets. Individuals who are to act as investment managers are generally required to be registered investment counselors or managers and are subject to securities markets regulation as well.

11. Regulatory Body

The government must decide who will regulate pension funds. In many countries with voluntary systems, such as the United States, the tax authorities play a key regulatory role. The tax authorities' role is linked to tax incentives for pension funds, thus it gives the government both a carrot and a stick to assure compliance. However, the Department of Labor also has an important role in private pension fund regulation in the U.S., while the Securities and Exchange Commission may get involved on the investment side of pension regulation. In Hungary, which also uses a voluntary system, the private pension funds regulator is a department of the Ministry of Finance.

Countries with mandatory pension systems tend to establish independent regulators. In Chile, Argentina, and Peru, a separate regulatory body exists to oversee pension funds. The pension fund regulator has a significant degree of independence from other parts of government, although they work closely with other government bodies, such as the securities commission, insurance regulators, and finance ministries of their countries.

The decision on what government body should regulate private pension fund in Poland will depend on the nature of the system. A mandatory reform calls for a strong, independent regulator who would work closely with other regulatory bodies like the Securities Commission, the new insurance regulator (PUNO), the Ministry of Finance, and the Ministry of Labor. A voluntary system probably does not require the establishment of a separate, independent regulator. The regulator could be housed in an

existing ministry or regulator. However, the design of the regulator needs to encourage cooperation with other relevant government bodies mentioned earlier.

12. Role and Responsibilities of the Regulator

The role and responsibilities of the regulator also depend on the nature of the private pension system. At a minimum, the regulator is likely to authorize pension funds, develop rules and regulations, review reports, assure that minimum capital is maintained, conduct inspections, enforce compliance with pension law and regulations, and impose sanctions on those that violate the law. The regulator might also oversee a pension guarantee program, propose new legislation, or serve as an ombudsman for participants.

V. RECOMMENDATIONS

In our opinion, although the Government of Poland's objective in the development of a pension industry is perfectly valid, a private voluntary pension scheme cannot be a substitute for mandatory systems. In other words, creation of voluntary, supplemental pension funds will not solve the problems of social security (ZUS) in Poland unless it serves as an impulse to more ambitious reform of ZUS at a later date.

To create the conditions for a healthy, efficient private pension fund industry in Poland that might serve as the basis for eventual reform of social security in Poland, we recommend the actions described below.

1. Create a legal and regulatory framework for private pension funds

As discussed previously, the minimum legal and regulatory framework depends on the nature of the private pension system. In general, mandatory systems have more stringent requirements to protect individual participants. Strict government supervision is necessary for mandatory pension systems. Voluntary private pension systems also need government supervision. The rationale and areas of regulation are discussed in greater detail in the previous section of the report.

At a minimum, the Polish legal and regulatory framework should address the following areas:

1. Licensing or qualification of pension funds – Pension funds should be authorized or licensed by the government based on stated criteria.

2. Protection of participants' rights - Set parameters within which pension funds, employers, and/or pension fund sponsors must operate.

3. Portability and vesting – Require pension funds to be portable. Set reasonable standards for vesting of pension fund contributions.

4. Disclosure – Require pension funds to disclose fund financial, investment, and fund manager operating and financial information to participants.

5. Reporting Requirements – Establish the frequency of reporting information to participants, sponsors, and regulators.

6. Conflicts of Interest – Prohibit investments in or transactions between parties related to the pension fund and/or sponsor. Define related parties in the law.

7. Investment guidelines or limits – Establish investment limit or guidelines which are appropriate for the nature of the private pension system in Poland. A voluntary system may use guidelines, rather than limits. We recommend investment limits for a mandatory, privately managed pension system.

8. Fund Valuation – Set standards and methods for fund valuation. Require annual audits of pension funds by certified public accountants.

9. Requirements for fund managers – Set objective criteria for fund managers.

10. Definition of regulatory body – Decide whether to establish a separate, independent regulator or one within an existing regulator. The former approach is more appropriate for a mandatory private pension system, while the latter approach is more commonly used for voluntary private pensions.

11. Roles and responsibilities of the regulator – Establish the role and responsibilities of the private pension funds regulator to safeguard participants' interests and assure compliance with the law.

In some of these areas, private pension fund law probably will dovetail with other legislation governing the capital markets, insurance, or labor. For example, pension fund managers may have to be qualified investment advisors. The Polish Securities Commission licenses investment advisors and has jurisdiction in this area.

2. Offer fiscal incentives for pension fund contributions

Fiscal incentives for private pension funds are justified to the extent that the State believes that demand for future government expenditures to pay pensions will decrease and that pension savings will promote economic development in the country. We suggest designing fiscal incentives applying the following principles:

a. Offer exemptions to pension fund contributions. Collect taxes on pension benefits when these are received.

b. Establish maximum amounts for exemptions.

c. Offer exemptions only to regulated plans complying with legal requirements.

d. Assure that the exemption would be lost and/or a penalty would apply if the participant withdraws funds from the pension plan early.

This approach is consistent with practice in the U.S., U.K., Chile, Hungary, and many other countries around the world. An alternative approach would be to offer tax credits for pension contributions, up to a certain amount. This approach is less regressive than the first approach as it benefits lower wage earners more than high wage earners. The Czech Republic uses that tax credit approach for private pension funds. Pension contributions are not tax deductible expenses to employers. Instead, the Government

provides a credit or allowance up to a maximum of 120 Czech korunas based on the contribution amount.[15]

3. Establish a maximum wage base for contributions to ZUS.

The reason for a maximum wage base for the payroll tax is to make space for the private pension system. This change also could affect ZUS contributions significantly, given that earnings are under-declared and evasion is high. Furthermore, the concept of a maximum taxable wage base is consistent with the Government's desire to assure that each person has access to an adequate retirement income to meet basic needs and maintain some portion of historic consumption. To meet this objective it is not necessary to tax the full wage base of all workers.

4. Revise capital markets legislation, particularly with respect to conflicts of interest

The Polish capital markets are well regulated. However, certain types of conflicts of interest are of potential concern and may need adaptation to support private pension funds. Areas of potentially needing attention are:

a. Related party transactions
b. Simultaneous investment of own and third party portfolios.
c. Use of privileged information (insider training).
d. Intentional negligence, active and passive.
e. Sales of services to the fund under management.

[15] However, it is not clear that the safeguards are in place to assure that these funds can only be used for pension purposes.

VI. NEXT STEPS

These steps are alternatives presented for consideration by USAID and the Government of Poland to support private pension development in Poland.

USAID should consider coordinating with the relevant Polish Government authorities to support development of a private pension system.

During our field work, the Council of Ministers informed us that a group comprised of Ministry of Privatization and Institute of Labor and Social Studies officials have been assigned responsibility for this task. While this group may be the primary counterparts, other representatives of the Government of Poland are also involved in development of the private pension system. For example, the Ministry of Finance is working on a draft private pension fund legislation for the second pillar with the support of EU-PHARE. Finally, the Chilean-style reform championed by Marek Mazur of the Ministry of Finance could emerge as the pension reform model.

USAID should consider keeping dialogue open with all parties involved, perhaps even serving as an objective intermediary. Regardless of which group becomes the primary counterpart, all appear to be stakeholders in pension reform. The Ministry of Finance has a stake in proposal which offers fiscal incentives, so they need to be involved in these efforts. Because of possible linkage of privatization with pension reform, the Ministry of Privatization may be a part of the process. Finally, the Ministry of Labor, on its own or through the Institute of Labor and Social Studies has a stake in the social insurance and worker rights aspects of pension reform.

USAID may choose to work with a primary designated counterpart, extending the olive branch to other groups. The Government of Poland, presumably via the Council of Ministers, would designate the counterpart. The second alternative would be to work with all parties, supporting different efforts led by different counterparts. This second approach is inherently complex, difficult to implement, and may be inconsistent with USAID rules for technical assistance.

Although we are uncertain as the current status of the Government's plans for private pension funds, in the short term we recommend the following activities:

Coordinate with other donors on technical assistance for private pension fund development in Poland.

This step is designed to target resources effectively to support the Government of Poland. EU-PHARE is already active in private pension fund development. The World Bank, British Know-How Fund and other donors might also be interested in supporting projects in this area. USAID should consider leading efforts to coordinate donor-funded technical assistance for private pension fund development. Discrete projects could be supported at different donor organizations.

Support development of the legal and regulatory framework for private pension funds, be it through helping to draft the project or offering object expert reviews of the proposed legislation.

We understand that more than 20 laws and regulations must be modified to implement the proposed pension reform in Poland. Such a project represents a monumental effort in the area where Polish Government has limited experience. One alternative for USAID consideration is to make experts available throughout the process. Another alternative is to offer the Polish Government ready access to international experts for targeted needs.

The legal and regulatory framework for private pensions in Poland should address the following areas:

1. Licensing or qualification of pension funds (for fiscal incentives)
2. Protection of participants' rights
3. Portability and vesting
4. Disclosure
5. Reporting requirements
6. Conflicts of interest
7. Investment guidelines or limits
8. Fund valuation
9. Requirements for fund managers
10. Definition of regulatory body
11. Role and responsibilities of the regulator.

Perform technical studies to resolve specific issues related to private pension system design.

Another potential area for donor-funded technical assistance is that of technical studies. Issues such as fiscal incentives are likely to require further study to support policy decisions. Fiscal incentives may be analyzed by developing financial models to simulate the effects of different alternative tax structures using different assumptions and under various scenarios. Hungary and the Czech Republic demonstrate two different, but equally valid approaches to fiscal incentives. The former grants a tax exemption while the latter uses a subsidy. Also, different tax treatment may be used during the three stages of the pension fund life cycle: contribution, capital accumulation, and retirement.

Other potential topics for technical studies are fund valuation, development of the regulator, and commission or administrative expenses of pension fund managers.

Consider organizing seminars for Government officials to familiarize themselves with international experience with private pension fund regulation and supervision.

Such seminars would serve two purposes. Officials designing the legal and regulatory framework would broaden and deepen their knowledge of the subject, helping them to achieve their goal. But perhaps more importantly, seminars and workshops may help to

familiarize legislators and functionaries with the rationale and characteristics of healthy, efficient private pension systems. Seminar attendees may help increase public awareness as they are potential spokespeople who will support private pension system development. The seminars could be one part of a broader program to build public awareness and support for private pension funds.

Design and develop support training of officials involved with designing the new legal and regulatory framework via study tours, seminars, or obtaining educational materials on private pension funds regulation.

Consider sending Government of Poland officials to an upcoming seminar on the Hungarian private pension system in Hungary. Organized by the World Bank and taking place in April or May, this seminar could be a useful learning opportunity for Government of Poland officials involved in private pension development.

The Hungarian private pension system supplements the social security system. As in Poland, the Hungarian social security has high contribution rates, high evasion, and financial deficits. The Hungarian Government is now said to be considering allowing workers to opt out of social security, at least in part, and eventually receive the bulk of pensions from the private system. Polish policy-makers would likely benefit from speaking with Hungarian Government officials and private sector pension funds about the Hungarian private pension system, policy decisions taken there, and those now being considered by Hungarian policy-makers.

Another seminar taking place in Santiago, Chile from May 1-3, 1996 could be a useful learning opportunity. The private pension systems of Chile, Argentina, Peru, and Colombia will be addressed at the seminar. The seminar, organized by the Chilean Association of Pension Fund Administrators, will offer simultaneous translation to English, but not to Polish, for participants.

Offer assistance to establish the regulatory body for private pension funds in Poland.

This step will take place later in the process, once draft legislation has taken shape. The nature of the system will influence the role, functions, and attendant organization of the private pension regulator in Poland. For example, a voluntary system needs less strict oversight than a mandatory system. In the latter, the Government has an important role in safeguarding the rights of pension participants. USAID or some other donor such as the World Bank may wish to fund this effort.

Assist with the development or revision of draft legislation for closed end funds.

Some experts argue that closed end funds are a safer form of investment vehicles for pension funds. This option will not be available for private pension funds until legislation is passed. However, in our opinion, lack of such legislation should not hinder the development of private pension funds in Poland.

Security Through Diversity
Private Pension Fund Development Assistance, Phase II
Final Report

Per Task Order 08 issued under contract EPE-I-005-1-00-5043-00, the project had the following objectives:

- Help create and adopt comprehensive, implementable legislation to establish private, capital-based pension funds in Poland.
- Broadening and improving the quality of public information and associated debate regarding pension reform issues.
- Assist in development of new Superintendency of Pension Funds (UNFE).

The results of activities to realize these objectives are discussed below.

A. GENERAL INFORMATION

1. Project Identification

Title:	Republic of Poland, Private Pension Fund Development Assistance, Phase II
Contractor:	PricewaterhouseCoopers LLP (formerly Price Waterhouse LLP)
Contract Number:	
Contracting Officer:	Anne Quinlan, USAID/OP/B/PCE
Regional Contracting Officer:	Thomas Stephens
USAID Project Office:	Warsaw, Poland

2. Project Performance Dates

Start Date:	October 1, 1996
Completion date:	September 30,1998

3. Project Management

Project Manager:	Marlyn Zelkowitz
Key Technical Advisors:	Jim Kernan, Jamil Simon, Elaine Church, Rafael Rofman, Walter Schulthess, Emilio Sanchez, Gustavo Demarco

4. Project Description

Governmental Goals: Over the last eight years, USAID has helped Poland understand the benefits of transformation and reform. The goal of USAID's pension assistance is to help ensure each Pole a safe and adequate pension in old age. In a world of changing demographics and financial uncertainty, this is a complex public policy goal.

The Government of Poland (GoP) is implementing pension reform which will create a multi-pillar pension system consisting of public and private pensions. This new system is named *Security through Diversity,* indicating the intention to create secure pensions through diversification of risk. The first pillar of public pensions will continue to be paid by the reformed government-run system. The second pillar of mandatory funded pensions will be privately managed and stringently regulated by the Government. Voluntary third pillar savings through private pension funds, life insurance policies, or other products also will provide retirement income. The Superintendency of Pension Funds (UNFE) will supervise the second and third pillars of the new system.

Working in a Changing Environment: This project has been successful in helping GoP implement reform by responding in a flexible manner. The original scope of work was refined to meet the clients' needs in five task order modifications, and was extended from 12 to 24 months. In addition, the key GoP counterpart, the Plenipotentiary for Social Security Reform, changed three times. We worked primarily with the Office of the Government Plenipotentiary for Social Security Reform, but our scope was also expanded to assist the Superintendency of Pension Funds (UNFE) with start-up activities. The project also experienced national parliamentary elections, a change in government and a corresponding change in most political counterparts.

At the termination of this contract, the Government of Poland had passed much of the key legislation and convinced key policy makers and parliamentarians from two successive governments about the need for and the direction of the reform. This project assisted in the creation of a critical mass of support to push the reform ahead. With the assistance of USAID, PricewaterhouseCoopers LLP and Profile sp. z.o.o. (the public education subcontractor, based in Warsaw), Poland has created the critical mass to develop a pension system based on international best practices, but also tailored to the needs of the Poland's environment.

B. COOPERATION WITH KEY GOP INSTITUTIONS

Assistance to the Office of the Plenipotentiary for Social Security Reform (OP): In Phase II of the project, PricewaterhouseCoopers supported the Office of the Government Plenipotentiary for Social Security Reform in its development of a multi-pillar pension system consisting of public and private pensions. PwC provided technical assistance on draft legislation and public education on behalf of the Government of Poland. We commented on the proposed private pension laws. The public education effort started with strategy creation.

The team assisted in the implementation of the public education strategy. The primary goal was to build support for a favorable vote on draft pension legislation in Parliament. This effort included market research, such as surveys and focus groups, preparation of brochures, organizing press conferences, preparation of Parliamentary political information kits, supporting seminars on pension reform, and arranging study tours to see the benefits of private pension systems elsewhere.

In January, March, September, and December of 1997 and July of 1998, study tours to Chile and Argentina took place for representatives of the Government of Poland, Parliament, private sector, and the media. Similar study tour took place in Hungary in January 1998. PwC led a series of five seminars on transfer of contributions, asset management, pension fund supervision, and annuities. We also provided technical assistance for television programs and serials discussing pension reform.

Assistance to the Superintenency for Pension Funds (UNFE): In this area, we assisted UNFE in the development of procedures to register and license pillar 2 pension funds. We drew on best practices from Mexico, Argentina, Chile and Peru. PwC organized a study tour in August 1998 to Chile and Argentina for UNFE staff. We ran training courses for UNFE staff and assisted in institution building, and helped develop procedures for Pillar II pension fund company and pension fund licensing.

C. LESSONS LEARNED: HOW POLAND WAS ABLE TO PASS COMPREHENSIVE PENSION REFORM -- DEVELOPING PROJECTS TO SUPPORT POLICY REFORM

This was a project to support policy reform, rather than actually design policy. This distinction is deliberate. US experience in pension reform is limited. Thus, the purpose of the project was not to transfer knowledge about the US experience. Rather, the project sought to provide policy-makers and key decision-makers in government broad access to information on policy design elements and experiences in countries considered to represent "best practice" in these types of efforts. The project also fostered educated public discourse on the meaning of these foreign reform efforts to Poland and provided officials with the basic tools required to debate and analyze options.

Below is a discussion of some of the observed lessons learned from Poland's experience that other pension reform efforts should consider. These lessons are tightly linked and are self-reinforcing.[1]

[1]Further discussion of such lessons is provided by the current and former Directors of the Government Office of the Plenipotentiary for Social Security Reform, Dr. Marek Góra and Dr. Micha Rutkowski in *Security Through Diversity*, 1998.

Best Available Copy

- The Importance of Leadership: This reform benefited from strong political support and shielding from the three individuals who served as Plenipotentiary: Andrzej B czkowski, Jerzy Hausner and Ewa Lewicka. It is important to note that these three individuals come from different political backgrounds, but were nevertheless able to agree on and support the themes of the reform. The political skill and maturity of these three individuals did much to move pension reform from being policy talk between ministries, to become a concrete and innovative pension reform program. Significant credit for envisioning the policy direction of the reform, as well as managing the day-to-day reform effort, must also be attributed to the two directors of OP, Micha Rutkowski (October 1996 to September 1997)and Marek Góra (October 1997 to present).

- Be Inclusive and Politically Savvy: In regards to political issues, the OP took pains to ensure that all responsible political segments were included in events (such as study tours) and informed about developments. However, it is important to note that OP leadership did not hesitate to rebut or correct public criticisms based on misinterpretations or misunderstandings. Thus, in a fairly short time span, pension reform in Poland jumped the gap from discussion to implementation. The OP was able to bridge this gap by relying on the credibility of its economic arguments, its strong leadership, and by cultivating an inclusive and deliberate work ethic. The OP included responsible and interested parties in the process and set deliberate goals and performance targets.

  For instance, trade unions and employers were consulted via the Tripartite Commission from the beginning of the process. Later, in part due to the virtue of this co-operation, Ewa Lewicka from the Solidarity Trade Union would become the Plenipotentiary to oversee much the reform's implementation.

  It should be noted that the structure of the OP, the institution charged with shepherding the reform process, seemed particularly well suited to lead the way to consensus. The OP is largely a virtual team of Polish economic experts, government officials and technocrats that drew members from various GoP ministries and agencies, as well as domestic think tanks and consultanties. Because OP membership was derived from a wide cross section, it had credible access to various responsible political camps and was able to survive, with the team and the proposed policy intact through the changing of government.

- The Importance of Investing in Public Education: From the very beginning of the process, the OP recognized the value and the importance of developing a good working relationship with the media. OP deliberately cultivated relationships with key journalists in the national and local media environments with the goal of educating them about the complicated issues but simple messages of pension reform policy. To otherwise help deliver the proper messages, OP used public opinion polls, focus groups, individual interviews and press research, brochures, television and radio.

Best Available Copy

During this Task Order, public education was targeted at key-political decision-makers. This strategy was particularly successful helping to convince key political decision-makers about the need for pension reform and the direction the OP had chosen. This deliberate and targeted public education strategy allowed OP to leverage its relatively small numbers to reach the maximum audience on a regular and as needed basis.

- Remaining Flexible and Opportunistic: The OP had deliberate legislative and public education goals, but it also flexible to ways to achieve these goals. The OP faced the unpredictable environment inherent in developing economies and major public policy reform. Because of its flexibility and "can do" spirit, the OP did not hesitate to try to work around or turn sudden events to its favor.

D. LESSONS LEARNED: USAID/PwC IMPLEMENTATION SUPPORT

Based on the experience in Poland, future USAID activities to support pension or other financial sector reform can draw upon the following lessons learned:

- A Clear Focus on Supporting Rather than Dictating Policy Reform: The type of pension reform undertaken by Poland, Argentina, Mexico and Chile is a new and developing area, and many of the solutions are yet to be tested. However, preliminary indications in several countries are encouraging. As noted in the section above, the project did not focus on dictating policy prescriptions, but rather on facilitating educated discourse on policy alternatives and creating consensus and momentum for reform. The project did this by providing expert advice in specific narrow areas, and through a series of public education and training activities.

- Support Supervision Development: Soon after the major elements of the policy framework were in place, this project correctly turned its attention to addressing the institution-building needs of the regulator. The lack of a strong and balanced supervisor that operates in a transparent manner prohibits markets from functioning efficiently and effectively. The business of supervision is similar across the financial sector. Transparency in operations, flexibility in adapting to the growing market, cooperation with other financial sector supervisors and between the supervisor and industry, even-handed treatment of all industry participants, and protection of the individual investor's rights are key areas on which that every supervisor should focus.

  USAID has a positive reputation in Poland on supervision matters, as it has played a key role in helping to build the securities and banking regulators. Therefore, it made great sense for USAID to use its comparative advantage and knowledge to work with the various GoP client groups in this project to focus attention on the importance of proper supervision development.

Best Available Copy

In terms of supporting the development of the regulatory institution, it is critical to be able to mobilize the right types of expertise quickly and remain in tune with this client's requirements, as needs emerge in the nascent organization. A new supervisory agency will find itself trying to define the working reality of its mandate. Legislation lays out the policy direction, and it therefore by its nature is usually high level and may be seen as vague when it comes time for implementation. A supervisory agency will need expert advice to move from theory to practice—to determine quickly the proper interpretation of legislation for day-to-day activities.

In this regard, encouraging the new agency to establish linkages with other financial sector regulatory institutions in the country and abroad can be critical. Drawing on other regulatory experiences in the country can help the new supervisory body avoid the "reinventing the wheel" syndrome.

- Stress Public Education: The main target of public education should be those who will vote for the reform. The main thrust of USAID funding and PwC activities was precisely on this area. Public education under this project targeted key decision-makers. Although information in various forms was also made available to the general public, the key target remained those who would vote for the reform.

  Following final legislative approval, the public education campaign has moved forward with confidence to communicate the finalized form of the reform and the necessary actions required of the public.

- Develop Comprehensive Study Tour Procedures: Study tours play an important part in educating key decision-makers about the possibilities for reform. PwC has seen significant progress in the reform effort due in part to these study tours. For instance, by the end of one particular study tour to South America, a leading member of the Polish left wing was so convinced of the value of the reform, that he stood up to argue with host country union representatives (who were essentially against the implemented changes because of lost privileges).

  The effectiveness of the study tours ultimately depends on a number of critical factors:

  1. ***Obtaining the right participant mix***. PwC did not always obtain the optimum participation on study tours. For example, in one case, PwC experienced difficulty in obtaining the participation of someone from the National Clearing House (KIR) on one of the study tours due to miscommunication. Study tour participation should be confirmed with the appropriate client agency a minimum of two weeks before departure. Study tour participation was in some cases finalized the day before departure.

     The secret to securing the right type of participants is in large part **communication**. It is important to have as full a program of events and countries developed to send out with the invitations to participate in the

Best Available Copy

program. This helps build interest, helps ensure that the right people are coming and helps to communicate to the host organizations and countries what the program is all about. Given the fact the target audience in this case were legislators and politicians, multiple changes of plan were inevitable (see point 2 below). But having a general meeting plan, and announcing the details of the trip well in advance, along with deadlines for applications and so on, is key to keeping the basic activity on track.

2. ***Flexibility and back up plans***. It was often difficult for the Office of the Plenipotentiary and the appropriate political parties to determine who should participate in study tours until the last moment. Politicians are at the mercy of political events and unpredictable commission schedules. Those planning the study tours should anticipate changes in schedule, and ask each participating institution, whenever possible to have an alternate participant identified.

3. ***Keep your "hosts" fresh***. A study tour represents a significant commitment from the host institutions' perspective. They must set aside time from what is often already a grueling schedule to meet with your group. Being able to rotate among a group of countries and institutions is key to obtaining the time commitments required from the host country organizations. For example, the majority of the PwC tours ended up in Chile and Argentina (in part at the clients' request). Chilean and Argentine organizations involved in the pension system have come under strain from a multitude of visits from countries wishing to view their reform efforts first hand. Study tours from around the world to these countries have overwhelmed institutional capabilities to host guests. Thus, on PwC's July 1998 study tour, both Chilean and Argentine Superintendencies for Pension Funds expressed dismay at the request to host yet another group. Days before the departure of the final study tour, both agencies called to cancel previously scheduled appointments. Only prolonged discussions with the Supervisory Agencies convinced them to offer some limited access. Because only limited access was given and some of the meetings were cancelled, this final study tour was not as productive as had been expected.

   For future study tours on pension reform, PwC strongly recommends traveling to alternative countries where participants can learn they key lessons of private pension reform. Mexico, Peru, Australia and the United States offer opportunities to learn about similar lessons.

   Another method to keep hosts fresh, is to appropriately thank hosts for their valuable time and express appreciation appropriately.

Best Available Copy

Developing Materials: Politically sensitive details that are likely to change should be excluded from public education materials whenever possible. In one case under this project, a brochure was printed with key retirement age information. During printing, this age was changed. After consultation with USAID, it was decided to distribute the brochure, despite the presence of incorrect information. The benefits of distributing the brochure outweighed the loss of the technical assistance and resources that had gone into the brochure's production.

Additionally, in reform efforts where foreign participation may be viewed unfavorable, public education materials should avoid the appearance of foreign sponsorship. It was important in this effort that Poles perceived this to be a Polish reform, not an American Reform. Due to this concern, no reference to USAID was made in GoP publications describing the reform. The appropriate waiver was acquired from USAID to deal with this issue.

- Develop a Flexible Task Order: As can be expected elsewhere, the political and legislative process had significant impact upon this project. This project was originally scheduled for 12 months. However, due to delays in the legislative calendar and elections to parliament, five task order modification and 24 months were required to meet client needs. These developments required flexibility to restructure the scope of work and level of effort to provide continued in-country service to GoP and USAID. Additionally, these developments require working closely with the client to gauge how legislative issues and delays impact the development of public education initiatives.

  The activity of coordination and organization of the task order itself assisted the GoP plan its own activities. The political, policy and legislative obstacles reformers face can often be overwhelming. USAID's presentation, as well as that of other donors/lenders, of a limited, but flexible Task Order helped focus GoP counterpart management on next steps and key points of procedure.

- Use Appropriate Mix of US and Third Country Talent: Pension reform is an area where many other countries have a comparative advantage in terms of knowledge and experience. US sponsored efforts should not preclude the use of these other countries' experience. It is more important that project staff have the right functional experience, and less important what country they come from. The proper mix for pension reform may include using the experience of reform from Latin America on policy design and implementation, and US experience in such areas as financial market regulation, pension fund management, and information technology system design.

  Furthermore, pension reform and pension supervision is to a great degree an operationally specific area. Candidates for USAID projects should have operational experience from the proper country, not just be an economist or lawyer who just worked in the proper environment. In addition, where politically acceptable and appropriate, donors should encourage host governments to nominate personnel with

operational experience from similar industries/regulators (insurance, banking, investment fund management). The lesson to learn from this is that the donor needs to build credibility with the counterpart, and the counterpart needs to build the credibility of the reform. It is easier to build such credibility if you have the right people.

- Support Cooperation between Donors/Lenders: International donors and lenders have a key role in the development of financial markets. Under this Task Order, it has been observed that the various advisors have been able to complement each other's efforts. While not an exhaustive list, the GoP received assistance from the World Bank, the Government of Sweden, United Nations Development Programs concurrent to the support from USAID. In particular, the World Bank and USAID were careful about informing one another about developments and planned next steps. As noted above, his type of coordination can help focus the attention and efforts of the host counterparts.

E. CONCLUSION

PricewaterhouseCoopers has been involved with the pension reform effort in Poland on USAID projects since 1995.

In Phase I of the project, a multi-disciplinary Price Waterhouse team comprised of regulatory specialists and practitioners reviewed Polish financial sector products as well as the legal and regulatory framework to assess constraints and opportunities for private pension fund development.

By examining pension systems development and restructuring in Hungary the Price Waterhouse consultants were able to use pertinent and comparable data as well as "lessons to be learned" in the development of private pension funds for Poland. Based on the team's findings, Price Waterhouse prepared recommendations on the future legal and regulatory framework for private pension funds in Poland.

In Phase II of the project, we supported the Government of Poland in the process of developing a multi-pillar pension system. PwC provided technical assistance on issue of public education, training and institution building to help the Government of Poland create this new pension system.

The project relied on both training and technical assistance, drawing on the expertise of practitioners in countries that have already undertaken such a reform. This combination of activities was carefully planned to support Poland's reform efforts already underway. The project thus helped create and adopt comprehensive, implementable legislation to establish private, capital-based pension funds in Poland.

profile

Corporate Profiles

Best Available Copy

COMMUNICATION STRATEGY

Promotion of pension reform in Poland

Office of the Government Plenipotentiary for Social Security Reform

Warsaw, December 1998

PRICEWATERHOUSECOOPERS

Best Available Copy

I. STRATEGY OF COMMUNICATION 4

OBJECTIVES OF THE CAMPAIGN 4
CAMPAIGN TARGET GROUPS 4
THE MOST IMPORTANT RESULTS OF MARKET RESEARCH 5
REFORM PERCEPTION 5
RISK PERCEPTION 5
ZUS IMAGE 5
ADVERTISING STRATEGY 6
PR STRATEGY 6

II. ADVERTISING AND DIRECT COMMUNICATION CAMPAIGN 7

SCHEME OF THE CAMPAIGN 7
IMAGE CAMPAIGN OF THE NEW PENSION SYSTEM 7
FIRST STAGE 8
SECOND STAGE 8
Message for group of (30 - 50) 8
Message for people - under 30 years old 10
Message - a New ZUS since 2000 10
RESULTS OF THE CAMPAIGN 11
THIRD STAGE - SEPTEMBER 1999 12
CAMPAIGN PROMOTING TELEPHONE NUMBER - INFORMATION CAMPAIGN 12
TONE AND STYLE OF THE CAMPAIGN 13
Image campaign 13
Informative campaign 13
DIRECT COMMUNICATION - CALL CENTRE, BROCHURES/LEAFLETS
INFORMATION CENTRES IN ZUS 13
THE CALL CENTRE 14
BROCHURES/ LEAFLETS 14
Brochures and leaflets for the system participants. 15
Brochures for groups with branch privileges 16
INFORMATION CENTRES IN ZUS – DIRECT ADVICE 17
DISTRIBUTION OF THE INFORMATION MATERIALS 17
INFORMATION IN THE CAMPAIGN 18
CAMPAIGN IN MEDIA 18
MEDIA INDEXES 19
MEDIA STRATEGY 20
Television campaign 20
Press campaign 21
Radio campaign 23
Billboard campaign 24
STRUCTURE OF THE CAMPAIGN 25
Image campaign of the pension system reform 25
Information and telephone number promoting campaigns 25

III. PR STRATEGY 26

OBJECTIVES OF PR ACTIVITIES 26
MAJOR TARGET GROUPS OF PR ACTIVITIES 26
CRITICAL POINTS IN THE PR CAMPAIGN 26
CHANGING THE ZUS IMAGE 26

Best Available Copy

THE ISSUE OF BRANCH PRIVILEGES 27
DECISIONS ON JOINING A FUND- 40-50 AGE GROUPS 28
MESSAGES **29**
RELATIONSHIP BETWEEN THE CONTRIBUTION AND THE PENSION *(KEY MESSAGE)* 29
DECISIONS WHICH HAVE TO BE MADE REQUIRE DISCRETION 29
THE REFORM WILL MAKE ZUS A COMPLETELY NEW INSTITUTION 29
PRIVILEGES 29
INHERITANCE OF SAVINGS IN THE IIND PILLAR 30
ACTIVITIES **30**
EDUCATIONAL SEMINAR 30
A SERIES OF PRESS CONFERENCES 30
ONGOING CO-OPERATION WITH CORE JOURNALISTS 31
MEDIA TARGETED AT EMPLOYERS 31
A MEETING WITH JOURNALISTS COVERING PROMOTION AND ADVERTISING 32
SPECIAL CO-OPERATION WITH TELEVISION STATIONS 32
LOCAL PRESS CONFERENCES 32
ONGOING SUPPORT FOR NEGOTIATIONS CONCERNING BRANCH PRIVILEGES 32
SPECIAL MATERIALS CONCERNING PRIVILEGES 33
MEETINGS WITH SILESIAN MEDIA 33
TIMETABLE **34**
DIRECT COMMUNICATION (PRINTED MATERIALS, CALL CENTRE, ZUS INFORMATION CENTRES) 34
MEDIA RELATIONS 35

IV. COSTS **36**

ADVERTISING **36**
OPTIMAL BUDGET 36
DECREASED BUDGET 36
DIRECT COMMUNICATION ACTIVITIES **36**

I. STRATEGY OF COMMUNICATION

OBJECTIVES OF THE CAMPAIGN

The main objective of the campaign is **to inform the public of one of the key reforms for state functioning - pension reform and its advantages and to maintain acceptance of this reform.**

Additionally, the campaign shall:

- reassure group of people not concerned by the reform (people at the age above 50)
- weaken the demand for pension funds' offer in age group between 30 and 50, especially between 40 and 50.
- counteract the feeling of lack of information - create the conviction of information accessibility.

CAMPAIGN TARGET GROUPS

According to received assumption, the campaign is addressed to all adult citizens of Polish Republic. However, considering different reform's offer for different age groups, three basic target groups were distinguished upon the age criterion and two additional target groups: contribution payers and professional groups were defined. Definition of several target groups is necessary also because of different character and objective of messages conveyed to them.

1. Working population at the age below 30.

For those people allocation of a part of pension contribution to private Pension Funds is compulsory which imposes the choice of the Universal Pension Company.

2. Working population at the age between 30 and 50.

This group is in the position of choice. They may either stay within the reformed ZUS (Social Insurance Institute) or decide to allocate a part of the pension premium to private Pension Funds.

3. Working people at the age above 50 and present pensioners.

4. Employers, and in particular the self-employed.

Practical information on the operational principles of the new system (rules governing the transfer of information and contributions to ZUS) should be addressed to this group. Those actions should be heavily concentrated at the first stage (December 1998-January 1999).

5. Groups with branch privileges.

At the first stage it is necessary to subdue fears related to the negotiation process and increase the readiness to accept the new solutions. Subsequently the information on new

solutions needs to be conveyed to all concerned representatives of branches, media and other opinion leaders.

THE MOST IMPORTANT RESULTS OF MARKET RESEARCH

During the preparation of the advertising strategy a qualitative research using Focus Group Interview method was performed. Altogether twelve interviews were conducted - 1 in Warsaw, 2 in Lodz, 3 in Pszczyna, 3 in Nowy Dwor Gdanski and 3 in Swidnik. The objective of the research was to check pension reform perception, its evaluation and reconstruction of citizens' potential attitude, reconstruction of the image of the ZUS and the influence of the reform on this image.

Reform perception

Citizens' general opinion about the reform is positive. The main advantage of the reform is the principle that the amount of contribution depends on the income. Survey participants evaluate also very positively the fact that the individual accounts will be created within ZUS. This also improves ZUS image.

Concerning the 2nd pillar of social security, respondents (especially old people) were skeptic and anxious. The attitude to pension funds was analogous to the attitude to other financial institutions connected to capital market which evoke associations with risk, uncertainty, gambling and possibility to loose money. However, more information respondents got, more positively they estimated the possibility to participate in the 2nd pillar of the reform.

Risk perception

There are important differences between estimation of investment, financial risk and attitude to financial instruments of younger (under 30) and older (above 30) groups. It appears that younger citizens show much more positive and active attitude to opportunities of financial security for the future and to financial institutions offering these opportunities. At the same time they show higher level of knowledge of investment possibilities. It appears that terms like investment, stock exchange and risk that are strange and repelling for old people are positively perceived by younger that are more eager to take financial risk and even to accept short term losses.

ZUS image

At present, the image of the ZUS is negative. Citizens perceive the ZUS as an obsolete, bureaucratic and monopolistic state institution that thoughtlessly wastes people's money. On the other hand, although the ZUS pension is perceived as very low, it is sure and state guaranteed which, in respondents' opinions, positively differs the ZUS from private pension funds. Nevertheless, the reform itself has an impact on the ZUS image improvement. The ZUS operating in competitive conditions will be forced to modify its attitude into more friendly, flexible and customer oriented. Respondents very positively reacted to the idea of creating in the ZUS individual accounts, as a tool to control the

Best Available Copy

activity of organization that in their opinion will not be able to freely spend accumulated money any more.

ADVERTISING STRATEGY

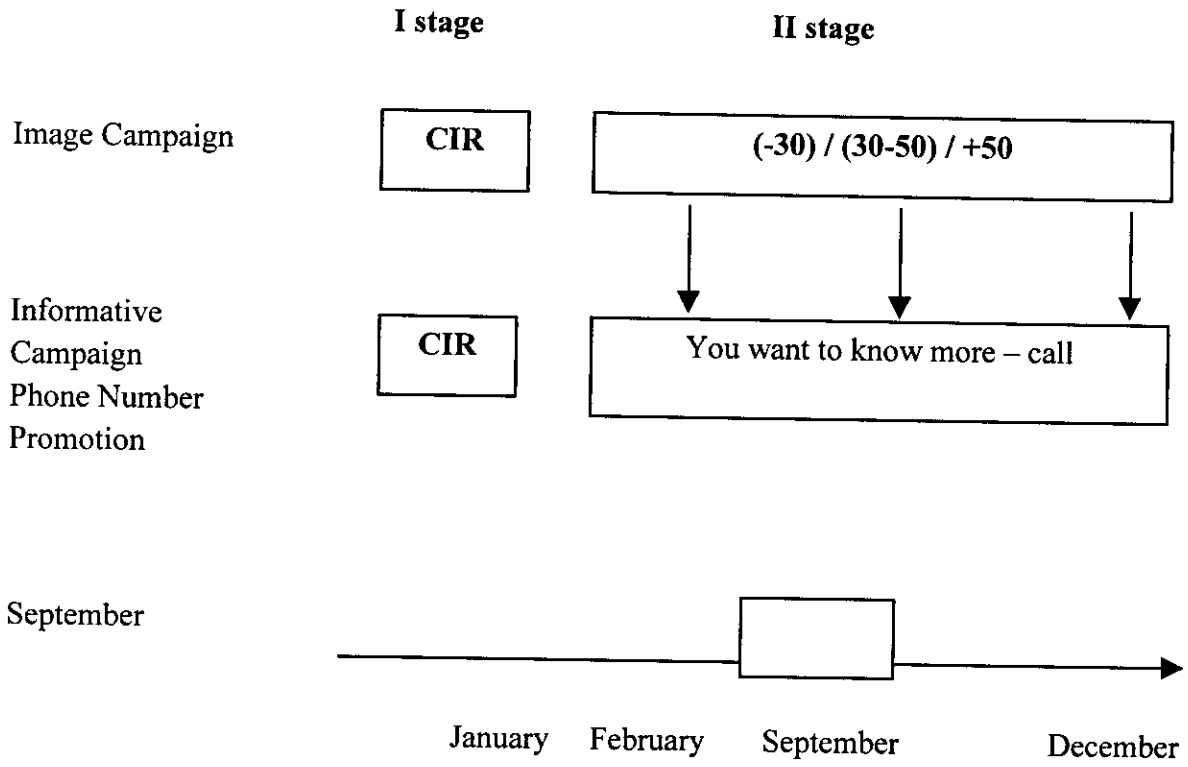
The most important objective of our campaign is to inform the public of implementing pension system reform and to maintain acceptance of this reform. Simultaneously, the campaign should implement specific objectives concerning each group. This is why it seems appropriate to split the campaign into two areas: image campaign and information campaign.

PR STRATEGY

The objectives of PR activities need to be considered within the whole framework of information and education campaign targeted at public at large, with particular emphasis at maintenance of the positive image and approval of the reform and providing of information required for decision-making (the insured).

II. ADVERTISING AND DIRECT COMMUNICATION CAMPAIGN

SCHEME OF THE CAMPAIGN



On the level of image campaign it is necessary to split the message into three parts, addressed to respective age groups. On the level of information campaign the message is the same for all groups.

IMAGE CAMPAIGN OF THE NEW PENSION SYSTEM

We propose to divide image campaign into three stages. The first stage will be common with the campaign carried by Government Information Center and addressed to all groups. In the second stage specific message, important from each groups point of view will be constructed for each age target group. The third stage is related to the fact that for people at the age under 30 the choice of the fund is compulsory until the end of September 1999. Intensive campaign of funds during this time may also have an impact on the decisions of people from group (30 - 50). This is why we propose at this time a message reminding them that they still have time to make a decision.

Best Available Copy

Best Available Copy

First stage

On the turn of 1999 the government is carrying on an information campaign about four most important reforms that are now being implemented. Within this campaign promotion of pension system reform is planned for January 1999. It seems natural to combine this campaign with the current program. This is very important as for citizens coherent message is essential. On the other hand, intensive campaigns about pension funds will start on February 16, 1998. It is essential that information campaign starts earlier than pension funds' campaign (at the beginning of the year). Campaign carried on by GIC should be used to announce further information actions.

On the first stage we want to inform the public about the reform being implemented and announce further information campaign. That is why on the level of image campaign we propose the following message:

"On January 1st pension reform based on the best worldwide practice was introduced (it is one of the first steps of integration with European Union). Now, if you are not 50 years old your contribution will be booked on your individual account. This capital will grow and then will be used to pay for your pension. The reform contains offer for all age groups. You will learn about it from information campaign. If you want to know more now, call."

In the same time this stage should announce a graphic code that will be used during further phases of the campaign to make the message easily identifiable.

Second stage

The goal of second stage of the image campaign is to implement specific objectives. Because these objectives are different for different target groups, it is necessary to create various messages. Contents of individual messages will be based on research results that will be an important tool of particular stage realization. Within the research we plan also: to check knowledge level in all groups, to know the fears among people over 50, to check the credibility of positive messages for instance "reform for your children, new restructured ZUS", reconstruction of potential decision process among 30 to 50 years old etc.

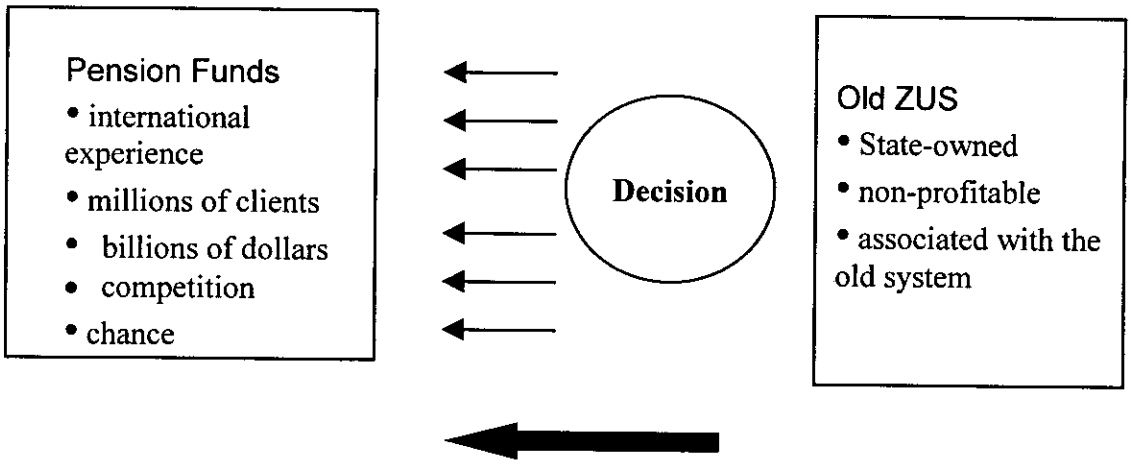
Message for group of (30 - 50)

People in this age group may but don't have to decide to allocate a part of the contribution to a private pension fund. During the decision-making period they will view a dozen or so Pension Funds' advertising campaigns. From one side they will listen about international experience of funds, millions of clients, billions of dollars and on the other side they will be the ZUS perceived as not effective state-owned company.

It looks like funds campaigns will have strong impact on this group decision-making

Best Available Copy

Decision-making context of people from 30 to 50 age group



Main challenge of the second stage of the image campaign will be to weaken the effect of dozen campaigns of Pension Funds and keep most of the people at the age between 40 and 50 in the ZUS. But this campaign must not evoke doubts about the appropriateness of reform introduction. We must not on one side inform about new system introduction and speak in negative way about new system solutions. To weaken the effects of funds campaign we propose to use message for the group below 30 and message for the group above 50 as well.

Message for the group 30 to 50 should be constructed without negative reasoning. We propose to base it on voluntary choice and everyone's personal decision.

"You may choose one of the pension funds or keep the whole contribution in the restructured ZUS. Don't hurry, think it over before you decide, check if it is profitable for you. There is no universal rule, break-even point is different for everyone and depends on one's age, salary and profession. Remember, your pension will be paid from your individual account on which you will get starting capital. Check if the pension fund you don't lose additional payment that you will get in ZUS.

Check if it's worth before you decide."

It is clear that the message will be definitely opposite to messages of pension funds' megacampaigns. But people understand that more clients a fund gets more profitable it is for the fund. That's why with such comparison, government's message will be perceived as credible and objective.

On the other hand, in order to weaken the impact of pension funds' megacampaign on the choice-making process, we propose to use the message for the younger group. Campaign

 Best Available Copy

addressed to group below 30 will be viewed also by those from the middle group of 30 - 50, influencing their perception of pension funds.

Both age groups have different life styles, expectations, accepted values, and attitudes to the capital market. Reasons that are attractive for people under 30 years old are very often discouraging for older people.

Research results show that perception of terms like: investments, stock exchange, shares, capital markets, financial operations, mutual funds, investments funds, managing the assets is different in each of these groups.

People under 30 years old are used to these terms, understand them, take them as a part of their environment and see them as a chance for the future. For them risk is a part of success, it can be controlled and in long term it may be profitable "with no risk".

For people between 40 and 50 this terms evoke uncertainty, are linked with risk that should be absolutely avoided. They feel it is not their world and they may only loose.

Message for people - under 30 years old

People in this age group will have to transfer a part of their contribution to one of pension funds. The only decision they have to make is the choice of pension fund. Because of that this group is the main recipient of the pension funds campaign.

We propose to base the message for people under 30 on the elements that are familiar for this group and in the same time less positive for older people. We propose the following message:

"Pension funds are for you: these private companies will invest your money in securities and shares in Poland and on worldwide stock markets. Investment and finance experts will manage capital from your individual account in order to multiply it. In long term the risk is minimal. You will benefit for sure. Choose the fund you consider the best for you."

Emotional tone of this message will be created by dynamic pictures, computers, worldwide stock exchanges, charts, telephones, young people of different nations, brokers etc.

Message - a New ZUS since 2000

Third group - people at the age above 50 has no choice and has to stay within the ZUS. Research results show that already retired people think that the reformed ZUS will offer better service for its clients. The amount of the pension will be the same but the quality of service is going to improve. This is why the campaign presenting the new ZUS will find them open to the message and will not make them frustrated.

We suggest to built the third message on creation of the new ZUS image.

"Pension system reform means also new ZUS. ZUS placed among the competition of private funds. ZUS gives you absolute safety, offered only by the State Treasure. Pensions paid by the ZUS are indexed every year - no matter the Stock Exchange situation your pension will grow faster than prices. If you find friendly service, it is not a surprise - it is a new ZUS since 2000."

The Campaign about ZUS will not be addressed directly to this target group, but will be noticed by them and will positively influence ZUS perception.

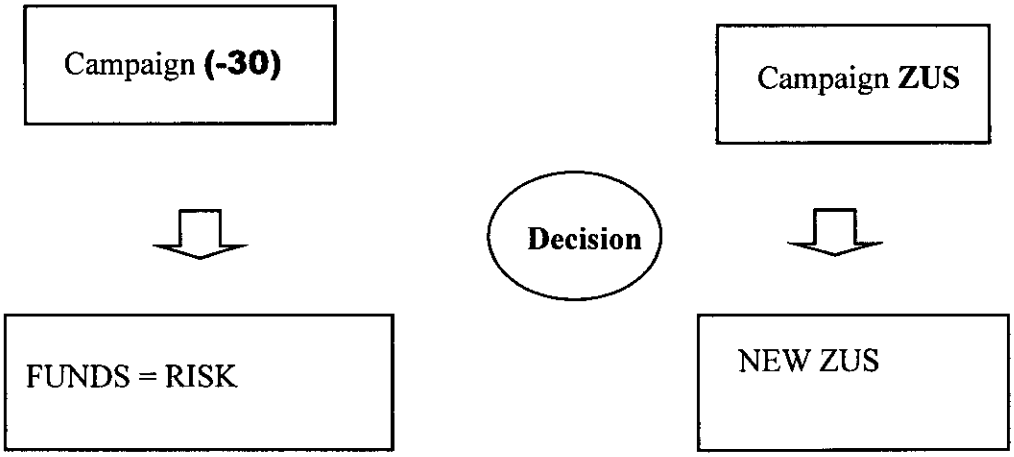
To make our message more credible, we propose also some actions that will really improve ZUS image.

Results of the campaign

All three messages: for people under 30, for age group 30 to 50 and about the new ZUS will be present in media in the same time. Each group will view, apart from its proper message, other target groups' messages. This will have an important impact on their perception of the situation and decisions about contribution allocation.

The campaign designed this way allows to create an appropriate context for people above 30 and below 50.

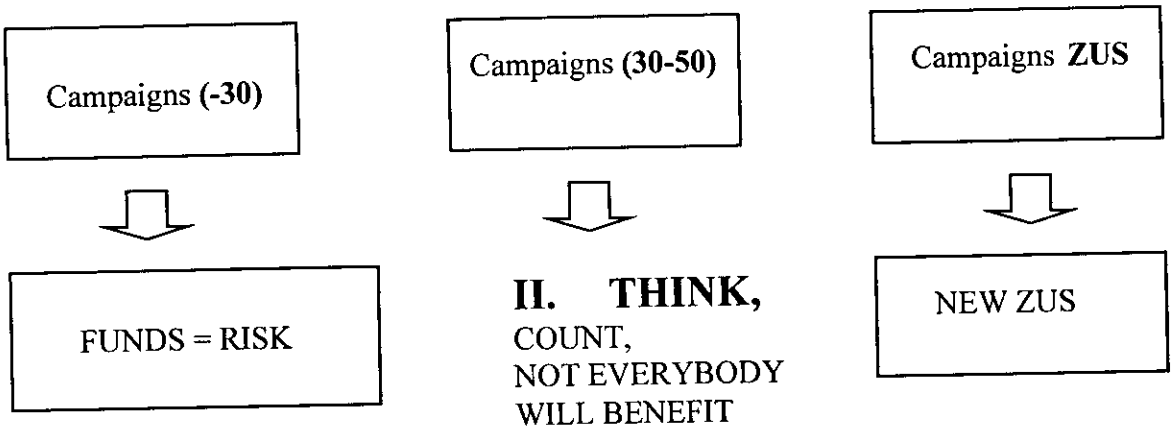
Decision context of people from age group 30 to 50 created by the campaign



Additionally, decisions of people from this age group will be influenced by the message addressed to the younger group.

They will see the message about risk and investment on one hand, and on the other hand the message about new, improved ZUS. In the same time, their proper message will

Group 30 to 50 - Campaign impact



The campaign built up this way will allow to keep a part of this group entirely in the ZUS.

Third stage - September 1999

By September '99 young people have to make the decision about the choice of a pension fund. Probably during this time we will see intensive advertising activity of pension funds. Their message about the necessity of the decision will be viewed also by people form age group 30 to 50 because pension funds' message will have strongly persuasive character. We suggest to create during this time additional message to counterweight and answer pension funds campaign.

"If you are not 30 years old yet, it's high time to choose a pension fund. If you don't do it you will be randomly assigned to one of them. If you are already 30 but not 50, you have time until the end of the year."

CAMPAIGN PROMOTING TELEPHONE NUMBER - INFORMATION CAMPAIGN

Independently from the image campaign, parallel information activity should be carried on at the same time. Objective information should be permanently accessible for everybody concerned. We propose to print information booklets containing detailed information about a mechanism and advantages of the reform and to establish a Call Center.

Information part of the campaign will be constructed around the telephone number of the

Best Available Copy

Best Available Copy

We propose to ask in our spots questions that are the most important for people and direct people to the Call Center. Questions should concern matters critical at the present moment i.e. "How to choose a pension fund?" Question for each stage of the campaign will be selected during research. Answers for these questions will be included in information brochures available in the Call Center; Questions openly asked build up confidence to the reform, because we make respondents understand that *"we are not afraid of any questions, because we have all the answers"*.

The effect of such campaign is that some people will be satisfied just with addressing question - *"The most important is that there is an answer, I don't have to know it."*

Visual aspect of the campaign is very important. It must be plain and simple. This is the only way to make a difference from pension funds campaign.

TONE AND STYLE OF THE CAMPAIGN

Image campaign

In connection with dividing target groups into three main groups and three various message we propose to create visual identification for each message on visual level. For each group there would be created special symbols and colours to signal that the message is destined for the group.

This identification should be introduced in the first stage – GIC campaign. Tone of each film will be connected with the message. For example: for people below 30 it will be dynamic, modern etc. Film regarding New ZUS – warm and calm in style.

Informative campaign

There is necessary to differentiate our campaign from pension funds campaigns, therefore this campaign should be very simple and clear.

DIRECT COMMUNICATION - CALL CENTRE, BROCHURES/LEAFLETS INFORMATION CENTRES IN ZUS

The Call Centre and brochures will play mainly informative role. However the use of the Call Centre in the campaign will enable selection of information targeted at particular age groups and will thus increase their persuasive efficiency (particularly in the relation to the group of 30 to 50 year-olds).

The call centre

The Call Centre will provide information in two ways:

1. **Directly through operators**. Based on custom-developed scripts the operators will be able to answer basic questions concerning the reform (e.g. what decisions persons of various age groups have to make; what the deadlines for those decisions are) as well as to provide abridged answers to questions asked in the advertising campaign. Questions asked by callers will be monitored on current basis and as a result the scripts for operators will be updated.
2. **Mailing**. Persons interested in being provided with more detailed information than the simplified messages from operators will be able to receive free brochures. The operator will – if agreed by the person concerned - register information on the caller (address, age, professional group, income level) in the database of the call centre. Based on the information, the interested person will be mailed a free information kit in the form of a single brochure or a set of brochures.

The centre will provide two special procedures in relation to:

- Persons interested in individual advice and simulations (particularly in the 30-50 age group). They will be directed to information centres in **ZUS**.
- Persons who want to register a complaint concerning pension funds. They will be directed to **UNFE**.

Such a procedure of providing information means that an **average calling time will not exceed 2 minutes**. We are assuming that there will be about **3 million of phone calls** annually. We expect that as a result of those calls there will be a demand for printing of about **6 million brochures/leaflets**. They will be sent to about **1.5 million addresses.**

We suggest that the **cost of the first impulse should be covered by the caller (number 0-801), and all other costs should be covered from the campaign budget.** Thus persons living in various parts of Poland will not be charged differently for connections (which would hamper the access to information to those living outside Warsaw).

This campaign will go jointly with the Government Information Centre (GIC) campaign (*four social reforms*) and therefore - since different telephone numbers will be used - it is also necessary to organise the centre in such a way that would make it possible to switch calls between Call Centres (i.e. so that a call from a person phoning at the GIC number to inquire about the pension system reform after 1 February , can be switched over to the line dedicated to the pension reform).

Brochures/ leaflets

It is necessary to prepare two groups of brochures and leaflets:

1. **For the system participants.**

The brochures should be prepared with a consistent (also consistent with the call centre's advertising campaign) graphic design and in the same size (A-5)

Brochures and leaflets for the system participants.

1) „Questions & Answers" Brochure.

The brochure will be developed as one of a series of brochures prepared within the framework of GIC ampaign (design and printing financed from the budget of the campaign for *four social reforms).* It will be mailed to all those interested in January and early February 1999. We suggest that it should include condensed information, subsequently extended in the described series of leaflets. The latter will include extensive information on the new pension system and model simulations customised to fit the age group, professional status and income level of the caller.

2) Target information leaflets.

The basic leaflet "What is the new pension system about?" will include basic information about the new pension system with the central message that due to the reform the future pension will be related to the amount of paid contributions and retirement age. Depending on the needs of individual callers supplementary leaflets will be enclosed with the above-mentioned leaflet.

We recommend the development of the following four series of supplementary leaflets.

1. A series targeted at age groups will include the following leaflets:

- For persons up to the age of 30. The basic message of the leaflet will be about the choice of a pension fund.
- For persons between 30 and 50 years of age. The leaflet will concern three issues i.e. the choice between depositing the whole contribution with the reformed ZUS and its split between ZUS and an open pension fund, the choice of a pension fund and the problem of the right to earlier retirement for persons employed in a special character or in special conditions.
- For persons between 45 and 50 years of age. The leaflet will be devoted to the same issue as for 30 to 50 year-olds, but there will be a stronger emphasis on risks related to the participation in a pension fund.
- For persons over 50. This leaflet mainly focuses on dispersing fears related to the introduction of the new system and on answering the question why they have not been covered by it.
- For current pensioners. The essential message of the leaflet is to disperse fears related to the introduction of the new system.

2. A series of leaflets including answers to most fundamental questions concerning the new system.

- „What is a pension fund?" The leaflet will describe the operating mechanism of pension funds. The main message is: the pensions fund as a private institution investing into the capital market is in for profits.
- „How will the initial capital in ZUS be calculated?" The leaflet will include general information on methods of calculating the initial capital and sample calculations of the capital for various age and income groups.
- „What does the ZUS reform consist of?" The leaflet should include a detailed description of modifications to the structures and *modus operandi* of ZUS as a result of the reform. The main message – building the image of ZUS as a modern and customer-friendly institution.
- „How to choose a pension fund?" The main message of the leaflet - providing participants of the new system with an information package enabling them to make a rational choice of a pension fund.
- „Shall I join a pension fund?" Information for persons in the 30-50 age group (decision-making criteria)

3. Other major information

- „New system as viewed by women". The leaflet includes information about insurance for persons on maternity leaves (also including the technique for registering for insurance) and special regulations for women in the 45-50 age group.
- „Disability pensions due to disability for work." A leaflet includes information on amendments introduced to the pension system in 1997.

4. A series of leaflets including model simulations for future pensions of the new system.

Simulations of the amount of pension depending on several variables (in particular on the decision to join the 2nd pillar) developed for a dozen plus typical careers and income levels.

Brochures for groups with branch privileges

They should present new solutions for the groups with privileges. That means that they have to be developed after the adoption of the Act regulating rights for special pensions within the new system - the so called Bridging Act. We suggest developing a series of five brochures for:

1. uniformed services
2. miners,
3. teachers,
4. railway employees,
5. other groups with privileges.

Best Available Copy

Information centres in ZUS – direct advice

Within the framework of the implementation of the new system, ZUS will open information centres for employers in local branches. One can assume that the intensity of the centres' operation will start dropping beginning from early February 1999 and hence their infrastructure can be used to provide information to system participants.

The centres can play both an information-related and advisory function, particularly in relation to two groups:

- Persons of the 30-50 age bracket (on the basis of a customised computer programme those persons could run a simulation of the pension amount depending on the decision made concerning the choice of insurance profile).
- Persons over 50 and present pensioners (those persons could get information on procedures for calculation of pensions from the old system)

Those activities will require the following actions:

1) Trainings for ZUS employees working at information centres. The trainings would teach ZUS employees how to run the computer programme simulating the pension amount and familiarise them with modern techniques of providing services to customers (*client friendly approach)* with focus on providing the insured with information on the principles of the new pension system.
2) Interior design for information centres in local branches of ZUS (stands for leaflets, notice boards, etc.).

Those actions are aimed at building the new image for ZUS (restylingmodification of the logo, customer friendly institution). They will also serve the purpose of increasing the level of identification of the employees with the social insurance reform in Poland.

Distribution of the information materials

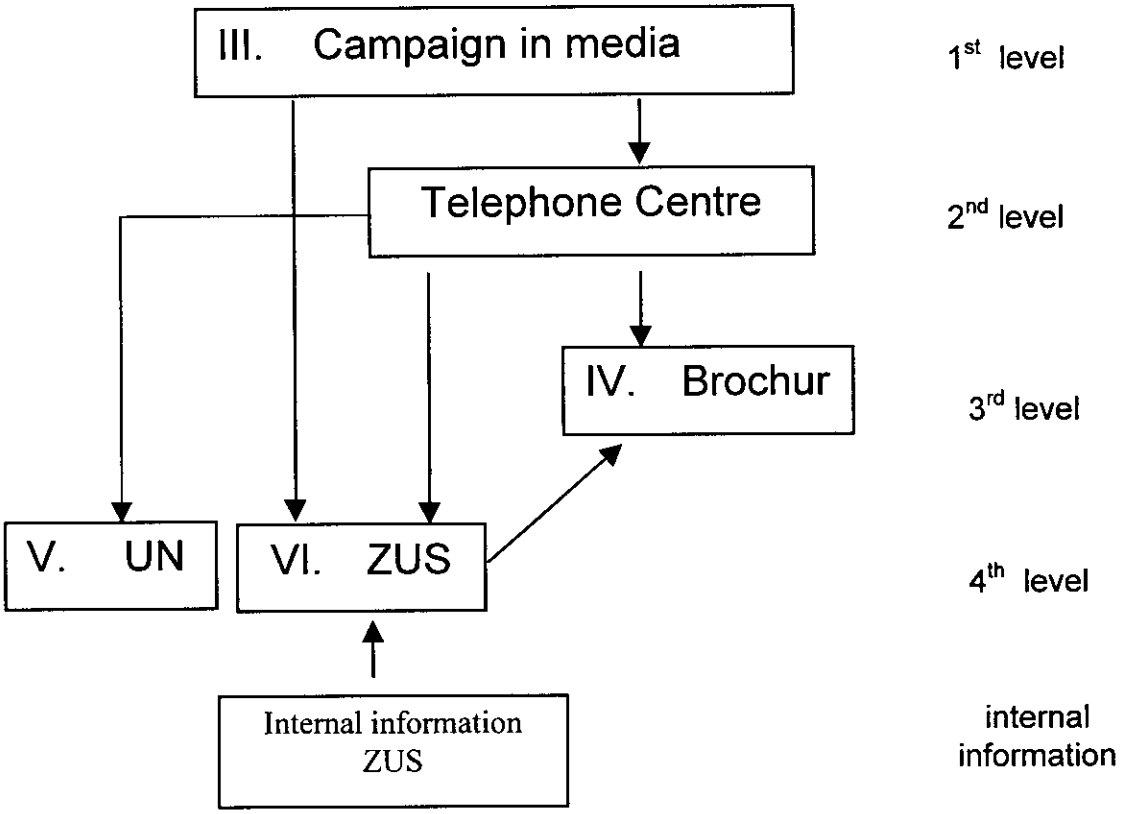
The publications should be distributed in the following way:

1) Brochures for system participants:
   a) Call Centre,
   b) ZUS (information centres).
2) Brochures for groups with branch privileges:
   a) Directly (trade unions, organisations of employers),
   b) Call Centre.

We are assuming that about 1.5 million information packages will be mailed based on data from the Call Centre (the estimate total number of brochures/leaflets is about 6 million).

Best Available Copy

INFORMATION IN THE CAMPAIGN



Information about the reform will reach the public from different sources. People will learn about the new pension system from media campaign, Call Center, brochures and information centers in the ZUS.

CAMPAIGN IN MEDIA

It is assumed that the following media mix will be used: **television and press** for image campaign; press, radio and billboards for the telephone number promotion.

Television will be the leading medium of the campaign. This medium has the largest reach and quickly builds perception of announced problem. It is the only medium that acts on potential addressee with visual and acoustic communication.

Press seems to be indispensable to fulfill the informative goals of the campaign. Press is a

information and enables people to achieve the information - and in consequence has the longest life time. This medium will be used both for image and information campaigns.

Message provided to the public by television and press will be of course developed in direct contact with an expert from the Call Center or by reading an information brochure.

Radio will be a medium for the telephone number promotion. It is a medium that strongly act on a listener by big frequency of communication and also allows flexible adaptation of advertising information to current situation. It will be useful particularly when some aspects of the reform will be stressed in media.

Billboards will serve as supporting medium, reflecting press and radio communication and be very helpful in building a wide reach.

In all presented detailed media plans the following media indexes will be used:

MEDIA INDEXES

Rating - percentage of target group that will be reached by specific advert broadcasting.

Gross Rating Point (GRP) - GRP number defines the sum of rating of all advert broadcasting.

Reach - percentage of target group that will be reached at least once by advert in a given period.

Frequency - average number of contacts with an advert by target group representative.

Effective Frequency - assumed minimal number of repetitions that is supposed to be effective in achieving campaign objectives.

Effective Reach - percentage of target group that will be reached by an advert with at least effective frequency.

Cost Per Point (CPP) - cost of a single attainment by an advert to 1% of a target group.

Cost Per Thousand (CPT) = Cost Per Millennium (CPM) - cost of a single attainment to one thousand people from a target group.

We propose two versions of the media strategy depending on a budget.

Version of the optimal budget: 4 311 000 USD (total budget including production

5 031 00 USD)

Version of the limited budget: 3 200 000 USD (total budget including production

3 800 000 USD)

MEDIA STRATEGY

Television campaign

In group 20-30 there is comparable position of Polsat and TVP 1 (1st program of Public Television). But total market share of TVP exceeds 40%. In the age group 30 to 50 Polsat market share decreases in favor of TVP. Also smaller TV stations like TVN or RTL7 loose their market shares comparing with previous group. In the age group 50 + TVP is a definite leader with the market share of 60%. Thanks to TVP strongest position and 75% discount, its cost/GRP is the lowest possible. The largest range allows to reach more than 90% of target group on required level. That's why we suggest to allocate entire budget for TVP broadcasting.

Broadcasting in February

We propose to begin the campaign in February, just before the beginning of Pension Funds megacampaign. Together with GIC campaign in January, we will achieve an effect of visibility of our campaign before media information "noise" will increase.

Each campaign addressed to each target group will have the intensity of 300 GRP, which makes in total 900 GRP per month. It is enough to get through with the message. It is very important for spots' visibility to put them outside commercial blocks.

Taking into consideration difficult message we recommend effective frequency of 4+. Which means that to understand the message, everyone from a target group should view the spot at least 4 times.

Broadcasting in March

In March for 3 succeeding weeks we propose slightly decrease of intensity to 250 GRP per week for each group.

We propose to keep effective frequency at 4+.

Broadcasting in April

To fill in the break between campaigns in March and May, we suggest 3 weeks campaign in April. Taking into account strong activity of Pension Funds we recommend intensity of this part at 750 GRP, 250 GRP for each target group.

Effective frequency at 4+.

Broadcasting in May and June

We propose the next step from mid-May to mid-June combined with the press campaign that begins a week later.

Taking into account complicated message and advertising "noise" of this period we

Broadcasting in August and September

We suggest to make summer holiday break and begin reminding campaign in the end of August.

To benefit from season (summer) discount offered every year by TVP, we propose to start the last step in the end of August. It allows extending the campaign and buying GRP at lower price.

As most people will already know the messages and certainly most of people will be acquainted with reforms' rules, we suggest effective frequency at 3+. The spot will be different than before and the message will not be complicated.

Prepared calculation includes inflation in media and 75% discount in TVP. Prime-time level at 40% is a result of this discount. Cost of the last step was calculated for 2 groups and 2 different films.

In minimized version we abandon one week of August which saves 335 000 PLN (compare with budget estimation).

Press campaign

The campaign is carried on two levels. First level - an advertisement addressed to three different target groups, complementary with TV message. Second level - telephone number promotion.

For both campaign levels in basic version we selected the same press titles: Gazeta Wyborcza and Super Express. These are the two biggest and the best known countrywide newspapers. In every country region we added at least one strongest local newspaper as a support (the same titles that were used in the first part of the campaign).

After initial negotiations with press representatives we negotiated the following conditions:

in Gazeta Wyborcza - cancellation of 10% supplement charge for placement an advertisement on the right page and additional 3% discount apart from agency discount.

in Super Express - cancellation of 10% supplement charge for placement an advertisement on the right page and additional 20% discount apart from agency discount and fixed space (on the third page) for telephone number promoting strips (second level).

in a local press - placement of advertisements on editorial pages at a price of advertisement pages.

In optimal budget version we suggest to reinforce image campaign by advertisements in color weekly magazines chosen upon reading research results.

- for people with at least secondary education - Wprost and Polityka
- for not educated people - Pani Domu and Tele Tydzien.

Media plan optimal version (including colour magazines)

Titles	February	March	IV	V	June	VII	VIII	September	X	November	December
	5 6 7 8	9 10 11 12			22 23 24 25 26			35 36 37 38 39	44	45 46 47	48 49 50 51 52
Local newspapers, GW, SE	A				A			A			
	C				C			C		C	
Magazines					C C C			A A A		B B B	
	Legend: A - below 30										
	B - 30-50										
	C - above 50										

Edition of image advertisement (first level) and telephone promoting ones is scheduled in order to not overlap (see: detailed media plan). We propose also to change edition order weekly to enable each group has its advertisement in Friday or Saturday magazine edition (see: advertisement rotation).

Detailed media plan

Format for 2 weeks	1st week							2nd week							
	M	T	W	Th	F	S	S	M	T	W	Th	F	S	S	
	A		B					tel				tel			
	Legend: A - below 30 lat														
			B - 30-50												
			C - above 50												

Advertisement rotation

Tygodnie					
1 tyd.	2 tyd	3 tyd.	4 tyd.	5 tyd	6 tydz
A B C	tel	B C A	tel	C A B	tel
Legenda: A - wiek do 30 lat					
B- wiek 30-50 lat					
C - wiek: powyzej 50 lat					

Radio campaign

To ensure coordination of the radio campaign with the press campaign within a year, we suggest to carry on telephone promotion in radio in 11 weeks during 1999 in two modules:

more intensive module A in: February, March, June, September; 9 weeks in total for the whole population

weaker module B in: November and December; 2 weeks in total; addressed only to the age group 30+ as only they have still time to make the decision about social security till the end of the year.

We recommend the following radio stations that ensures highest joint weekly reach:

for module A: PR1, RMF FM, Pakiet17bis - reach at 60.2%

for module B: PR1, Pakiet17bis - reach at 50.8%.

Radio - media plan

MONTH	I	FEBRUARY				MARCH				IV	V	JUNE					VII	VII	SEPTEMBER				X	NOVEMBER				XII
WEEK		5	6	7	8	9	10	11	12			22	23	24	25	26			35	36	37	38		44	45	46	47	48
FORMAT A																												
FORMAT B																												

** Target group for format A: Poland*
** Target group for format B: below 30+*

We suggest strategy intensity 619.2 GRP in the first 9 weeks of the campaign (module A) and strategy intensity 462.7 GRP in the last 2 weeks. Frequency will be then 10.3 weekly for module A and 9.1 for module B. It means that it is a very strong campaign.

Initial selection of radio station and time for spot emission is done upon reach results in particular target groups (30+).

Below are presented media statistics for each module.

Radio - weekly statistics, module A

Radio StationsPR1 / RMF / Pakiet17bis

intensity 619.2 GRP

weekly reach 60.2 %

frequency 10.3

cost per point (gross) 532.11 PLN

cost per point (net) 410.10 PLN

number of emissions per week 127

creation 20"

Radio - weekly statistics, module B

Radio StationsPR1 / Pakiet17bis

intensity 462.7 GRP

weekly reach 50.8 %

frequency 9.1

cost per point (gross) 313.66 PLN

cost per point (net) 250.50 PLN

number of emissions per week 75

creation 20"

Billboard campaign

We propose outdoor campaign in 14 biggest cities in Poland:

Range:

City	number of billboards
Warszawa	210
Krakow	55
Gdansk, Gdynia, Sopot	110
Bydgoszcz	40
Lodz	60
Poznan	65
Szczecin	65
Slask (Silesia)	185
Wroclaw	70
Kielce	30
Lublin	35
Czestochowa	20

Rzeszow 30

All proposed locations are in a center of the city, in big housing and commercial districts and along main traffic arteries.

STRUCTURE OF THE CAMPAIGN

Image campaign of the pension system reform

First stage

Campaign within GIC

Media: TV (1 film)

Press ⇒ Call Center or brochure

Second stage

Media: TV (3 films: for age group 30 and 30 - 50, about the ZUS)

Press ⇒ Call Center or brochure

Third stage

Media: TV (1 or 2 films - supporting message in September)

Information and telephone number promoting campaigns

Media: Press ⇒ Call Center or brochure

Radio

Billboards (optimal budget)

Best Available Copy

III. PR STRATEGY

Best Available Copy

OBJECTIVES OF PR ACTIVITIES

The objectives of PR activities need to be considered within the whole framework of information and education campaign targeted at public at large, with particular emphasis at:

1) Maintenance of the positive image and approval of the reform,
2) Providing of information required for decision-making (the insured) and efficient operation within the new system (employers, the self-employed),
3) Subduing demand for funds among 40-50 year-olds,
4) Supporting the negotiation process with groups having branch privileges.

MAJOR TARGET GROUPS OF PR ACTIVITIES

1. **The insured and present pensioners:**
   - Employed persons below 30,
   - Employed persons between 30 and 50 years of age,
   - Employed persons over 50 and present pensioners.
1. **Employers as social partners in the discussion on branch privileges.**
2. **Representatives of trade unions of the groups with branch privileges.**
3. **Representatives of national and regional media including media targeted at employers.**

As and important target group for PR activities we should consider selected media and journalists as key opinion leaders and an efficient and reliable communication channel towards the initially defined target groups. One should take into consideration the fact of the increasing interest of the media in the issues of pension system reform not only due to a large public interest but also with the aim of attracting advertisers (pension funds)

Communication with two other special target groups is also very important – namely employers and groups with branch privileges.

CRITICAL POINTS IN THE PR CAMPAIGN

Changing the ZUS image

One of the most difficult problems of the planned information and education campaign is to create the image of the new, reformed ZUS. Surveys show that the public hold a negative image of this institution. ZUS is perceived as an obsolete and highly inefficient institution. The only positive element of ZUS image is the fact of prompt and regular

payments of benefits (stability). One should expect that actions aimed at changing the negative image of ZUS will encounter several doubts and resistance of the insured, employers and media representatives speaking on their behalf. Changing the ZUS image is important insofar that the Ist pillar of the new system will be naturally identified with the institution which provides it. Therefore a negative opinion on ZUS will affect adversely the decision of the group of 30-50 year-olds concerning keeping the whole contribution in the Ist pillar. Moreover, ZUS is currently identified with the current pension system. Therefore its negative image can contribute to negative assessment of the whole new system.

In order to achieve the desired results, both internal activities within ZUS (e.g. trainings for employees of the information centres described in chapter .....) and external communication (the element of advertising campaign targeted at persons over 40) are necessary.

However, one should assume that the scale and pace of changes in ZUS, particularly in the first stage of reform implementation, will bring results of difficult access to information, temporary inability of ZUS to fulfill its new duties, poorer customer service due to employees being overloaded with work. This will result in critical statements by employers, pension funds and comments by journalists. That will deepen the negative ZUS image.

In order to minimise the adverse effects of such situation, certain PR activities should be undertaken. They should aim at:

1. Emphasising the essential change in the mechanism of ZUS pension calculation (a good vehicle here would be referring to individual accounts which are a positively perceived mechanism)
2. Providing information that within the new system ZUS is not the only but just one of several institutions servicing the pension system.
3. Warning (employers and journalists) about the likelihood of problems emerging.
4. Assuring of temporary character of those problems in ZUS operation.

It is also important for the message on the new ZUS to emphasise that positive effects of the changes will not become visible earlier than in about a year's time.

The issue of branch privileges

Gradual departure from branch privileges requires complex negotiations concerning abolition of certain branch privileges and financing customised pension solutions for selected professional groups. This is linked with several social and political problems thus necessitating the use of PR tools in the areas of active media support for the negotiation process. Moreover possible tensions and violent protests of branch groups (in some cases they are well-organised and have powerful political representation) will affect adversely the reform image. It will be crucial not to give the communication initiative to trade unions. Therefore we should:

Best Available Copy

1. Create a negotiation context that would be favourable for government negotiators by building the conviction of lack of public approval of the privileges (presentation of opinion survey results and foreign solutions). Such activities are run in November and December this year.
2. Unambiguously and clearly present the government proposals to the media even before the negotiations commence.
3. On regular basis how the media report on negotiations and swiftly respond to public attacks by professional groups, trade unions or opposition.
4. Undertake communication actions targeted at such a particularly sensitive group as miners (social approval of pension privileges for this group is very high and accompanied by significant political power of the branch). Therefore activities should focus on calming the tempers and providing the group with information on solutions for the group as provided for by the Act on FUS disability and old-age pensions.

Decisions on joining a fund- 40-50 age groups

Decisions on joining the IInd pillar by persons in the 30-50 age bracket will be made in the context which can lead them to make choices which will be unfavourable for them. The negative ZUS image is a major factor here making people reluctant to keep the whole contribution in this institution. The problem is a significant one in relation to people in the 40-50 age group (bigger risk related to joining a fund, sometimes loss of beneficial solutions in the Ist pillar).

At present some funds undertake - and definitely will undertake in the future - activities (both advertising, and PR) aimed at attracting persons between 40 and 50 years of age. One of the key and - as shown by surveys - extremely efficient arguments for splitting the contribution between the Ist and IInd pillar is the fact that savings in funds are inherited. Another equally effective argument is pointing to the fact that a smaller proportion of the contribution will be transferred to the fund (*"small risk, possible profit"*).

Because of the fact that the total budget of the advertising campaigns of the pension funds is several times bigger than that of the government campaign, such actions can bring about the results desired by the funds and there is a genuine risk of "*overswitching*". Therefore PR actions should aim at:

1. Building the conviction that the decision requires deep thought,
2. Building the new image for ZUS,
3. Pointing out that age is the key criterion for the decision on joining the IInd pillar *(How long I will continue to work)*,
4. Showing the „inheritance" mechanism within the Ist pillar (the family pension),
5. Providing information on customised solutions for branch groups and women over 45
6. Building the conviction that a significant part of the contribution is transferred to the

7. Emphasising the fact that the funds are not objective sources of information – they are interested in attracting the largest possible number of customers (to sell their product).

MESSAGES

RELATIONSHIP BETWEEN THE CONTRIBUTION AND THE PENSION *(key message)*

The new system is based on the principle "the more you pay, the more you will get"

The new system introduces the mechanism of individual accounts

The difference between the Ist and IInd pillar is tiny (in both of them amounts of our contributions are entered onto individual accounts)

Decisions which have to be made require discretion

Do not rush with decision-making – you have at least 7 months to make up your mind

Particularly if you are over 40, think if it will be profitable for you to join a fund

The decision on splitting the contribution is irrevocable

A significant part of the contribution (much over 1/3) will be transferred to the selected fund,

Information required for decision-making is available (information campaign)

Pension funds are not objective sources of information (funds want to sell their product to you)

The reform will make zus a completely new institution

Pension paid by ZUS will depend on the amount of paid contributions

ZUS will open an individual account for each of us

ZUS will cease to be the sole institution ("the monopolist") providing security at the old age,

Individual accounts will also feature the part of pension we earned under the old system

ZUS will not become a new institution instantly – in the first stage problems in its operations are extremely likely

Privileges

Branch privileges are rejected by a vast majority of Poles.

Best Available Copy

Privileges will be maintained by all those persons who have already earned them (acquired the rights to them), or would acquire the rights in the coming years.

New solutions in the area of branch privileges will concern young persons.

The new system will feature special solutions for some professional groups but they will not be financed from contributions of other employed persons.

Inheritance of savings in the iind pillar

The Ist pillar also features the mechanism of inheritance – the family pension

ACTIVITIES

Apart from the above-presented direct communication activities (Call centre, brochures/leaflets, information centres in ZUS), PR activities should focus on co-operation with the media. We suggest the following activities:

Educational seminar

A large part of the media are planning to or have already started preparing special inserts or programmes on the pension reform. Because providing accurate information on the new system requires detailed knowledge and understanding of the underlying mechanisms - it seems logical to run an educational seminar for journalists.

This activity would mainly aim at raising the level of competence of journalists dealing with those issues in national and regional media. At the same time it could be used to initiate more direct and informal relations.

The meeting should be organised in the form of a seminar/presentation rather than a press conference and should take about 4-5 hours. During the seminar the journalists should familiarise themselves with practical information (i.e. such information that would be of interest to their target groups) concerning the operation of the new system - what "grossing" consist of, how to choose a pension fund etc.. They should also receive a set of materials related to the reform (Acts, executive acts, brochures, transparencies).

We suggest running two such seminars (for journalists of national and regional media) in early January.

A series of press conferences

Due to a significant interest taken by the media in the issues related to the reform and their feeling of the shortage of information about the new system, we should run a series of press conferences of informative character. Those need to concern information and major problems from the point of view of the system participants. It seems reasonable to maintain consistency with other instruments of the information campaign (advertising, brochures, leaflets) and to base the press conferences on the questions asked in public. We suggest

preparing a series of six press conferences in the December 1998-January 1999 time bracket:

- How will the pensions be calculated within the new system? - *December 1998*,

  simulation of pension amounts under the new system,
- Will the contributions paid under the old system be taken into account in the calculations of the pensions? - *January 1999*,

  how the initial capital will be calculated - simulations
- Who will be covered by the new system and who can maintain old system's solutions? - *January 1999*,

  division into age groups; choices faced by each group; information on persons who can maintain old system's solutions,
- How can one obtain information on the new system? - *January 1999*,

  presentation of the information campaign,
- Should one join the IInd pillar? - *February 1999*,

  criteria for decisions; simulations for persons in the 30-50 age bracket,
- How to choose a pension fund? - *February 1999*,

  what criteria to take into consideration; what a fund is not allowed to do.

Ongoing co-operation with core journalists

Due to several problems that require not only providing the citizens with information but also influencing the tone of publications about the reform (privileges, the new ZUS), we should put much emphasis on informal meetings with a selected group of journalist. During the meetings we should provide information on latest events new developments related to the reform and present (*off record* formula) opinions of the authors of the reform on activities and problems encountered in its implementation.

Such meetings should be particularly frequent - not less than once a fortnight - in the first stage of the reform implementation.

Media targeted at employers

Those media are a significant target for our activities. On the one hand, they could provide a communication channel to reach employers and provide them with practical information on how the new system operates. On the other hand, they can provide a platform for employers to express their possible dissatisfaction with ill-functioning of ZUS.

Therefore we should organise one or two meetings (December-January) just for that group of journalists. The meetings would serve both the information-related goal (provide employers with information they need to operate under the new system) and the goal of decreasing the risk of attacks aimed at the reform by the media targeted at employers. The latter objective can be achieved if the media - and subsequently the employers - will be

Best Available Copy

A meeting with journalists covering promotion and advertising

One of the major problems related to the reform is the feeling of information shortage and difficult access to information. This results in fears and anxiety related to the introduction of the new system and can thus compromise the positive image of the reform. Therefore it seems sensible to provide the public with information on the developed information and education campaign. The main goal of such activity would be to create the feeling that information will be available early enough and in a form that would facilitate to the insured a rational decision-making process. The most efficient way to achieve such an objective is to develop a presentation on the campaign for journalists and media dealing with advertising. The meeting should take place in early January 1999.

Special co-operation with television stations

Such co-operation would aim at affecting the development of regular information programmes devoted to the reform in non-public television stations. Such programmes would provide the system participants with practical information on how the system operates and what choices it gives them. It is important for the information to enable the insured to make rational decisions in the context of aggressive campaigning by the funds. Therefore the programmes need to stress independence of the presented information (those cannot be sponsored programmes) and should be broadcast before 16 February 1999.

These activities should include:

- talks with decision-makers in non-public stations - affecting the actual development of such programmes,
- increasing the level of competence of the journalists involved in the development of the programmes,
- on-going co-operation (monitoring) related to programmes being developed.

Such activities have been undertaken in relation to both public television channels. They need to be extended to other nation-wide stations (Polsat, TVN).

Local press conferences

Because of large interest taken by and influence of regional media we should run a series of press conferences in major Polish cities (Gda sk, Lublin, ó d ,Cracow, Katowice, Pozna ,Wroc aw,Szczecin). They would aim at presenting the reform and - in particular - information significant for system participants. Minister Ewa Lewicka should be the person to present the new system.

We suggest organising the conferences in February-March 1999 period. One can also consider combining the press conferences with meetings with opinion leaders (employers, trade unions).

Ongoing support for negotiations concerning branch privileges

Negotiations concerning branch privileges will be one of the issues related to the reform to gather most media attention. Moreover, this is one of the problems which can weaken the

positive image of the reform. One can expect significant activity in the media of those opposed to the suggested solutions (branch trade unions, opposition parties).

Therefore ongoing monitoring (both of the negotiation process and related press publications) is necessary. Thus we could preview and promptly respond to attacks by opponents.

Special materials concerning privileges

Development of such materials would serve the purpose of maintaining communication initiative in the area of branch privileges. They should be designed so as to provide journalists with information enabling them to argue points of enemies of government solutions. The first two materials should concern:

* Special pension solutions world-wide,
* Presentation of the government proposal.

During negotiations other issues will certainly arise, which will also require the use of this instrument.

Each of those materials should be about 5-7 pages long. They will be distributed among national and regional media.

Meetings with silesian media

As experience has shown the call miners can proceed with strong lobbying on behalf of changes in their favour in the new pension system.

Therefore PR activities targeted directly at this group are necessary. Those activities should include meetings with the media of Silesian region and the mining region with the aim of providing the information on government proposals (and in particular on which groups will maintain old system's solutions) and clearing any possible misunderstandings. That could lower the tension related to the retirement problem among miners and thus diminish he probability of protests.

We should run two such meetings:

- Before the commencement of negotiations (early January),
- After solutions concerning miners have been agreed upon.

TIMETABLE

Direct communication (printed materials, call centre, ZUS information centres)

Activities	*Weeks*	1998 51	52	53	54	1999 1	2	3	4	5	6	7	8	9	10	11	12	13
Call Centre																		
	Preparation phase (scripts, trening)																	
	Coordination and supervisionr																	
Brochures-age groups																		
	Copywriting																	
	Graphic design																	
	Pre-press																	
	Printing																	
Brochures – anwsers																		
	Copywriting																	
	Graphic design																	
	Pre-press																	
	Printing																	
ZUS information centres																		
	logo (restiling)																	
	Design of information centres																	
	Production (information boards, labels)																	
	Preparation of trainings																	
	Trainings																	

Media relations

Activities	*Weeks*	1998 51	52	53	54	1999 1	2	3	4	5	6	7	8	9	10	11	12	13
Education al Seminar																		
	Warsaw journalists																	
	Regional journalists																	
Press conferences																		
Core journalists	(Meetings)																	
Media addressed to employers	(Meeting)																	
Journalists covering advertising issues	(Meeting)																	
Cooperation with TV stations																		
Regional press conferences																		
Branch privileges																		
	Current services during negotiations																	
	Materials																	
	Meetings with Silesian media																	

Best Available Copy

IV. COSTS

Costs proposal regards activities beyond the contract with PriceWaterhouseCoopers. The costs presented below are estimated according to .....

Advertising

Optimal budget

Task		Cost (USD)
Media buying	TV	1,330,000
	radio	1,200,000
	bilboards	681,000
	press	1,100,00
Production		720,000
TOTAL		**5,031,00**

Decreased budget

Task		Cost (USD)
Media buying	TV	1,200,000
	radio	1,000,000
	press	1,000,00
Production		600,000
TOTAL		**3,800,000**

Direct communication activities

Tasks	Activities	Description	Price (USD)	Copies/ Amount	Cost (USD)
Brochures	What the new system is about?	12 pages A-5	0.15	1,500,000	225,000
	For age groups, Important information regarding the new system	7 * 6 pages A-5	0.08	7 * 300,000	168,000
	Answers for important questions	7 * 6 pages A-5	0.08	7 * 300,000	168,000
	Simulations	20 * 2 pages A-5	0.03	20 * 50,000	30,000
	Groups with branch privileges	5 * 8 pages A-5	0.1	5 * 100,000	50,000
Call Centre	Script, training for operators				15,000
	Supervision, upgrading of script		5000.00	10 months	50,000
	Cost of calls		0.15	3,000,000	450,000
	Infoline service		0.15	3.000,000	450,000
Mailing	Packaging		0.2	1,500,000	300,000
			0.18*	1,500,000	270,000

Training for ZUS employees	Preparation of training				2,000
	Training (trainers)		1400.00		28,000
Materials for ZUS information centres	Stands, labels, posters		500.00	300 centres	150,000
TOTAL					**2,251,000**

**) 40% of discount*

Best Available Copy

FINAL REPORT

from the contract with PricewaterhouseCoopers

The information campaign prepared for

The Office of the Government Plenipotentiary for the Social Security Reform

Warsaw, April 2000

The contents:

I. INTRODUCTION **4**

DOCUMENTATION AND REPORTS 4
COMMUNICATION STRATEGY 5
FINANCIAL SETTLEMENT OF THE CAMPAIGN 6

II. COMMUNICATION STRATEGY **9**

CAMPAIGN OBJECTIVES 9
TARGET GROUPS OF THE CAMPAIGN 9
EVALUATION OF THE REFORM BEFORE THE CAMPAIGN 9

III. ADVETISING CAMPAIGN AND DIRECT COMMUNICATION **11**

STRATEGIC ASSUMPTIONS OF THE CAMPAIGN 11
PR STARTEGY *12*
DIAGRAM OF THE CAMPAIGN *13*
The message for the 30-50 age group 13
Message – a new ZUS since the year 2000 14
The message for the (- 30) age group 14
THE MEDIA STRATEGY *15*
The television campaign 16
The press campaign 18
INTERNET 19
Website of the Government Plenipotentiary for the Social Security Reform 19
UNFE website 19

IV. THE CAMPAIGN DIAGRAM **20**

V. MONITORING OF THE CAMPAIGN **22**

FGI 22
Questionnaire surveys 22
Monitoring of the press 24

VI. THE INITIAL STAGE OF THE CAMPAIGN **26**

Brochures and leaflets 27
PUBLIC RELATIONS 29
Co-operation with TVP 29
Media training 30
Seminars and background materials for journalists 30
Distribution of press releases and background materials 31
Press conferences 31
Ongoing co-operation with key journalists 32

VII. IMPLEMENTATION OF THE CAMPAIGN – I STAGE **33**

THE ASSUMPTIONS 33
30-50 age group 33
Below 30 age group 34
The message about the new ZUS 34
THE TELEVISION CAMPAIGN *34*
THE PRESS CAMPAIGN *35*
DISTRIBUTION OF COUPONS WITH TELEPHONE BILLS *36*
LAUNCH OF THE CALL CENTRE 37
Basic training 38
Supplementary training 38
PUBLIC RELATIONS 38
Mailing press releases and background materials 38
Press conference 39
Road Show – local press conferences and meetings with public opinion leaders 40
Continuous co-operation with key journalists 41
A seminar for experts 42
MEDIA 43

CREATION 46

VIII. IMPLEMENTATION OF THE CAMPAIGN – II STAGE **49**

THE ASSUMPTIONS *49*
THE TELEVISION CAMPAIGN *50*
THE RADIO CAMPAIGN *51*
THE PRESS CAMPAIGN *51*
THE LIST OF PENSION FUNDS *52*
PUBLIC RELATIONS 52
Mailing of press releases and background information 52
Continuous co-operation with key journalists 52
MEDIA 53
CREATION 54

IX. IMPLEMENTATION OF THE CAMPAIGN – III STAGE **59**

THE ASSUMPTIONS *59*
THE TELEVISION CAMPAIGN *60*
THE RADIO CAMPAIGN *60*
THE PRESS CAMPAIGN *60*
PUBLIC RELATIONS 61
Press conferences closing the campaign and distribution of press releases 61
MEDIA 62
CREATION 63

X. SUMMARY OF THE RESULTS OF THE CAMPAIGN **65**

PUBLIC OPINION SURVEYS- 65
NUMBER OF CONTACTS WITH THE CALL CENTRE 66
DECISIONS IN THE 30-50 AGE GROUP 66

I. INTRODUCTION

The information campaign about the new pension system was commissioned by USAID and PricewaterhouseCoopers LLP and implemented by a consortium consisting of the following companies: an advertising agency Corporate Profiles and PR Profile. The consortium was selected in tender. The campaign started in late February 1999, but its preparation began in October 1998.

DOCUMENTATION AND REPORTS

The following research projects were carried out during the preparation and implementation of the information campaign:

1. FGI (Focused Group Interviews)

- 1st FGI series (testing communication messages) – December 1998 - January 1999
- 2nd FGI series (an analysis of views of different groups of the insured) – May 1999
- 3rd FGI series (testing a new series of TV spots) – July 1999

2. QUANTITATIVE SURVEYS

- Questionnaire survey (willingness to join OFEs in the 30-50 age group) – January 1999
- Questionnaire survey (decisions required in the new system) – March 1999
- Questionnaire survey (privileges associated with pensions) – May-June 1999
- Questionnaire survey (availability of information on the reform) – October 1999

During the preparation of the communication and media strategy the consortium prepared the following documents:

1. STRATEGY

- Communication Strategy – December 1998
- Communication Strategy – January 1999 – signed by Minister Ewa Lewicka
- Annex to Communication Strategy – March 1999 - signed by Minister Ewa Lewicka

2. MEDIA CAMPAIGN

- The media strategy - week 47of 1998

- The media strategy - week 49 of 1998
- The media strategy - week 50 of 1998
- The media strategy - week 2 of 1999
- The media strategy - week 3 of 1999

The preparation of these versions of media strategy was associated with the changes in the campaign budget.

3. BUDGET

- Recommended optimum and minimum budget
- Suggested allocation of the additional budget

4. ANALYSIS OF THE ACTIVITIES AND ADVERTISING MESSAGES OF PENSION FUNDS

- April 1999
- September 1999

COMMUNICATION STRATEGY

The Communication Strategy was prepared in close co-operation with the Office of the Government Plenipotentiary for the Social Security Reform and PricewaterhouseCoopers. The strategy was evaluated and approved by Jamil Simon, a senior PricewaterhouseCoopers consultant. Some of his suggestions were not implemented for reasons independent of the consortium: UNFE's decision to not participate in the public education campaign and the reduction of Government's public education budget.

In the first Communication Strategy submitted on 15.12.1998 it was assumed that the amount of USD 7.3 million (net) would be allocated to the media campaign. On request of the client this budget was reduced to USD 5 million net (in the opinion of our agency this was the minimum budget necessary to achieve the objectives of the Strategy) and then it was further reduced to USD 4.1 net. This money was used for:

– Production of TV spots - USD 0.5 million

– Information campaign (media buying, printing, distribution of brochures) – USD 2.4 million

– Training for ZUS and the reserve (the remaining funds)

Best Available Copy

The changes in the budget, as well as the changes in the sources of financing, contributed to a delay in the implementation of the campaign and resignation from some of the suggested activities. The Office of the Government Plenipotentiary and PricewaterhouseCoopers were informed by the consortium on an ongoing basis about the consequences of the delay and changes in the budget (e.g. resignation from advertisements in color magazines, billboards, radio, reduction of the number of TV broadcasts, reduction of the frequency of press announcements, publication of black and white announcements instead of color ones, the necessity to increase the number of elements in the announcements etc.). A summary of the changes in the Strategy resulting from budget reductions was presented in the Annex to the Strategy.

In order to accelerate the implementation of the campaign, the consortium performed some tasks that were not specified in the contract:

– Preparation of a few versions of Communication Strategy and media strategy

– Meetings and negotiations with the World Bank

– Preparation of documents for the World Bank - *Terms of Reference* and *Comprehensive Strategy* (this document comprised all activities associated with education and information, including those that were not specified in the contract)

– Preparation of documents for TVP and participation in negotiations

– Preparation of *Terms of Reference* for the purposes of selecting a media house, production house, preparation room, print shop.

– Research of the market of telemarketing companies, preparation of *Terms of Reference* for the purposes of selection of such a company.

FINANCIAL SETTLEMENT OF THE CAMPAIGN

The settlement presented below includes only the expenses controlled by Corporate Profiles DDB and Profile (it does not take into account the fees charged by the agencies). A large number of projects were settled directly between the Office of the Government Plenipotentiary for the Social Security Reform and subcontractors due to their confidentiality or other formal reasons. The following costs were not taken into account:

- The media campaign (TV broadcasts, press announcements, radio broadcasts, inserts)
- Printing of coupons and mailing them with telephone bills

- Production of TV and radio spots for II stage
- Printing of brochures and leaflets
- Modifications of the TV spot and production of radio spots for the III stage

Corporate Profiles DDB

Stage	Task	Net cost in PLN	Gross cost (incl. VAT) in PLN
I stage	Cost of production of spots: Swimmer, Steersman, ZUS	1,748 337.80	2,132 972.12
	Preparation of black and white press announcements	1,200	1,464
	Preparation of coupon for printing	3,400	4,148
II stage	Adding a board to the spot „Infolinia" („Call Center")	1,637.5	1,997.75
	Preparation of 26 press announcements for printing and the cost of copyrights to the photograph	19,300	23,546
	Preparation of a list of pension funds for printing	1,500	1,830
III stage	Preparation of 2 color press announcements for printing	1,170	1,427.4

Profile

Tasks	Stage	Gross cost (incl. VAT) in USD

Research project (IDI, FGI, Questionnaire surveys)	**I-III**	499,790
Preparation of brochures and leaflets for printing (exposing films)	**I**	61,500
Maintaining the websites of the Office of the Plenipotentiary and UNFE	**I-III**	29,520
Road show costs		17,220

II. COMMUNICATION STRATEGY

Best Available Copy

CAMPAIGN OBJECTIVES

In accordance with the strategy, the main aim of the campaign was to provide the public with full information that would enable people to make informed decisions concerning their future pension. Another important objective of the campaign was to support a new image of ZUS and create a positive attitude to the reform itself, which is closely related to the creation of the image of the reform.

It was also assumed that the campaign would:

- Eliminate fears of persons not covered by the reform (persons aged above 50)
- Prevent the feeling of being insufficiently informed – build confidence that information on the pension reform is available

TARGET GROUPS OF THE CAMPAIGN

The campaign was addressed to all adult citizens of Poland. However, because the reform provided different situations for different age groups, 3 basic and 2 additional target groups were created. Separation of a few target groups was necessary due to a different nature and objectives of the message addressed to each of these groups.

Definition of the basic target groups was based on the age criterion:

1) Working persons aged below 30,
2) Working persons aged 30 to 50,
3) Working persons aged above 50 and retired persons,

Two additional target groups are: contribution payers and industry groups.

EVALUATION OF THE REFORM BEFORE THE CAMPAIGN

Before the development of the advertising strategy a qualitative survey was conducted using the focus group interview method (15 interviews). The aim of this research was to analyze the awareness of people in respect of the pension reform, its evaluation, reconstruction of the potential attitude of the public opinion and reconstruction of the image of ZUS and the impact of the reform on this image.

The social opinion on the reform was generally positive. The principle that the amount of contribution will depend on the amount of income was perceived as the main advantage of

the reform. Moreover, respondents had a very positive opinion on the fact that individual accounts will be created within ZUS. This aspect also improved the image of ZUS itself.

As far as the evaluation of the second pillar of the pension system is concerned, respondents (particularly older ones) were skeptical and had many fears. The attitude towards pension funds was similar to the attitude towards other financial institutions connected with the capital market, which evoke associations with risk, uncertainty, gambling and a possibility of losing money. However, the more information respondents had, the more positive were their attitudes to the possible participation in the II pillar.

The image of ZUS was very poor. People saw it as an outdated and bureaucratic state monopoly, which is carelessly wasting the citizens' money. On the one hand pensions from ZUS are perceived as very low, but on the other – as certain and guaranteed by the state, which was regarded as an advantage of ZUS over private pension funds.

Our research showed clearly that the level of knowledge on the reform is very low. Respondents felt insufficiently informed and at the same time expressed big demand for more information.

Best Available Copy

III. ADVETISING CAMPAIGN AND DIRECT COMMUNICATION

STRATEGIC ASSUMPTIONS OF THE CAMPAIGN

The most important aim of our campaign was to inform society about the pension reform and maintain social acceptance for the reform. At the same time, the campaign had detailed objectives connected with different groups of the society, so we decided to divide advertising messages into three groups.

Due to a varied nature of target groups, the complicated subject matter of the pension reform and different messages addressed to different groups it was impossible to present all the information in the standard media such as television, radio and the press. Therefore it was necessary to organize a call center using the following tools:

- Telephone information – callers could obtain an answer to basic questions on the telephone and at the same time order free information brochures,
- Information brochures – everybody could receive a brochure on the subject they were interested in.

It was assumed that the main element of the information campaign would be promotion of the call center (the telephone number and information brochures). Such a structure of the information campaign would allow citizens to find answers to all questions they might have, thus satisfying their demand for information.

The best solution for this form of campaign was to allow people to ask questions and provide answers to these questions in the information brochure or through the call center. It was assumed that the very act of asking a question would satisfy some people – *„The most important thing is that there is an answer, I do not have to know it"*.

However, during the strategy development stage it was found out that this structure of the information campaign is not fully satisfactory. In order to achieve its aims, the information campaign must reach as many people as possible. There are always people who would not call a government-sponsored call center. For these reasons it was assumed that the media campaign should also provide basic information on the most important changes connected with the introduction of the new pension system and present the most important characteristics of this system. People face a range of difficult choices in connection with the new pension system, such as a decision whether to divide their contribution between I and II pillar (in the group of insured persons born between 1949 and 1968), so one of the

campaign objectives was to provide the interested persons with the information necessary to make informed and conscious decisions.

In order to create a positive image of the reform and the new pension system, the campaign was designed to inform people that as a result of the changes in the system the amount of their future pension will be closely related to the amount of contributions paid – the higher the contribution, the higher the future pension (its amount will be proportional to the actual contributions).

The pension reform was one of four social reforms implemented by the Polish government in the years 1998/1999, so we decided to leverage the information campaign prepared for all 4 social reforms in the part concerning the pension reform as the Stage I of our pension reform campaign. This other campaign for all 4 reforms was organized by the Government Information Center, Corporate Profiles DDB and Profile.

PR STARTEGY

The PR stategy took the following issues into account:

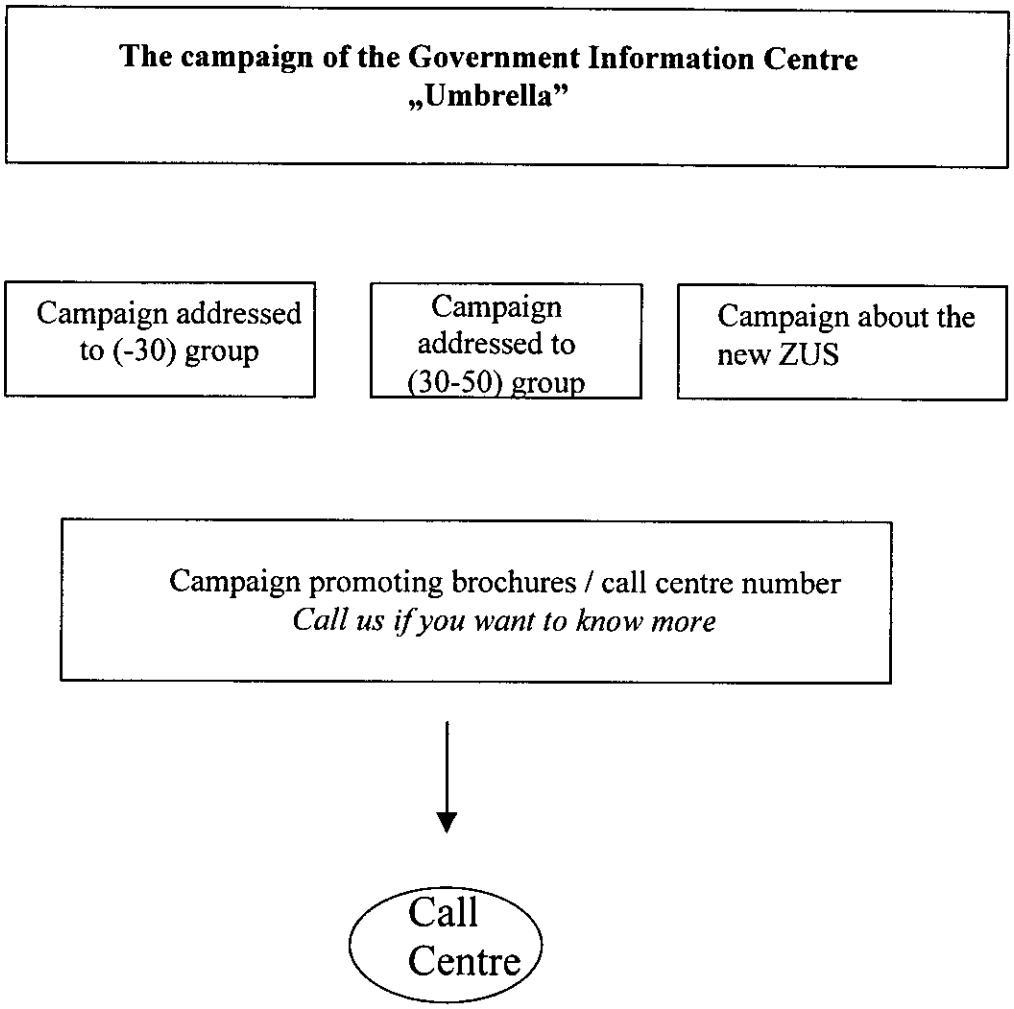
- Providing information was an important objective of the campaign, and
- The advertising budget of the campaign was small (especially as compared with the budgets of the pension funds)

PR instruments, particularly *media relations,* had to play an important role in the communication activities.

The main objective of the PR activities was to build and maintain the image of the government (the Office of the Plenipotentiary) as an independent and competent advisor, as well as distribute information on the decision-making criteria through the media (selection of a fund, joining II pillar). Another important PR objective was communication with groups which had industry-specific privileges in the old system.

In order to achieve these aims it was necessary to develop an open information policy and prepare information materials for the media, presenting the principles of the new system in a clear and interesting way.

DIAGRAM OF THE CAMPAIGN

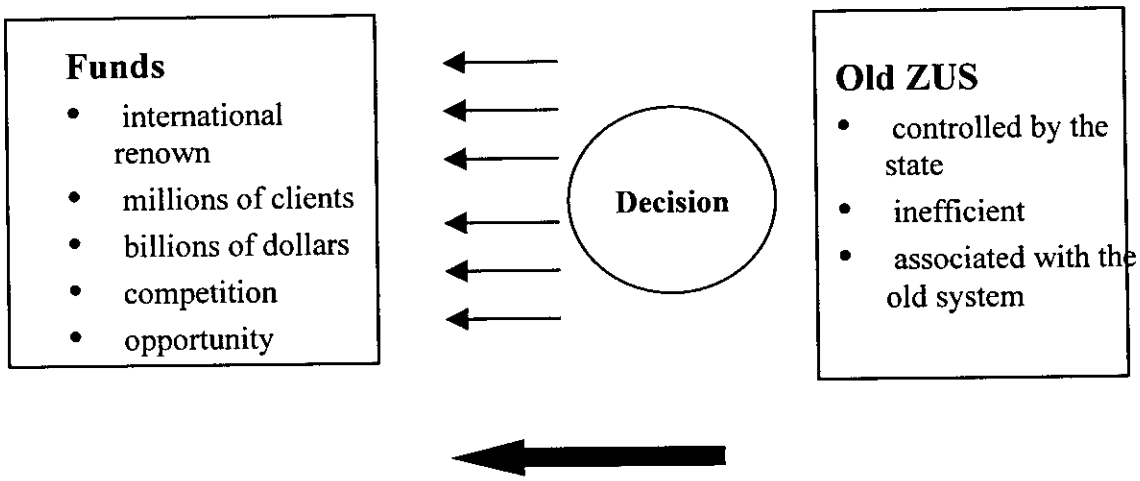


This campaign included 3 separate messages.

The message for the 30-50 age group

This group was the most important from the point of view of the information campaign. These people faced the most difficult choice – whether to keep paying the total contribution to ZUS or pay a part of it to a pension fund. The strategy was based on the assumption that their decisions will be strongly influenced by advertising campaigns of funds rather than based on an objective assessment of the best option. Therefore it was assumed that the demand for information will be the strongest in this group.

The context of making decisions (30-50 age group)



Message – a new ZUS since the year 2000

Due to the negative elements of the image of ZUS described above and the associated concerns as to its functioning and the image of the whole reform it was suggested that one of the messages should be devoted to creating an image of the new ZUS.

In addition to the production of a TV spot about the New ZUS, the strategy also included other actions aimed at improving the social perception of ZUS, such as a modification and modernization of its logo, multimedial kiosks at ZUS offices, brochures presenting the functioning of ZUS. Unfortunately, these ideas could not be implemented due to the Government's reduction in the implementation budget.

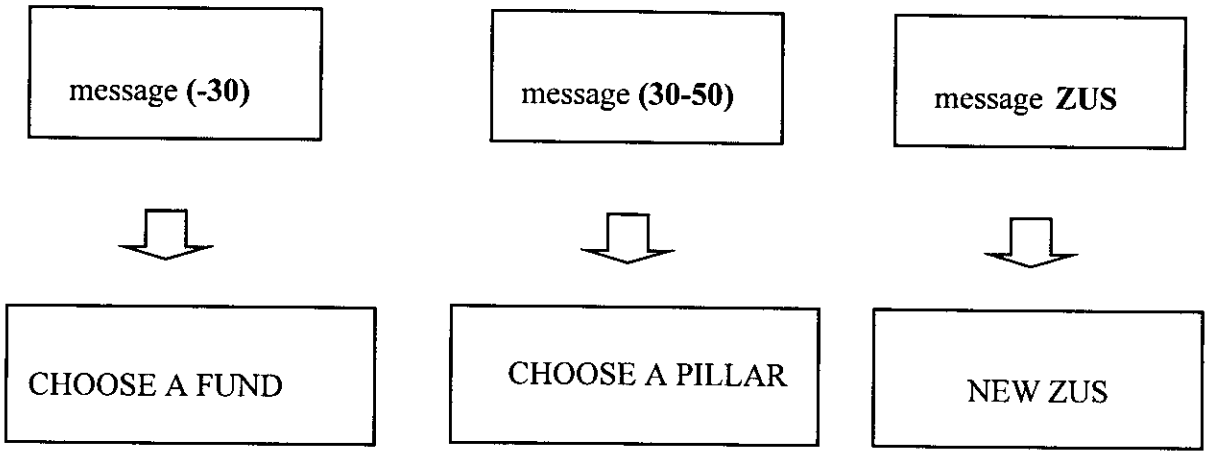
The message for the (- 30) age group

The situation of this group was the simplest. The persons belonging to this age group had to select one pension fund. It was assumed that the message addressed to this group will be focused on this selection.

All three messages: the message for persons aged 30 or below, the message for the 30-50 age group and the message about the new ZUS were to appear in the media simultaneously. Everybody was supposed to see not only the message addressed specifically to his/her group, but also those addressed to other groups. It was assumed that approximately 75% of the budget would be allocated to the message for the 30-50 age

group. Depending on the information needs of different groups (checked every 2 months by CBOS – the Public Opinion Research Center), the budget allocation was to be modified.

Effect of the campaign, 30-50 group



THE MEDIA STRATEGY

Corporate Profiles DDB in co-operation with a media house Optimum Media developed a media strategy for the campaign, presented in the Communication Strategy. However, the implementation of the media strategy was carried out by Leo Burnett, an agency selected in tender organized by the Office of the Government Plenipotentiary for the Social Security Reform. Therefore we present in our report the planned media strategy and the analyses of efficiency of the realized campaign, but without reference to the planned strategy, which was modified on a ongoing basis.

The strategy assumed that the following media would be used: **television, the press, radio.** When the budget was reduced, we decided not to use the radio, but this decision was reversed when the budget was increased by the money previously allocated to a planned reserve.

According to the assumption, ***television*** was to be the leading medium. It has the widest reach and the ability to build awareness of an announced problem quickly. It is the only medium that uses both the visual and the acoustic message. Due to high discounts only the public television (channel I and II of State television) was taken into account.

The press had to be used due to the informational character of the campaign. However, the campaign structure did not allow presenting a great deal of information. The main task of the press campaign was to promote the Call Center by publishing coupons and displaying the telephone number.

The aim of the ***radio*** campaign was to promote the telephone number. This medium has a strong effect on the listener due to the high frequency of the message. At the same time, it gives the flexibility needed to adjust the advertisement to the specific needs of a particular situation. Due to the fact that the telephone information was not free, the radio was important as a medium that reaches people at work, so they can make calls at the employer's cost.

The media strategy assumed that the message transmitted by the media would be developed and extended by the Call Center staff, who would give answers to the simplest questions or refer callers to the information brochures.

The television campaign

According to the analyses of television ratings performed by Optimum Media, the audiences of Polsat and TVP1 in the 20-30 age group during a year were comparable. However, the total share of TVP (the public television) was over 40%. In the 30-50 age group the audience of Polsat was smaller than that of TVP. Also the audience of smaller TVs, such as TVN or RTL7, was smaller in this age group than in the younger one. TVP had a very strong position in the 50+ age group (over 60%). Due to the leading position of TVP on the market, as well as the 75% discount negotiated by Corporate Profiles DDB and Optimum Media, the cost per GRP offered by this television was the lowest possible. Therefore, the total budget was allocated to announcements broadcast by TVP and other TV stations were not taken into account.

The following media ratios were used during the planning of campaign intensity:

Audience (Rating) – the percentage of the target group which will have contact with a particular broadcast.

Campaign intensity (GRP = Gross Rating Point) – a number defining the total audience of all broadcasts of a particular advertisement.

Reach – the percentage of the target group which will have contact with the advertisement at least once in a given period.

Average frequency) – the average number of contacts with the advertisement per one member of the target group

Effective Frequency – the assumed minimum number of times a given advertisement should be broadcast in order to achieve the communicative purpose.

Effective Reach – the percentage of the target group that will have contact with the advertisement with at least the effective frequency.

CPP (Cost Per Point) – cost of reaching 1% of the target group once.

CPT = Cost Per Thousand; CPM = Cost Per Millennium – the cost of reaching 1000 persons from the target group once.

Broadcasts in February

It was suggested that the campaign should start in February, shortly before the start of the huge promotional campaign of pension funds, in order to make the campaign visible before the „noise" in the media increases. In the first weeks of February the spot advertising the Government Information Center was broadcast. Later it was replaced with spots addressed to specific groups. The assumed campaign intensity was 650 GRP a month – this number was sufficient to convey the message. Separation of the spots from commercial advertisements was a very important factor increasing their visibility.

The message was difficult, so the recommended frequency was 4+, i.e. it was assumed that every person from the target group should see the message at least 4 times in order to understand it.

Broadcasts in March

It was suggested that during the successive three weeks of March the intensity should be increased to 750 GRP a month. The effective frequency was to remain at the 4+ level. It was suggested that the television campaign should be supported by a press campaign.

Broadcasts in April

A three-week campaign was planned for April. Due to a projected active campaign of pension funds the recommended intensity of this part of the campaign was 750 GRP and the effective frequency – 4+.

Broadcasts in June

Due to a limited budget it was planned to start the next stage at the beginning of June together with the press campaign which would start a week later.

The recommended media statistics were: the effective frequency 4+ and 750 GRP.

Broadcasts in September

A break was recommended during the summer holiday season. Then the campaign would start again in September as a reminder.

The press campaign

The two biggest nation-wide dailies with the largest circulation (Gazeta Wyborcza and Super Express) were recommended. Additionally, at least one most important local daily was selected in each region.

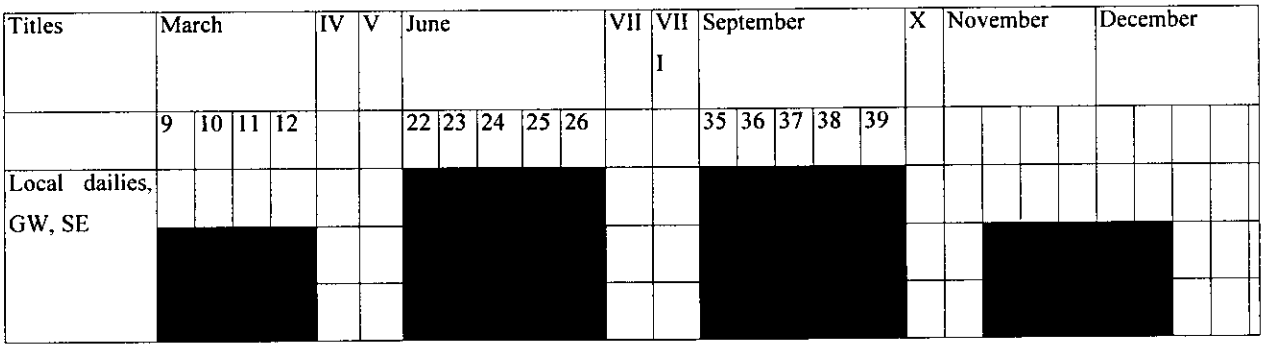
The following terms were negotiated with the representatives of the selected newspapers:

- Super Express: 10% extra charge for the publication of an announcement on the right-hand page was cancelled and an extra 20% discount in addition to the regular agency discount was obtained. Super Express could not guarantee publication of all announcements on right-hand pages, but it was guaranteed that at least half would be placed there without an extra charge.

- Gazeta Wyborcza: 10% extra charge for the publication of an announcement on the right-hand page was cancelled and an extra 20% discount in addition to the regular agency discount was obtained. As with Super Express, announcements were to be published on right-hand editorial pages if space was available.

- In local newspapers announcements were to be published on editorial pages for the price normally charged for commercial pages.

General media plan



INTERNET

http://reformaemerytalna.mpips.gov.pl/

Website of the Government Plenipotentiary for the Social Security Reform

The strategy assumed that the implementation of the new pension system would require fundamental changes on the website devoted to the reform. Due to this Profile undertook to prepare a new structure of the website and place new information there. The main aim of these changes was to provide easy access to practical information about the reform (*The new system step by step*). A specially developed pension simulator was also placed on the website. During the campaign implementation new information, e.g. from the press, was added to the website.

UNFE website

The consortium was responsible for the development of the form and contents of the UNFE website. The planned tasks of the consortium included among others: an analysis of websites of UNFE's counterparts in other countries, development of an outline of the contents of UNFE website and its graphical design, data preparation etc. The website was completed with a significant delay due to decision-making delays regarding final content.

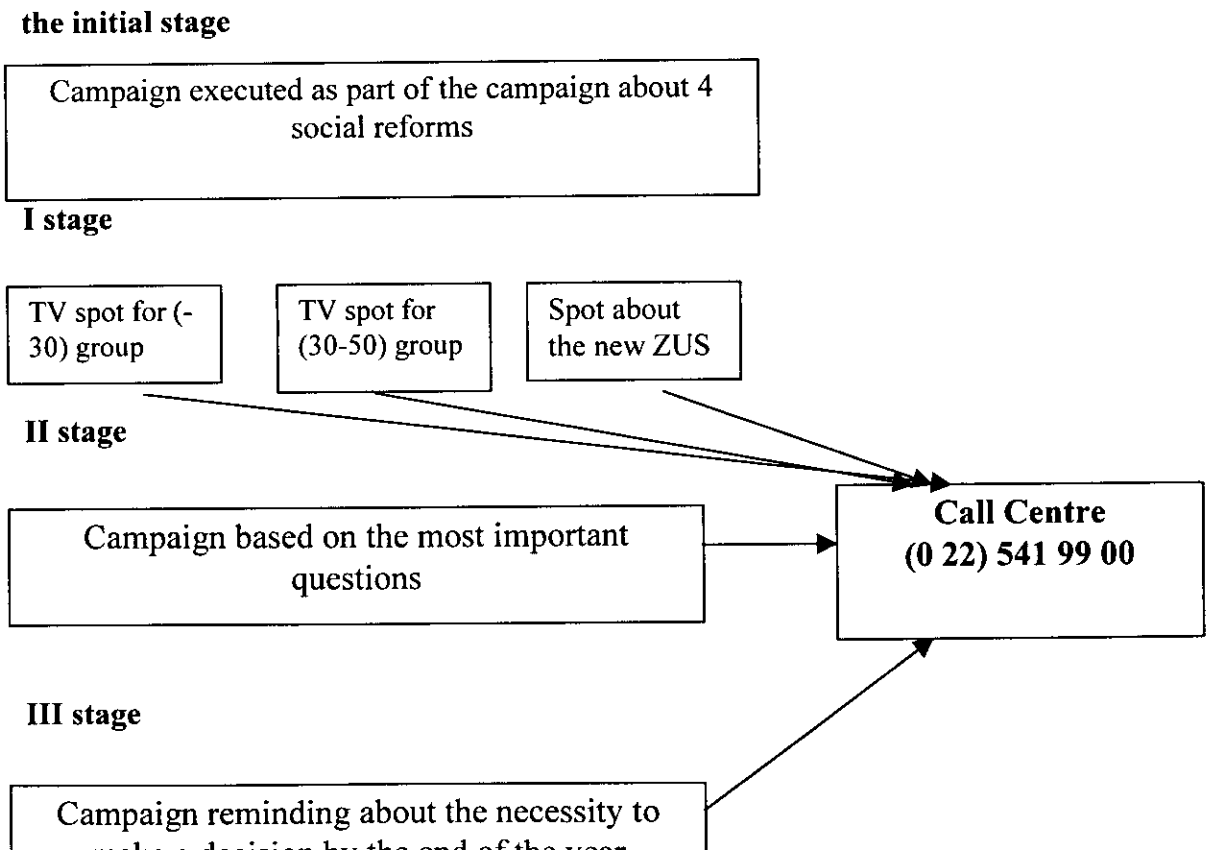
IV. THE CAMPAIGN DIAGRAM

The activities performed during the campaign were to a large extent based on the proposed Strategy. All changes or variations from the Strategy resulted from reductions in the Government's public education implementation budget or from the need to respond is a flexible manner to changing circumstances in the reform process.

During all stages of the campaign we were trying to highlight the main advantage of the new pension system, i.e. the fact that everybody accumulates contributions for their own pension. Therefore all stages of the campaign had a common slogan, which unified the whole campaign and was focused on this advantage – „Your pension from your contributions".

During the campaign Corporate Profiles DDB was observing the advertising activities of pension funds on an ongoing basis. It was assumed that the funds' activities significantly affect the knowledge and behavior of persons covered by the reform. Thus an ongoing analysis of these activities would allow to modify the message of the government campaign if necessary. Analyses of the messages conveyed in the advertisements of pension funds were presented twice: in April and September.

THE INFORMATION CAMPAIGN DIAGRAM



Best Available Copy

V. MONITORING OF THE CAMPAIGN

An operation on such a great scale as the implementation of a new pension system must meet with big public interest. Due to a variety of factors - political, economic and social – it was difficult to predict all the results of this operation and, consequently, it was difficult to plan adequate actions to be taken during the information campaign.

Therefore in order to find a proper direction for the successive stages of the information campaign it was necessary to carry out ongoing research of the social perception of the whole reform and its individual elements. Observation of the reaction of the media was equally important.

FGI

As part of the preparation of the campaign as well as monitoring of the results of the communication activities in the key year 1999, the consortium carried out focused group interviews (FGI) with the insured persons from different age groups and different parts of the country. The following sets of interviews were conducted:

- a series of 15 FGI aimed at, among others, obtaining a precise definition of the campaign objectives and testing key messages (December 1998 – January 1999);
- a package of 13 FGI aimed at, among others, defining the level of understanding of the issues connected with the implementation of the reform by different groups of the insured covered by the new system (6 FGI), as well as analyzing the opinions of the groups that had special pension privileges before (7 FGI) (May 1999);
- a series of 3 FGI testing a new series of TV spots (July 1999).

Questionnaire surveys

During the whole year 1999 regular surveys concerning different aspects of the pension reform were conducted. The main aim of these surveys was to track changes in the social perception of different aspects of the new pension system, which in practice meant monitoring of the results of the information campaign and partly also the results of the information and advertising campaigns carried out by other stakeholders (ZUS, OFE).

Best Available Copy

Date of survey	Main issue	Most important results	Evaluation of results
6-12 January 1999	The problem of joining an OFE in the 30-50 age group	The survey showed that this group of the insured is to a great extent undecided: 58% did not know what decision they should take; 21% decided to join an OFE, the same percentage declared that they would remain at ZUS.	The survey results reflected a relatively high level of information deficit in respect of the main issue analyzed in the survey.
10-15 March 1999	Readiness to make decisions required by the new pension system (selection of a type of insurance in the 30-50 group; selection of a fund)	They survey showed that the level of undecidedness was falling; respondents declared concrete choices more frequently (an intention to join II pillar or remain at ZUS). The number of persons convinced that the profitability of paying a part of the contribution to a pension fund will be different for different age groups has grown (from 55% to 71%)	The survey results reflected a significant increase of the level of information and social awareness of one of the key messages of the information campaign (a connection between the level of risk connected with OFE membership and the age of an insured person).
27 May – 1 June 1999	The attitude to pension privileges	The survey showed that most Poles regard the existence of pension privileges as justified, but only with respect to very few occupational groups (miners, steelworkers, firemen and pilots).	The survey results reflected the consistency of social opinions with the intentions on legislators preparing the Act on „bridge" pensions (the selection of occupations which according to the public opinion should be entitled to special pension privileges was generally consistent with the results of the work of the special Committee of Labor Medicine Experts).
20-25 October	Availability of information on	Over 67% of persons aged 18-55 (i.e. those who have a	The survey results (as well as data on affiliation simultaneously disclosed by

Best Available Copy

1999	the reform and the level of information possessed by the public	personal interest in the pension reform) regarded the information on the reform as easily available. The number of persons who joined OFEs in different age groups showed a strong correlation with the age of the insured	ZUS) showed a relative success of the information campaign.

Monitoring of the press

During the first stage of the campaign analyses of press publications concerning the social security reform were carried out. The aim of these actions was to track the directions of media influence on the public opinion in a wide context of the information campaign implemented by the consortium. At the request of the Office of the Plenipotentiary and contrary to the recommendations of the consortium, the monitoring was discontinued in the middle of the campaign to respond to the Government's reducing implementation budget and the need to support training activities.

Date	Results
January 1999	The analysis showed a strong influence of the „ZUS issue" on the general image of the reform. However, as compared with other reforms the pension reform was seen in a rather favorable light. The issue of privileges was visible in the background.
February 1999	The analysis showed a growing interest of the press in the reform. The main reason for this was the beginning of an advertising campaign by PTEs. An increase in the level of optimism as to the final success of the reform was also worth noting, in spite of the almost universal criticism of the technical side of the implementation (the ZUS issue).
March 1999	The analysis showed a consolidation of the belief that the reform was necessary. The critical evaluations of the functioning of the system were related to detailed solutions and the functioning of some institutions (ZUS).

	The beginning of the advertising campaign of funds did not arouse any significant controversies (apart from the issue of fees). The concepts associated with the reform (I, II pillar) became a part of the everyday language. It was a result of both the advertising campaign of OFEs and the information campaign carried out by the consortium.
April 1999	The analysis showed a natural decrease in the number of publications about the reform (it did not concern all titles, though). On the other hand, the number of publications about pension privileges and protests against taking them away had grown.
May 1999	The analysis showed a further slight decrease of interest in the reform by the press. As compared with the previous months, a visible improvement in the evaluations of the reform could be noticed, although mistakes and the mess associated with the implementation were still discussed. New reasons for critical remarks included in particular: the issue of income documentation and the fact that ZUS transferred inadequate amounts to pension funds.
June 1999	In the analyzed group of press titles June was another month in which the number of publications about the reform visibly decreased (by approximately 27% as compared with May). In spite of that, the number of press publications was still significant. The results of public opinion polls published by the press showed that the expected turn in the general awareness of Poles in respect of the reform had taken place.

VI. THE INITIAL STAGE OF THE CAMPAIGN

media: **TV** (1 film 20") => Telemarketing Center or Brochure

press => Telemarketing Center or Brochure

duration: 1.01 – 20.02.99

The activities of the Government Information Office and the agencies Corporate Profiles DDB and Profile forming a part of the information campaign introducing four social reforms were treated as the introduction to the information campaign about the new pension system. The aim of these activities was to provide information about the fact of implementation of the pension reform. The spot „Faces" („Twarze") was broadcast in the period from 1 January to 20 February 1999. The broadcast was financed by the Government Information Center. It was very important that the campaign began before the beginning of the advertising campaigns of pension funds.

The initial stage conveyed the following message:

„Now everybody has his/her individual account at ZUS where contributions for their pension are accumulated. People below 30 will pay a part of their contribution to a pension fund. Older persons (below 50) can pay all their contributions to their account at new ZUS or invest a part of it in a pension fund. People above 50 are guaranteed safety at the reformed ZUS. Call for a free brochure."

Two media were used at that stage: the TV and press, as well as the Call Center established for the purposes of the campaign of informing the society about 4 social reforms. The campaign informed about the basic principles of the new system and referred people to the call Center and brochures.

At the same time, at this stage the graphic code used during further stages of the campaign was introduced. The common element of the campaign organized by the Government Information Center and the pension reform campaign was a picture of a tree, which

Best Available Copy

symbolized the safety of the reform and the growth of contribution value in the new system.

Brochures and leaflets

According to the contract, during the initial stage of the campaign several dozen brochures and leaflets were prepared and then approved by the experts from the Office of the Government Plenipotentiary for Social Security Reform.

These brochures and leaflets were then distributed by the Call Center and through other channels (e.g. newspaper inserts).

Brochure/leaflet	Contents	Key message
What is the new system about	Basic information about the new pension system, the relation between the contribution and benefit, age groups, the system structure (new ZUS)	Relation between the contribution and benefit
Age groups		
Pension reform for people below 30	What is the reform for, basic principles and system structure, pension fund selection, additional security for the old age	A link between the contribution and benefit, state supervision (II pillar)
Should I join a pension fund? Advice for people aged 30-50	The leaflet will be devoted to the problem of dividing the contribution – description of the choice that people have to make, deadlines and how to make a decision, the criteria that should be used. Also basic information for people working in special conditions.	The importance of the choice, new ZUS, state supervision (II pillar)
Special solutions for people aged 45-50	Special solutions for this age group, highlighting the possibility of losing the advantages that they currently have if they join a pension fund	The importance of the choice
How does the reform affect people born before 1 January 1949?	Dispersion of fears associated with the implementation of the new system and answer to the question why this group is not	Security

Best Available Copy

	covered by it, what advantages they retain, possibilities of working after retirement, more beneficial indexation	
How does the reform affect current retirees?	Dispersion of fears associated with the implementation of the new system, possibilities of working after retirement, more beneficial indexation, additional financing from privatization	Security
Answers to the most important questions		
What is a pension fund?	The mechanism of pension fund operation, a pension fund as a private institution investing on the capital market with the aim of obtaining profit, guarantees.	State supervision in the II pillar
Initial capital. What amount are we entitled to with regard to our contributions paid before the reform? (two versions)	Information on the method of calculating the initial capital and sample calculations of this capital for different age groups and income levels.	Our contributions paid under the old system will not be lost. The new ZUS.
The new role of ZUS	Individual accounts, mechanism of contribution accumulation, indexation, description of structural changes	New ZUS
How to choose a pension fund?	Selection criteria	The importance of choice, state supervision over II pillar

Special groups		
Information for people who receive disability pension	Information on the changes to the disability pension system introduced in September 1997	
Information for persons who had special privileges in the old system	Changes introduced by the pension act (who retains or may retain special privileges, who is covered by the new system), announcement of special solutions for some	Reassurance

(two versions)	professions	
Simulations		
Simulations	Calculation of pension for 16 sample careers	

PUBLIC RELATIONS

PR activities were particularly intensive at this stage. Their main aim was education of journalists and presenting rational decision criteria to the public before the launch of OFE advertising campaigns.

Co-operation with TVP

Profile, one of the agencies taking part in the consortium, began co-operation with TVP aimed at the preparation of programs which would provide the insured with practical information on the functioning of the new pension system and the choices required of them in this respect.

The following actions were taken:

- increasing the level of knowledge of journalists working on the programs devoted to the pension reform,
- direct support during the development of such programs (development of the technical script for a series of programs for TVP2).

Date of broadcast	Subject of the program	Participants
4 February 1999	What does the amount of our future pension depend on?	Stanis aw Alot (ZUS) and Marek Góra (Office of the Plenipotentiary)
11 February 1999	Registration of the insured; contribution amounts; responsibilities of the employer and employee	Aleksandra Wiktorow (expert) and Agnieszka Ch o (Office of the Plenipotentiary)
18 February 1999	Will saving in pension funds be safe and profitable?	Ryszard Petru (MF) and Andrzej Bratkowski (expert)

Best Available Copy

25 February 1999	What should be taken into account before making a decision whether to participate in the II pillar	Ryszard Petru (MF) and Andrzej Bratkowski (expert)
4 March 1999	The new pension	Marek Góra and Agnieszka Ch o
11 March 1999	Detailed questions	Marek Góra and Agnieszka Ch o
18 March 1999	III pillar; Employee Pension Programs, early retirement	Marek Góra and Agnieszka Ch o
25 March 1999	Industry privileges	Marek Góra and Agnieszka Ch o
1 April 1999	Summary of the series of programs devoted to pension issues	Marek Góra and Agnieszka Ch o

Media training

During the initial stage of the campaign Profile organized and conducted special media training for persons responsible for the implementation of various elements of the pension reform. The training sessions took place in the period from 18 to 22 January 1999.

Seminars and background materials for journalists

In order to support the representatives of the media in their efforts aimed at informing the society about the new pension system (e.g. preparation of special inserts and programs about the reform), Profile organized seminars and other educational activities addressed to journalists.

Seminars for journalists (separate for the representatives of nation-wide and local media) were conducted in the period from 18 to 21 January 1999, in the form of presentations. During the seminars journalists were provided with practical information on the functioning of the new system presented by experts. They also received a set of materials about the reform (acts, administrative acts, brochures, slides). They could also interview experts participating in the seminar and obtain press releases from them. At the same time Profile supported the preparation of special pension inserts to different press titles (e.g. *Claudia, Asekuracja and Re).*

Distribution of press releases and background materials

The consortium regularly informed journalists interested in the reform about all material events connected with it (not only during press conferences). It was also trying to contact journalists from regional newspapers and magazines (approximately 400 different press titles). Four press releases and background materials were distributed during the initial stage of the campaign.

Date	Press release title	Message
01.01. 1999	Launch of the new pension system	Information that the new pension system has been introduced; reminding its principles
01.01.1999	Pension reform – results of the last CBOS survey	Information about the results of the survey conducted in the period from 13 to 18 November 1998
28.01.1999	How will the initial capital be calculated?	Information about the initial capital as a form of transfer of savings from the old system to the new one
15.02.1999	How to make decisions in the new pension system?	Rational methods of making decisions in the new system

Press conferences

In connection with a significant interest of the media in the issues connected with the reform, the consortium organized press conferences where key issues associated with the reform were discussed and the questions of media representatives on different aspects of the reform were answered. During each conference organized by the consortium a press release on a relevant subject was distributed. This release was subsequently sent to a wide group of journalists dealing with the reform (approximately 400 records, including local and regional media). Press releases were also available in the Internet, on the website prepared by the consortium. Three such conferences were organized during the initial

Best Available Copy

Date	Subject of the conference	Message
28 January 1999	How is the initial capital calculated	Informing the persons covered by the new system that their contributions paid to the old ZUS will be converted into the rights deriving from the new system; seeking documents needed to calculate the initial capital.
15 February 1999	Pension fund selection criteria	1. The number of years worked before reaching the retirement age is the main criterion that should be taken into account in the process of making a decision whether to join an OFE. 2. As far as fund selection is concerned, the trust in the institution that would multiply our contributions should be taken into account, as well as its operating costs.
17 February 1999	Simulations of pensions in the new system	The analysis of simulations shows that people above 40 should particularly carefully consider the pros and cons before making this decision. They may gain, but they may also lose if they join a pension fund.

Ongoing co-operation with key journalists

From the very beginning of contract execution Profile also organized informal meetings of persons responsible for the implementation of the reform with a selected group of journalists. During those meetings journalists were informed about events associated with the reform and off record opinions of the authors of the reform on the actions taken and problems associated with the implementation.

Best Available Copy

Date	Subject of meeting	Message
18 January 1999	The criteria that will allow definition of types of work which can entitle an insured person to a „bridge" pension.	Presentation of the criteria used by the medical commission to make their decisions; information about a new list of works performed in special conditions and works of special character.

VII. IMPLEMENTATION OF THE CAMPAIGN – I STAGE

media: **TV** (3 spots 30" and 15") ⇒ Telemarketing Center or Brochures

Press (black and white announcements, size A4 and 1/3) ⇒ Telemarketing Center or Brochures

duration: 19.02 – 22.08.1999

THE ASSUMPTIONS

The aim of the first stage of the campaign was to make every group aware of the choice they have to make. For the below 30 age group it was fund selection, the 30-50 age group had to decide whether to join a pension fund or leave the total contribution at ZUS. At the same time, the campaign was to dispel the fears of persons who were afraid that their previous contributions would be lost and inform about the new role of ZUS.

30-50 age group

The most important challenge of the Stage Iwas to balance the effect of the advertising campaigns of pension funds. Of course, the government campaign could not arouse doubts as to whether the implementation of the reform was justified or question the reliability of pension funds. Therefore the message addressed to the 30-50 age group, i.e. people who had to decide whether to choose a pension fund or leave the total contribution at ZUS, was based on the reference to a conscious choice and independent decision of every individual.

„You can choose one of the funds or leave the total contribution at the reformed ZUS, on your individual account. Thanks to the pension reform you have a choice."

Below 30 age group

Pension fund selection was mandatory in this age group. The only decision that persons belonging to this age group had to make was to select a particular fund. The government campaign could not indicate a fund or provide advice in this respect, so the message was focused on the necessity of making this decision.

„You have to select a pension fund. It will invest your money in securities and shares."

The message about the new ZUS

„The pension reform means that ZUS will be reformed as well. Persons aged below 50 will begin to accumulate savings on their individual accounts. Their previous contributions are a source of their initial capital."

These three messages not only conveyed information for the particular groups, but also communicated the main principles of the new pension system. At the same time the campaign promoted the telephone number of the Call Center.

THE TELEVISION CAMPAIGN

Advertising activities

Before the production of spots began, creative ideas had been analyzed. In December 1998 qualitative research by the FGI method was conducted. The total of 9 interviews were conducted (3 in Warsaw, 3 in Radom, 3 in Warka). The participants belonged to different age groups (up to 30, 30-50 and above 50), had different income (up to PLN 1,200 gross and above PLN 1,200) and different education (secondary and higher, primary and trade school). 2 lines of creative ideas were tested. Spots addressed to different age groups were presented to a relevant audience. Only the 30-50 age group, regarded as the most important one, saw all spots. The research showed which concept of spots reflected the assumptions of the Strategy better and indicated the necessary changes (more emphasis on the issue of choice between ZUS and pension funds, highlighting the issue of the initial capital as the basic concept of the message about ZUS).

The TV campaign began in mid February, immediately after the broadcasting of the spot realized in co-operation with the Government Information Office finished. The only TV station used was TVP (channel 1 and 2) due to a very high discount (75%) obtained by Corporate Profiles DDB and Optimum Media. Because of the decision that a government campaign cannot be treated as a commercial advertising campaign, the spots were separated from the commercials. They were always preceded and followed by the sign „Paid Announcement". It was assumed in the Strategy that approximately 75% of the budget would be allocated to the message addressed to the 30-50 age group, but finally this percentage was reduced to 50% (the remaining groups were allocated 25% of the budget each). The budget allocation was to be modified depending on the information needs of different groups (analyzed every 2 months by CBOS), but in fact the same proportions were maintained during the whole Stage Iof the campaign.

The first broadcasts were focused on image creation and information, because the operation of the Call Center used in the campaign of 4 social reforms could not be prolonged and a new telephone line had to be introduced. This phase lasted from 19.02 to 15.03.1999. When the Call Center started operation, a board with the telephone number was added to the spot and broadcasts started again at the end of March. In mid April it was decided that the telephone number should be emphasized more and a subtitle „Call for a free brochure" was added to the spot. In the same period the broadcasts of a shorter spot (15") began. The Stage Iof television broadcasts finished on 31.06.1999, because the ratings are usually lower in the summer season.

THE PRESS CAMPAIGN

The press campaign was aimed at providing information. In order to encourage people to extend their knowledge of issues connected with the reform, the press announcements were based on the following questions:

- Do you know the new role of ZUS?
- What should be taken into account in the selection of a pension fund?
- Does the reform guarantee all your privileges?"

The announcements asked questions on the pension reform in order to encourage people to make telephone calls. The questions for each type of announcement were prepared on the basis of research and analysis of the questions asked by callers and answers to those

the questions that were too complicated for the Call Center staff to handle were prepared by the staff of the Office of the Government Plenipotentiary for the Social Security Reform and sent to the interested persons. Each announcement mentioned a few questions related to one subject matter. The expected effect of this campaign was to make people aware that they can obtain answers to their questions by ordering a brochure.

The budget allowed us to realize a press campaign on the basis of black and white announcements (size A4 or 1/3 of the page) only. A special form on which brochures can be ordered were attached to the announcements, which also contained such elements as the logo, slogan and the picture of a tree combining the press campaign with the television one.

Announcements were published a few times in nation-wide daily newspapers: Gazeta Wyborcza, an insert to Gazeta Wyborcza on pension funds and Super Express; in 13 local daily newspapers (Kurier Szczeci ski, G os Pomorza, Dziennik Ba tycki, Gazeta Olszty ska, Gazeta Lubuska, G os Wielkopolski, Gazeta Pomorska, Kurier Lubelski, Dziennik Polski, Dziennik Zachodni, Nowa Trybuna Polska, Gazeta Wroc awska, Nowiny); in the monthly magazines Asekuracja and Twój Zysk. The detailed plan of publications has been presented in the part devoted to the media. The press campaign was carried out without interruption until IStage Ibegan (announcements were also published in the summer).

DISTRIBUTION OF COUPONS WITH TELEPHONE BILLS

One of the aims of the campaign was to build a feeling that information is available, so promotion of the Call Center was one of the key activities. For this reason, in addition to giving the telephone number in the press and television we tried to put our message across to the largest possible number of recipients using other methods as well. In order to achieve this aim, the action of attaching coupons for a free brochure to telephone bills was organized. It was one of the actions that had not been planned in the Strategy. Before this form of coupon distribution was selected, other options were tested, e.g. distribution of coupons through the network of newsagents, but proved less effective. Every customer of Telekomunikacja Polska S.A. received a coupon. The aim of the action of mailing coupons was not only to increase the number of orders for brochures, but also to build awareness that information is available and that everybody can call or send a coupon if they have any questions about the new pension system.

The Call Center could not perform its function unless all the interested persons had been given an opportunity to obtain its telephone number. For this reason the promotion of the

either by calling the Call Center at (022) 541 99 00 or by sending a completed coupon to the indicated address. All customers of Telekomunikacja Polska S.A. received coupons. They were also printed in the press.

LAUNCH OF THE CALL CENTRE

The launch of the Call Center and the technical supervision over its activities were the key elements of the campaign implemented by the consortium. The Office of the Government Plenipotentiary for the Social Security Reform selected in tender the company Business Point as a contractor responsible for these operations.

According to the assumptions of the Strategy, the Call Center was to provide information in two ways, i.e.:

- Directly through telephone operators (on the basis of a script updated on an ongoing basis operators were to answers questions concerning the reform and the general functioning of the social security system in Poland)
- Indirectly through mailing (persons calling the Call Center could choose a simplified way of obtaining information on the new pension system – i.e. order free brochures; the operator had to record information on callers (address, age) and select an adequate set of brochures on the basis of this information).

Another role of the Call Center was distribution of brochures and other information materials (e.g. ordered with the use of coupons published in the media and distributed with telephone bills) by mail.

It was assumed in the strategy that the operation of the Call Center would require permanent technical support from the consortium. This support involved:

- Preparation of a series of brochures and leaflets (both form and contents),
- Preparation and updating of the script,
- Training of the Call Center operators

The Call Center could not function properly if the operators were not provided with adequate aids. Operators were equipped with a large package of printed materials concerning the reform (acts, decrees, proformas of ZUS documents etc.). most importantly, they could use a script prepared in the electronic format. The content of the

script was modified and updated on an ongoing basis in accordance with decisions of the consortium, which supervised the operations of the Call Center, as well as in response to the needs suggested by operators.

The Call Center was practically working non-stop (16 hours a day), which required a large group of operators to be trained. On the basis of specially prepared training materials (presentations in an electronic format) the consortium carried out two types of training, i.e.:

- Basic training,
- Supplementary training.

On the whole 12 training sessions were organized. As a result of this training, exactly 100 Call Center operators obtained full authorization to provide information on the reform.

Basic training

The basic training began on 23 March 1999. Each meeting consisted of two sessions. During the first session candidates for operators gained a general understanding of the principles of the functioning of the new system. During the second session they learned how to use the electronic script prepared by the consortium. Both sessions together lasted approximately 4 hours.

Supplementary training

The aim of supplementary training was to extend the knowledge of operators on different issues associated with the new pension system and the social security system in general. Typical problems discussed during these meetings included: the rights of industry groups, the problem of pensions for „uniformed services" (army, navy, police etc.), the problem of a „junction" between different pension systems (a transfer from the „uniformed" to the general system), issues associated with storing and filing insurance documents etc. Every training session lasted approximately 4 hours.

Best Available Copy

PUBLIC RELATIONS

Mailing press releases and background materials

During the first stage of the campaign the consortium continued mailing press materials to the interested media

Date	Title of press release	Message
19.03.1999	The office of national actuary in Poland	New institutions associated with the implementation of the new system; security of savings
29.03.1999	Pension reform – the results of the last surveys conducted by CBOS	Increase of knowledge, social awareness of one of the key messages of the information campaign (a link between the level of risk associated with OFE membership and the age of the insured); repetition of this message
19.04.1999	Report of the commission of labor medicine expert	Proper presentation of the principles of granting „bridge" pensions and special pension rights
15.06.1999	Pension reform and the rights of miners, steelworkers and coke industry workers	Presentation of the principles of granting pensions, highlighting the rights of persons performing the hardest types of work
15.06.99	Changes in pension privileges – the position of the government	New information concerning „bridge" pensions and the so-called repurchase of privileges
1.07.1999	Seeking documents necessary to calculate the amount of pension and initial capital	Providing more details about seeking documents necessary to calculate the pension from the old system and the initial capital

Press conference

On 19 April the consortium organized a press conference devoted to a presentation of the contents of the Report of the Commission of Labor Medicine Experts. During the conference new principles concerning work in special conditions and work of special character were presented, i.e. in practice the changes concerning the so-called bridge

retirement. This issue aroused particular interest of the public opinion throughout the campaign.

***Road Show* – local press conferences and meetings with public opinion leaders**

Due to a high level of interest and the power of regional media, Profile organized and carried out a series of press conferences in the largest Polish cities (Gda sk, Lublin, ód , Kraków, Katowice, Pozna , Wroc aw, Bia ystok). The new system was presented by Minister Ewa Lewicka.

The aim of these press conferences was to present the reform, in particular the information relevant to stakeholders in a given region. For example, the information concerning pension rights of miners and other heavy industry workers was presented at a conference in Katowice.

Road shows (press conferences with the participation of Minister Lewicka held outside Warsaw) were also an occasion to organize meetings with local opinion leaders (employers, trade union representatives).

Date	Place	Action
10 May 1999	Kraków	Press conference for local journalists; interviews of Minister Lewicka for radio Kraków, TVP Kraków and Dziennik Polski; meeting with an expert – Gazeta Krakowska; meeting with employers, trade union activists and deputies
17 May 1999	Pozna	Press conference for local journalists; interviews and meetings of Minister Lewicka at Radio „S", TVP Pozna , G os Wielkopolski, Zachodnie Centrum Informacyjne (Western Information Center); meeting with an expert – Gazeta Pozna ska; meeting with employers, trade union activists, deputies
21 May 1999	Katowice	Press conference for local journalists (main subject – special privileges – miners, steelworkers); interviews and meetings of Minister Lewicka at Dziennik Zachodni, Trybuna l ska, PR (Polish Radio)Katowice and TVP Katowice; meetings with employers, trade union activists and deputies

31 May 1999	ód	Press conference for local journalists; interviews and meetings of Minister Lewicka with TVP ód , Radio Manhattan and Dziennnik ódzki (+ a meeting with an expert); a meeting with employers, trade union activists and deputies
7 June 1999	Wroc aw	Press conference for local journalists; interviews of Minister Lewicka for radio Wroc aw, TVP Wroc aw, Gazeta Wroc awska; a meeting with an expert – Gazeta Wroc awska and Wieczór Wroc awia; a meeting with employers, trade union activists and deputies.
14 June 1999	Gda sk	Press conference for local journalists; interviews of Minister Lewicka for PR (Polish Radio) Gda sk and TVP Gda sk (two channels), a meeting with an expert atG os Wybrze a; a meeting with employers, trade union activists and deputies

Continuous co-operation with key journalists

During the first stage of the campaign intensive informal meetings were held between people responsible for the implementation of the reform and a selected group of journalists. The meetings were devoted to issues associated with industry privileges, as well as the planned changes in the legal acts related to the reform.

Date	Subject of the meeting	Message
18 March 1999	A farewell meeting with the staff of the Office of the Government Plenipotentiary	Closing of the activities of the Office – information about the completion of the preparatory stage of reform implementation

19 March 1999	Meeting with the UK Government Actuary Christopher Daykin	Information about the role of a newly planned institution of national actuary. The office, modeled on the Government Actuary Department (GAD) in the UK, shall be responsible for analyzing the effects of all actual and planned financial decisions within the social security system.
21 April 1999	Meeting with Micha Rutkowski from the World Bank	Information about the role of the Polish reform as a model of pension reform on a global scale
4 May 1999	Meeting devoted to the letter to employers	Information about the training campaign for employers and trade unions organized by USAID
15 June 1999	Meeting devoted to the issue of bridge pensions and repurchase of privileges	Information about the position of the government before the beginning of negotiations on pension privileges

A seminar for experts

Stage I of the campaign began at the same time when the Office of the Government Plenipotentiary for the Social Security Reform terminated its activities. Nevertheless, the position of Plenipotentiary continued to exist. Government responsibility for coordination of the public education campaign remained with the Plenipotentiary, however day to day operational issues were transferred to a newly created Implementation Team. Due to this the consortium organized a special seminar for experts (e.g. from OFEs, UNFE). The seminar was devoted to the future of the pension reform in Poland.

STAGE IOF THE CAMPAIGN

MEDIA

Statistics concerning the Stage Iof the campaign

Week	Number of spots	GRP	Reach 1+
15.02-21.02.99	11	117.4	52.4
22.02 – 28.02.99	34	284.4	67.1
1.03 – 7.03.99	10	69.8	38.5
8.03 – 14.03.99	5	41.2	28.5
22.03 – 28.03.99	3	19	16.8
29.03 – 4.04.99	21	159.2	61.4
5.04 – 11.04.99	20	173.3	62.6
12.04 – 18.04.99	23	159.7	60.4
19.04 – 25.04.99	19	114.5	52.7
26.04 – 2.05.99	27	117.5	52.3
3.05 – 9.05.99	25	148.5	58.9
10.05 – 16.05.99	28	123.6	50.8
17.05 – 23.05.99	18	93.1	44.2
24.05 – 30.05.99	29	125.7	53.5
31.05 – 6.06.99	24	138.5	57.5
7.06 – 13.06.99	25	173.9	59.7
14.06 – 20.06.99	24	120.7	51.4
21.06 – 27.06.99	24	130.8	53.2
28.06- 31.06.99	7	40.7	30
TOTAL	**377**	**2351.2**	

The statistics are based on two ratios measuring the effectiveness of campaigns - GRP (Gross Rating Point) and reach. GRP is a ratio that measures the intensity of a campaign and defines the total ratings of all broadcasts of an advertisement.

Reach defines the percentage of the target group that had contact with a given advertisement in a given period of time. Reach 1+ means the percentage of the target group that had contact with a given advertisement in a given period of time at least once. From the media point of view the target group was defined as people aged above 20 living in towns or cities.

STAGE IOF THE CAMPAIGN

CREATION

SPOTS 30"

„Swimmer"

Paid announcement (board)

„You are twenty something and starting a race with time: how will you go through life, what future is ahead of you? Now it's time to decide. You have to choose a pension fund. A part of your contribution will be invested in securities and shares. The pension reform is implemented with a view for the future that belongs to you.

Your pension from your contributions."

Paid announcement (board)

„Steersman"

Paid announcement (board)

„When you are 30-40, you make all decisions yourself. If you like a dash of excitement, you live a dynamic life, if you like stability, you choose security. Thanks to the pension reform you have a choice – you can invest a part of your contribution in a pension fund or leave the total amount on your individual account at ZUS.

Your pension from your contributions"

Paid announcement (board)

„ZUS"

Paid announcement (board)

„The times when we were treated in an impersonal way are gone. After all, we are going through life day after day individually. The pension reform, which concerns ZUS as well, is a sign of a new era. Persons aged below 50 have their individual accounts and their previous contributions will be a source of their initial capital.

Your pension from your contributions"

Paid announcement (board)

THE PRESS

Twoja emerytura
z Twoich składek

Bezpieczeństwo
dzięki
różnorodności

(0 22) 541 99 00
Informacja rządowa

Czy wiesz
- co to jest fundusz emerytalny?
- co wziąć pod uwagę przy wyborze funduszu?
- czy fundusze gwarantują Ci wszystkie przywileje?

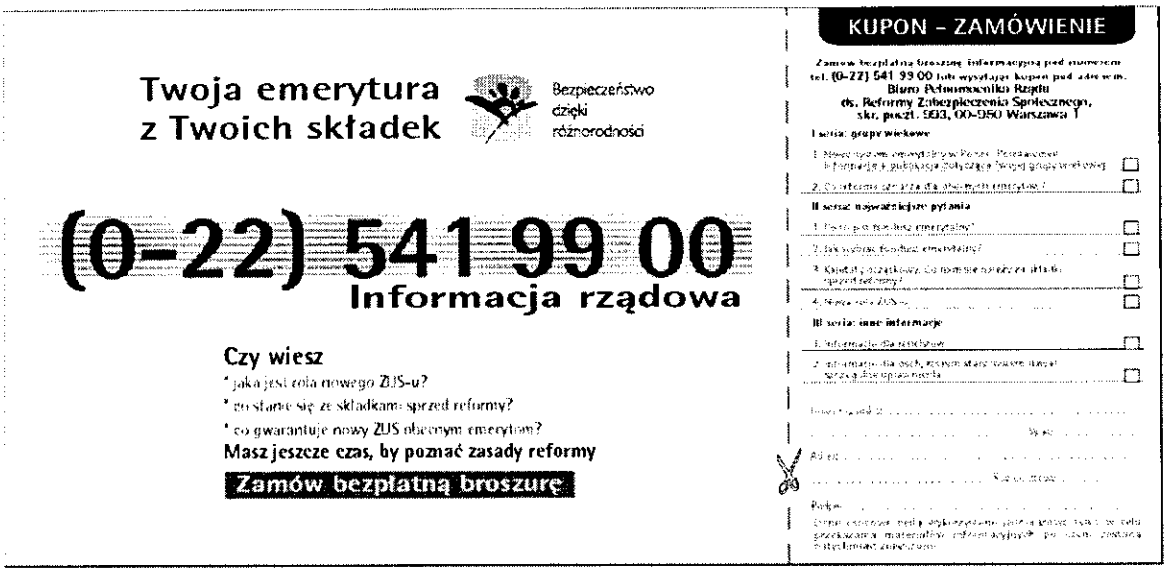
Masz jeszcze czas, by podjąć właściwą decyzję

Zamów bezpłatną broszurę

Zamów bezpłatną broszurę informacyjną pod numerem tel. (0-22) 541 99 00 lub wysyłając kupon pod adresem:
Biuro Pełnomocnika Rządu ds. Reformy Zabezpieczenia Społecznego, skr. poczt. 993, 00-950 Warszawa 1

KUPON – ZAMÓWIENIE

1



Twoja emerytura
z Twoich składek

Bezpieczeństwo
dzięki
różnorodności

(0-22) 541 99 00
Informacja rządowa

Czy wiesz
* jaka jest rola nowego ZUS-u?
* co stanie się ze składkami sprzed reformy?
* co gwarantuje nowy ZUS obecnym emerytom?

Masz jeszcze czas, by poznać zasady reformy

Zamów bezpłatną broszurę

KUPON - ZAMÓWIENIE

Zamów bezpłatną broszurę informacyjną pod numerem tel. (0-22) 541 99 00 lub wysłaj kupon pod adresem:
Biuro Pełnomocnika Rządu
ds. Reformy Zabezpieczenia Społecznego,
skr. poczt. 593, 00-950 Warszawa 1

I seria: grupy wiekowe

II seria: najważniejsze pytania

III seria: inne informacje

VIII. IMPLEMENTATION OF THE CAMPAIGN – II STAGE

media: **TV** (1 spot 20") ⇒ Telemarketing Center or Brochures

the press (announcements A4 and 1/3) ⇒ Telemarketing Center or Brochures

radio (8 spots 20") ⇒ Telemarketing Center or Brochures

duration: 23.08 – 16.11.1999

THE ASSUMPTIONS

In June 1999 the Office of the Government Plenipotentiary for the Social Security Reform decided to release a part of the reserves in order to increase the budget of the campaign. Prior to the implementation of IStage Ithe agency submitted a proposal as to the allocation of the additional budget and the client approved it. The agency suggested that the additional PLN 2 million should increase the amounts that were not used yet and be treated as one total amount.

TV	PLN 1,906,821
the press	PLN 1,087,372
+ extra	PLN 2,000,000

The ongoing analyses showed that the level of knowledge on the pension reform and its principles is not high. The same is true about the number of persons who called the Government Information Center or ordered brochures. The spots broadcast during Stage I contained a lot of varied and important information. As a result, the message was rather complex. For these reasons it was decided that other aspects of the message should be highlighted and the main focus should be on the telephone number of the Information Center. At the same time, the research showed that people do not always identify the information campaign as a government campaign. Therefore it was decided that this fact should be emphasized more. The expression „Call Center" was replaced with „Government Information Center" and „government telephone information". Due to these changes new announcements and TV and radio spots had to be designed. The main element of announcements and spots was the telephone number and the information that it is a government line where information on the new pension system can be obtained. This message – very simple and easy to remember – was aimed at showing people that

information is available. It was decided that the government message would include Minister Ewa Lewicka – the Government Plenipotentiary for the Social Security Reform.

The message of this stage of the campaign was as follows:

„If you have any questions concerning the new pension system – please do not hesitate to call us and ask. We will advise you and send free brochures".

This structure of the campaign differed in some respects from the campaign proposed in the Strategy, which focused on the date 30 September – the deadline for pension fund selection by persons aged up to 30. However, attracting more people to the Call Center was regarded as more important.

After the analysis of all media, including billboards, we decided to reinforce the campaign by introducing radio advertisements (nation-wide stations + a group of local stations).

THE TELEVISION CAMPAIGN

The spots were tested before broadcasting. The research was conducted in late July by the FGI method on persons aged 30-50 who had not made a decision whether to join II pillar of the pension system. Three interviews were conducted: 1 in Warsaw and 2 in Radom. The results showed that the respondents expected the government to play a role of an objective and reliable expert in the area of the new pension system. Two spots were tested (both with the participation of Minister Lewicka). The difference between them was the music. Respondents did not notice this difference, so the spot recommended by the agency (with the music used during the initial stage) was approved („Faces").

Broadcasts of a new 20" information spot with the participation of Minister Ewa Lewicka, the Government Plenipotentiary for the Social Security Reform, began on 23 August and were continued without interruption until 17 October. Then there was a two-week pause and the campaign began again on 1 November. This stage lasted until 16 November. As before, the spots were separated from commercial advertisements, but in accordance with the conclusions drawn from the research the board „Paid announcement" was replaced with

„Government announcement", which was much more clear and easy to understand and attracted more interest.

THE RADIO CAMPAIGN

During stage I the campaign was supported by the use of the radio. The radio campaign started at the same time as the television campaign and lasted without interruption until the beginning of III stage. Eight 30" radio spots were prepared. They were based on the most common questions asked by people calling the Call Center. The radio campaign was designed to support the television campaign, so Minister Ewa Lewicka also participated in it.

THE PRESS CAMPAIGN

Due to a higher budget, the press campaign of stage I could use color announcements. The size used was 1/3 of the page. Announcements published in August and September did not have an attached coupon – they only promoted the telephone number to the Government Information Center. From October the version with a coupon (order form for free brochures) was published. Press announcements were published a few times in nation-wide daily newspapers: Gazeta Wyborcza and Super Express; twice in 25 local weekly magazines (Gazeta Cz stochowska, Gazeta Elbl ska, Konkrety, Kontakty, Kronika Beskidzka, Nad Wart , Nowe Podkarpacie, Nowiny Jeleniogórskie, Panorama Leszczy ska, Przegl d Koni ski, S owo Podlasia, TEMI, Tygodnik 7 dni, Tygodnik Che mski, Tygodnik Ciechanowski, Tygodnik Nadwi la ski, Tygodnik Nowy, Tygodnik Ostro cki, Tygodnik P ocki, Tygodnik Siedlecki, Tygodnik Wa brzyski, Tygodnik Zamojski, Ziemia Gorzowska, Ziemia Kaliska, ycie Podkarpackie) and once in ycie Warszawy.

In September brochures were twice attached as inserts to Super Express and 13 local daily newspapers (Kurier Szczeci ski, G os Pomorza, Dziennik Ba tycki, Gazeta Olszty ska, Gazeta Lubuska, G os Wielkopolski, Gazeta Pomorska, Kurier Lubelski, Dziennik Polski, Dziennik Zachodni, Nowa Trybuna Opolska, Gazeta Wroc awska, Nowiny). A detailed media plan for the press is presented in the part on the media used during stage I of the campaign.

THE LIST OF PENSION FUNDS

Due to the repeated questions of callers about a list of PTEs present on the market, we decided to prepare a leaflet based on data provided by the Superintendency of Pension Funds (UNFE) and information obtained by Corporate Profiles DDB directly from the funds. The leaflet contained a full list and basic information on the pension funds active on the market (fees and commissions charged, capital, toll-free telephone lines, addresses) and was attached to the brochures distributed by the Government Information Center.

PUBLIC RELATIONS

Mailing of press releases and background information

During stage I of the campaign the consortium continued mailing information and materials for the press concerning the pension reform.

Date	Title of press release	Message
29.10.1999	Amendments to the Act on the social security system	Information about the planned changes to the social security system (work after retirement, charging contributions on specific task contracts (*umowa o dzie o)*)
16.11.1999	Government information campaign on the pension reform	Information about the achievements of the government information campaign

Continuous co-operation with key journalists

During the implementation of stage I of the campaign, on 25 October 1999, a meeting devoted to the planned amendments to the Act on the social security system was held. The meeting was attended by a small, selected group of core journalists. The participants were informed about the planned changes in the social security system (work after retirement, charging social security contributions on specific task contracts (*umowa o dzie o)* etc., changes in the organizational structure of ZUS).

BEST AVAILABLE COPY

ISTAGE IOF THE CAMPAIGN

MEDIA

- Media plan

- post buy analysis for the age group above 20 in the period from 23.08 to 17.10

- post buy analysis for the age group above 30 in the period from 1.10 to 17.10 (the campaign addressed to the younger group lasted until 30 September).

STAGE IOF THE CAMPAIGN
CREATION

TV SPOT 20"

Government announcement (board)

Minister Lewicka: If you have any questions about the new pension system, we would like to remind you about the Government Information Center. You can simply call us. We will answer your questions and send free brochures.

Voice-over: The government call center is an objective source of information about the new pension system.

Government announcement (board)

RADIO 30"

SPOT I

To the background music known from the TV advertisements the listeners can hear alternating voices of Minister Lewicka and a commentator speaking in a warm, but official tone.

Commentator: This is a government announcement. You will hear the government plenipotentiary for the pension system – Minister Ewa Lewicka

Minister Lewicka: I would like to remind you about the Government Call Center providing information about the new pension system.

Commentator: (0-22) 541 99 00.

Minister Lewicka: If you do not know if in your case participation in a pension fund would result in a loss of the right to a „bridge" pension, please call us. We will advise you and send free brochures.

Commentator: (0-22) 541 99 00.

SPOT II

Commentator: This is a government announcement. You will hear the government plenipotentiary for the pension system – Minister Ewa Lewicka

Minister Lewicka: I would like to remind you about the Government Call Center providing information about the new pension system.

Commentator: (0-22) 541 99 00.

Minister Lewicka: If you do not know how to choose a pension fund, please call us. We will advise you and send free brochures.

Commentator: (0-22) 541 99 00.

SPOT III

Commentator: This is a government announcement. You will hear the government plenipotentiary for the pension system – Minister Ewa Lewicka

Minister Lewicka: I would like to remind you about the Government Call Center providing information about the new pension system.

Commentator: (0-22) 541 99 00.

Minister Lewicka: If you do not know what a „bridge" pension is and who is entitled to such a pension, please call us. We will advise you and send free brochures.

Commentator: (0-22) 541 99 00.

SPOT IV

Commentator: This is a government announcement. You will hear the government plenipotentiary for the pension system – Minister Ewa Lewicka

Minister Lewicka: I would like to remind you about the Government Call Center providing information about the new pension system.

Commentator: (0-22) 541 99 00.

Minister Lewicka: If you do not know who can retire early, call us. We will advise you and send free brochures.

Commentator: (0-22) 541 99 00.

SPOT V

Commentator: This is a government announcement. You will hear the government plenipotentiary for the pension system – Minister Ewa Lewicka

Minister Lewicka: I would like to remind you about the Government Call Center providing information about the new pension system.

Commentator: (0-22) 541 99 00.

Minister Lewicka: If you do not know if a working person who receives a disability pension can join an open pension fund, please call us. We will advise you and send free brochures.

Commentator: (0-22) 541 99 00.

SPOT VI

Commentator: This is a government announcement. You will hear the government plenipotentiary for the pension system – Minister Ewa Lewicka

Minister Lewicka: I would like to remind you about the Government Call Center providing information about the new pension system.

Commentator: (0-22) 541 99 00.

Minister Lewicka: If you do not know if working students can join an open pension fund, please call us. We will advise you and send free brochures.

Commentator: (0-22) 541 99 00.

SPOT VII

Commentator: This is a government announcement. You will hear the government plenipotentiary for the pension system – Minister Ewa Lewicka

Minister Lewicka: I would like to remind you about the Government Call Center providing information about the new pension system.

Commentator: (0-22) 541 99 00.

Minister Lewicka: If you do not know if persons who do not work can join a pension fund, please call us. We will advise you and send free brochures.

Commentator: (0-22) 541 99 00.

SPOT VIII

Commentator: This is a government announcement. You will hear the government plenipotentiary for the pension system – Minister Ewa Lewicka

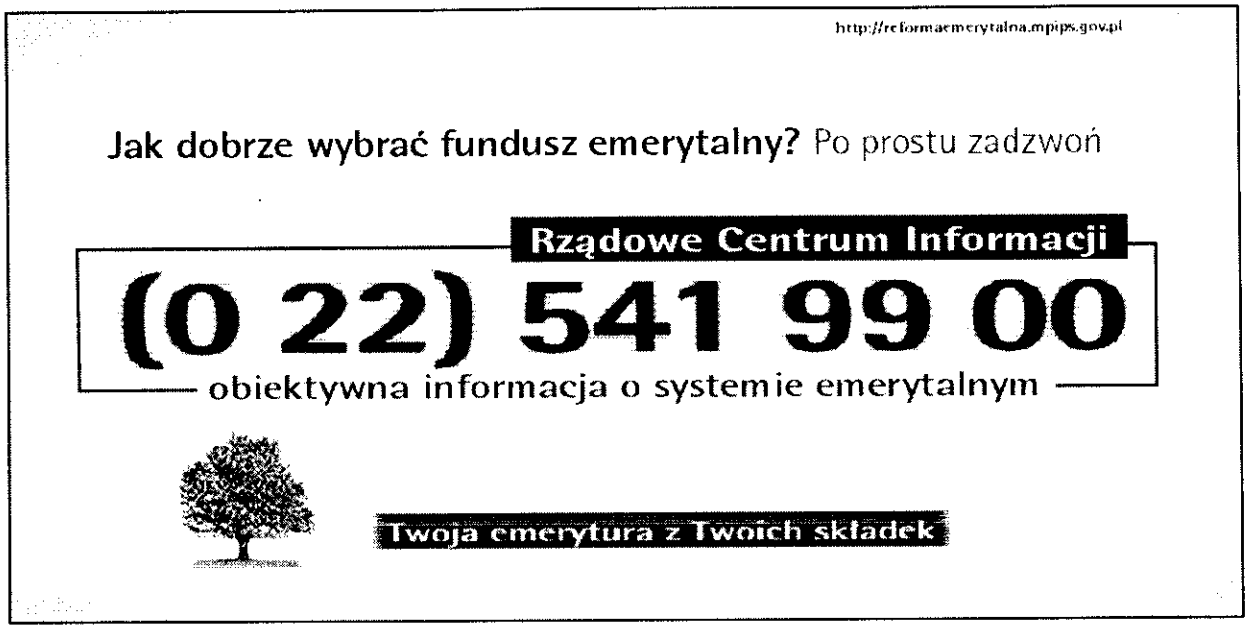
Minister Lewicka: I would like to remind you about the Government Call Center providing information about the new pension system.

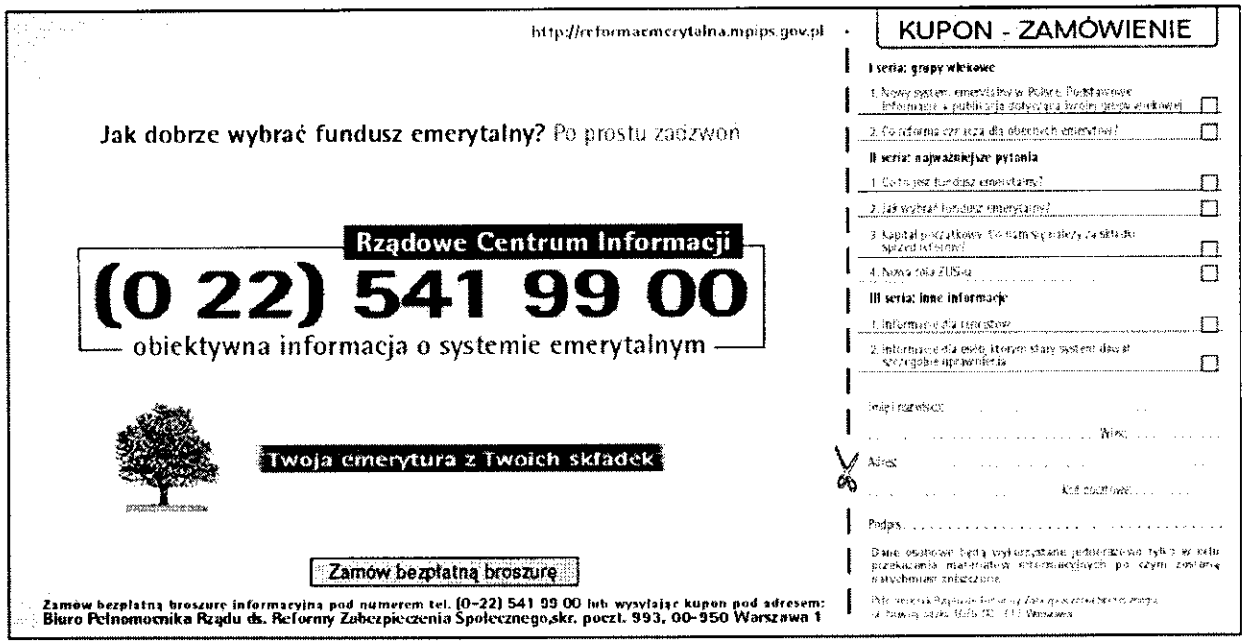
Commentator: (0-22) 541 99 00.

Minister Lewicka: If you do not know if a person on child care leave can join an open pension fund, please call us. We will advise you and send free brochures.

Commentator: (0-22) 541 99 00.

THE PRESS


http://reformaemerytalna.mpips.gov.pl
Jak dobrze wybrać fundusz emerytalny? Po prostu zadzwoń
Rządowe Centrum Informacji
(0 22) 541 99 00
obiektywna informacja o systemie emerytalnym
Twoja emerytura z Twoich składek


http://reformaemerytalna.mpips.gov.pl
Jak dobrze wybrać fundusz emerytalny? Po prostu zadzwoń
Rządowe Centrum Informacji
(0 22) 541 99 00
obiektywna informacja o systemie emerytalnym
Twoja emerytura z Twoich składek
Zamów bezpłatną broszurę
Zamów bezpłatną broszurę informacyjną pod numerem tel. (0-22) 541 99 00 lub wysyłając kupon pod adresem:
Biuro Pełnomocnika Rządu ds. Reformy Zabezpieczenia Społecznego,skr. poczt. 993, 00-950 Warszawa 1
KUPON - ZAMÓWIENIE
I seria: grupy wiekowe
II seria: najważniejsze pytania
III seria: inne informacje
Podpis

IX. IMPLEMENTATION OF THE CAMPAIGN – III STAGE

media: **TV** (1 spot 20") ⇒ Telemarketing Center or Brochures

Press – full-page announcements ⇒ Telemarketing Center or Brochures

Radio (2 spots 20") ⇒ Telemarketing Center or Brochures

duration: 17.11 – 17.12.1999

THE ASSUMPTIONS

The aim of the stage I of the campaign was to increase significantly the number of telephone calls to the Call Center and this aim was achieved. The number of telephone calls grew significantly, although probably the approaching deadline for fund selection by persons born after 31 December 1968 also contributed to this increase. However, another problem appeared, namely, the questions asked became much more difficult than at the beginning of the campaign. Operators were more and more frequently asked to advise callers on their individual problems. It was a result of the message contained in radio spots, which encouraged people to ask difficult questions and request advice. Therefore it was decided that the message should be modified. This modification involved not only a simplification of the questions, but also adding the information about the approaching deadline.

Introducing changes to the message, we focused on the following aspects:

- the Call Center will operate until the end of December;
- the campaign will be addressed to the 30-50 group only, because they have to make decisions by the end of the year;
- not everybody will benefit from joining a pension fund;
- everybody who has paid at least one contribution (persons on child care leave, the unemployed who receive a benefit) will have to make a decision whether to join a pension fund.

The aim of the final stage of the campaign was to inform people about the approaching deadline for decisions concerning their future pension. The telephone number promotion was continued. At the same time, the groups who could have not known that they had to make a decision were to be made aware of this necessity.

The message

At that stage of the campaign the message was as follows:

Persons aged between 30 and 50 have time to make a decision whether to join a pension fund until the end of the year. It concerns all persons who have paid at least one social insurance contribution. However, not everybody will benefit from joining a fund.

Changing the focus of the message required a change in the structure of radio spots, designing new press announcements and changes in the TV spot.

The media remained the same as in the II stage: the television, radio and press.

THE TELEVISION CAMPAIGN

There was no pause between stage II and stage III. Broadcasts of the modified TV spot began on 17 November. The modified spot included information that decisions as to the future pension must be made before the end of the year. As in stage I and stage II, the spot was separated from commercial advertisements with the board „Government announcement". Broadcasts lasted until 19 December.

THE RADIO CAMPAIGN

Radio and television broadcasts began simultaneously. Two new spots were prepared, bearing in mind that the new stage of the campaign must be perceived as a continuation of the previous one, but at the same the audience must notice a difference. Therefore the same music and the same headline („Government announcement") were used in the new spots, but Minister Lewicka did not appear.

THE PRESS CAMPAIGN

Due to the enormous importance of the message, full-page color announcements were used during the final stage. The message was reinforced further by adding the words

„Government information". The announcements were published twice in nation-wide newspapers: Gazeta Wyborcza and Super Express.

PUBLIC RELATIONS

Press conferences closing the campaign and distribution of press releases

The main aim of the final stage of PR activities was to remind people about the criteria of making a decision whether to join II pillar. Before the end of the campaign two press conferences were held. The materials prepared for these conferences were then sent to all journalists dealing with the reform, including local and regional newspapers and magazines.

The first conference was held on 6 December 1999 and its main focus was to remind about the approaching deadline (the end of 1999) for people aged between 30 and 50 to make a decision whether to join an OFE.

The second (final) press conference organized during the campaign took place on 20 December 1999. Its main aim was to sum up the government information campaign.

STAGE II OF THE CAMPAIGN

MEDIA

- media plan

- post buy for the period 1.11 – 19.12 (from the media point of view there was no division between I and II stage).

Stage III of the Campaign
CREATION

TV SPOT 20"

Government announcement (board)

Minister Lewicka: If you have any questions about the new pension system, we would like to remind you about the government Information Center. You can simply call us. We will answer your questions and send free brochures.

Voice-over: Persons aged between 30 and 50 must make a decision concerning their future pension by the end of this year.

The Call Center will be operating until the end of December.

Government announcement (board)

RADIO 30"

[music known from the previous campaign and TV advertisements, a commentator speaking in a warm voice in a manner of an official announcement]

SPOT I

Government announcement

Until the end of this year persons aged between 30 and 50 have time to decide whether to join a pension fund. It also concerns persons who have received benefits or been on child care leave, as well as all those on behalf of whom at least one social insurance contributions has been paid this year.

Government Call Center 0 22 541 99 00. The Call Center will operate until the end of this year.

SPOT II

Government announcement

We would like to remind that persons aged between 30 and 50 have time to decide whether to join a pension fund until the end of this year. Not everybody would benefit from it, because joining a pension fund is associated with a loss of rights to an early pension granted on the old terms. The government Call Center 0 22 541 99 00. The Call Center will operate until the end of the year.

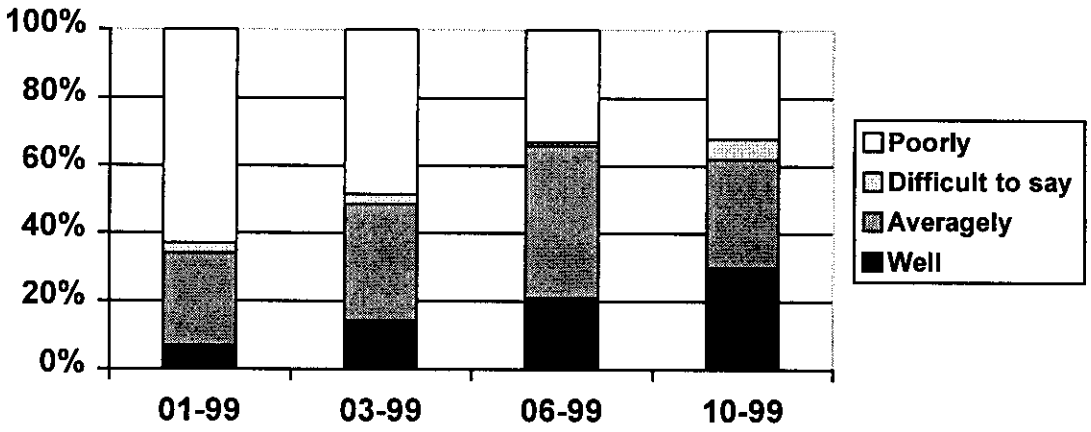
THE PRESS

X. SUMMARY OF THE RESULTS OF THE CAMPAIGN

PUBLIC OPINION SURVEYS-

The following diagram presents the implementation of one of the key objectives of the campaign – increasing people's confidence that they are well-informed. It can be assumed (the Ministry of Labor did not order a survey in December 1999) that the feeling of being informed was growing at a similar rate until the end of the campaign (especially as a result of the intensive government campaign during the last stage). It means that approximately ¾ of Poles should feel well or aversely informed about the reform.

In your opinion, how well informed are you in respect of the pension reform?



Source: CBOS

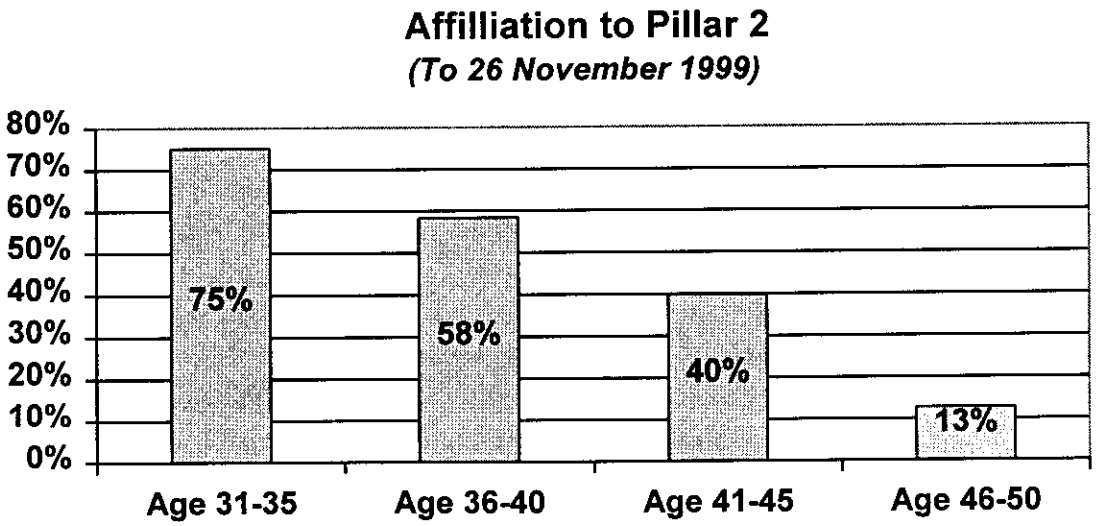
BEST AVAILABLE COPY

NUMBER OF CONTACTS WITH THE CALL CENTRE

Month	Calls handled	Calls not answered	Hanged up before 30 s.	Brochures ordered	Number of coupons (TP S.A., the press)	Number of brochure packages sent
March	890	570	32	3,081	0	0
April	6,334	1,894	200	49,511	1,947	13,846
May	4,781	163	43	36,044	2,877	5,327
June	11,641	367	87	86,160	8,481	17,003
July	4,380	90	9	30,496	22,494	20,632
August	13,110	5,284	694	60,225	3,572	13,484
September	71,135	12,735	3,487	253,173	5,280	24,677
October	21,770	886	189	101,448	2,162	13,345
November	24,633	2,350	584	104,575	1,082	4,278
December	59,028	43,660	9,797	70,612	767	14,788
Total 1999	**217,702**	**67,999**	**15,122**	**795,325**	**48,662**	**127,380**

DECISIONS IN THE 30-50 AGE GROUP

It is one of the key measures of the effectiveness of the campaign. From the point of view of statistics, the percentage of persons joining pension funds in different age groups reflects the rationality of decisions (statistically, the closer to 50 the more risky it was to join a pension fund).



Percentage of OFE members by age group (ZUS data)

BEST AVAILABLE COPY

Law on Organisation and Operation of Pension Funds

CHAPTER 1
Common provisions

Article 1. This Act defines the terms of creation and functioning of pension funds, hereinafter called "funds".

Article 2. 1. The fund shall be an incorporated entity.2. The business of the fund covers the accumulation and investing of money with the object of paying [pension] benefits to fund members upon their reaching the pensionable age.

Article 3. 1. The pension society created pursuant to the provisions of this Act, hereinafter called "society", shall be the agency of the fund.

2. The society shall create the fund and, as the agency of the fund, it shall manage the fund and represent it before third persons.

3. The society shall represent the fund in such manner as the fund's Articles of Association may prescribe with regard to the representation function.

Article 4. The seat of the society shall be the seat of the fund.

Article 5. The fund members shall not be liable for the fund's commitments.

Article 6. 1. The member contributions paid into the fund, the rights acquired using the contributions, and benefits deriving from the said rights shall be the fund assets.

2. The fund's net asset value shall be established by deducting the fund's liabilities from the value of the fund assets.

Article 7. This Act shall be without prejudice to those other laws which provide for the payment of pecuniary benefits in connection with the reaching of the pensionable age.

Article 8. Throughout this Act the following words shall have the following meaning:
1) affiliate -- shall mean the controlling company, a subsidiary, or an associate of a given entity in the meaning given to these terms in **Article** 3 clause 1 item 4 of the 24 September 1994 Accounting Practices Act [...]* and a subsidiary of the said entity's controlling company,
2) fund member -- shall mean that individual who has entered into a contract with the fund, or that one in whose name an account has been opened with the fund in circumstances defined in this Act,
3) credit transfer -- shall mean the removal of money held in a member's account from one fund to another, or the removal of the same from one to another account maintained with the same fund,
4) pension insurance company -- shall mean that joint-stock company which carries on, on terms laid down in separate provisions, a business of insurers consisting in the offering and paying to the members of open funds, upon their reaching the pensionable age, of for-life pension benefits financed with money accumulated by the said funds,
5) open fund --shall mean that pension fund which has been created and is managed by a general society,
6) employee fund -- shall mean that employee pension fund which has been established and is managed by an employee society,
7) society -- shall mean that joint-stock company which is the agency of a fund,
f) general society -- shall mean that general pension society which is the agency of an open fund,
9) employee society -- shall mean that employee pension society which is the agency of an employee fund.

CHAPTER 2
Pension funds

Article 9. 1. The fund shall be created as an open fund or an employee fund.

2. The fund shall be created by none other than the society.

Article 10. 1. The name of an open fund shall include the designation "open pension fund" and the name of an employee fund shall include the designation "employee pension fund".

2. No fund other than one created pursuant to this Act shall incorporate the designation "pension fund" in its name or use the same for purposes of describing or advertising its business.

Article 11. The life of the fund shall be indefinite.

Article 12. The following shall be required for the creation of the fund:

1) that the society grant the fund's Articles of Association,

2) that the society and the depositary enter into a contract for the custody of the fund assets,

3) that the society obtain a permit to create the fund,

4) that the fund be entered in the register of funds.

Article 13. 1. The fund's Articles of Association shall be adopted by the General Meeting of the society.

2. The Articles of Association of the fund shall state:

1) the name of the fund,

2) the trade name, seat and address of the society,

3) the society's share capital, its shareholders, and the numbers of shares held by individual shareholders,

4) the manner of representation of the fund by the society,

5) the trade name (name), seat and address of the depositary,

6) the types, maximum amount, manner of and procedure for calculating and covering the costs incurred by a fund;

6a) the types, amount, manner of calculating and covering the costs incurred by fund members, including the amount of the fees referred to in Art. 134, clause 1;

7) that manner in which the fund shall announce changes in its Articles of Association,

8) other particulars provided in this Act.

3. In addition to the particulars referred to in clause 2 the Articles of Association of the open fund shall determine:

1) that national daily paper in which the fund shall publish its announcements,

2) time limits for the publishing of the fund's offering circular.

4. In addition to the particulars referred to in clause 2 the Articles of Association of the employee fund shall determine:

1) the time limits and the form and procedure for the disbursement of money accumulated in the members' accounts,

2) the fund's investment rules and standards, including a notification as to whether the fund proposes to manage its assets itself or to entrust the management of the same to a third party.

5. The Chairman of the Council of Ministers may by Ordinance identify other particulars to be stated in the Articles of Association of the fund where interests of the fund members require inclusion of the same.

Article 14. When applying for the permit to create the fund, the society shall append the following documents to the application: 1) the fund's Articles of Association,

2) the contract with the depositary,

3) a current copy of the commercial register entry pertaining to the society,

4) the personal data of those employees of the society, or of those the society proposes to employ, who influence [or will influence] importantly the management of the fund's finances,

5) a specification of those persons to whom the depositary has assigned the discharge of the duties set forth in the contract,

f) a synopsis of the professional qualifications and backgrounds of the persons referred to in item 4 and item 5, naming those with the investment advisor status,

Article 15. 1. The Office for Pension Funds Supervision, hereinafter called "Supervision Office", shall issue a permit to create the fund within 3 months of that day on which the application has been filed.

2. The Supervision Office shall refuse the permit where:

1) the application and the documents appended thereto fail to satisfy the requirements set forth in this Act,

2) the fund's Articles of Association fails to duly protect the fund members' interests,

3) the persons referred to in **Article** 14 item 4 and item 5 do not warrant proper discharge of their duties.

Article 16. 1. Upon obtaining the permit to create the fund the society shall forthwith file with the registration court an application requesting that the fund be entered in the register of funds.

2. The following shall be appended to the application:

1) the permit to create the fund,

2) the fund's Articles of Association,

3) the Articles of Association of the founder society, with a current copy of the commercial register entry pertaining to the society enclosed,

4) a specification of the members of the society's Management Board.

3. The registration court shall take cognizance of the application within 14 days of that date on which the application has been filed.

4. Failing the satisfaction of the requirements laid down in this Act the registration court shall refuse to enter the fund in the register of funds.

5. Upon being entered in the register of funds the fund shall promptly deliver to the Supervision Office a duplicate of the commercial register entry pertaining to the fund.

Article 17. The entry in the register of funds shall cover:

1) the name of the fund,

2) the trade name, seat and address of the society, the manner of representing the fund, and the number under which the society has been entered in the commercial register and the designation of the court keeping the register,

3) the given names and surnames of the members of the society's Management Board and of the society's procurators, where established,

4) the trade name (name), seat and address of the depositary.

Article 18. The permit to create the fund shall expire in the event that the society fails to file the application for entering the fund in the register of funds within 2 months of the date of service of the permit.

Article 19. 1. Prior to that day on which the fund is entered in the register of funds the society shall make all legal transactions conducive to the creation of the fund in its own name and for its own account.

2. Upon being entered in the register of funds the fund shall assume those rights and obligations of the society which arise from the contract with the depositary referred to in **Article** 14 item 2.

Article 20. 1. The fund shall be incorporated as of being entered in the register of funds.

2. As of the entry of the fund in the register of funds the society shall become the agency of the fund.

Article 21. 1. The register of funds shall be kept by the Voivodship Court in Warsaw, hereinafter called "registration court".

2. The register of funds shall be public and accessible to third persons.

3. The Minister of Justice shall by Order prescribe the manner of keeping the register of funds and the detailed procedure for the processing of matters concerned with applications for entry in the register of funds.

Article 22. 1. Any modification to the Articles of Association of the fund shall require a permit of the Supervision Office.

2. The Supervision Office shall refuse the permit where a modification is unlawful or against the fund members' interests.

3. Any decision on modifying the Articles of Association of the open fund shall be taken by the general society by the instrument of a resolution adopted by the General Meeting.

4. Any decision on modifying the Articles of Association of the employee fund shall be taken by the employee society by the instrument of a resolution adopted by the Supervisory Board. The decision of the Supervisory Board shall be subject to endorsement by the General Meeting.

Article 23. 1. The open fund shall announce each modification to its Articles of Association in that national daily paper which is the designated medium of the fund's announcements.

2. The modification to the Articles of Association shall take effect on the date indicated in the announcement of modification but no earlier than 5 months of that day on which the announcement is given.

3. The Supervision Office may allow the 5-month period referred to in clause 2 to be shortened where [bringing forward the effective date of the modification] is not against the fund members' interests or where it is essential to the fund members' interests.

4. The fund shall notify the Supervision Office of the announcement given and the date thereof and it shall file with the registration court a motion requesting that the modification to the Articles of Association be entered in the register. Appended to the motion shall be: the Supervision Office's permit for the modification to the Articles of Association; the resolution on the modification to the Articles of Association and the uniform text [of the Articles of Association]; and the notification of the announcement given and date thereof.

5. The registration court shall make in the register an entry recording the modification to the Articles of Association and the date on which the modification takes effect. **Article** 16 clause 3 shall apply respectively.

Article 24. 1. Any modification to the Articles of Association of the employee fund shall be notified in writing to the shareholders of the employee society and it shall take effect on the date indicated in the announcement but no earlier than one month of that day on which the notice [of modification] has been served upon the last shareholder.

2. Where a modification to the Articles of Association gives rise to such financial repercussions as affect the members of the employee fund, whether by adding to the fund's financial encumbrances or by introducing less advantageous terms of disposal by the members of money accumulated in their accounts, such modification shall take effect on the terms laid down in the 22 August 1997 Employee Pension Plans Act [...]*.

3. **Article** 23 clauses 3-5 shall apply respectively provided that that General Meeting resolution whereby the resolution on the modification of the Articles of Association is approved shall be additionally appended to the motion for entering in the register the modification to the Articles of Association.

Article 25. 1. Where any of the particulars referred to in **Article** 17 clause 3 should change the fund shall forthwith file a motion requesting that the updated particulars be entered in the register of funds, with a current copy of the commercial register entry pertaining to the society appended.

2. Those changes which have arisen in connection with the takeover by another society of the management of the fund shall not be entered in the register otherwise than on submission of the following documents:

1) a permit of the Supervision Office authorising the takeover of the management of the fund,

2) a notification that the Chairman of the Office for Competition and Consumer Protection has not objected to the takeover of the management of the fund -- where the management of the fund is taken over by a general society.

3. Clause 32 shall apply respectively to a merger of two or more societies.

Article 26. 1. The funds' accounting practices and time limits for the preparation, audit, and submission for publication of the fund's financial statements shall be governed by the Accounting Practices Act.

2. The society shall approve the fund's annual report by a resolution adopted by the General Meeting.

CHAPTER 3
Pension societies

Article 27. 1. The society shall operate in no other form than that of a joint-stock company.

2. The society shall operate as a general society or an employee society.

Article 28. 1. The trade name of a general society shall include the designation "general pension society" and that of an employee society shall include the designation "employee pension society".

2. No society other than that created pursuant to this Act shall use the designations referred to in clause 1.

Article 29. 1. The society shall have no business object other than that of creating and managing funds and representing the funds before third persons. No operator other than the society shall carry on the aforesaid business.

2. Subject to **Article** 229 the society shall create and manage no more than one fund, save where the society should become the manager of two or more funds through taking over the management of another fund, or through a merger of two or more societies.

3. The general society shall manage the fund for a fee.

4. The employee society shall be a non-profit organisation. The shareholders of the employee society shall not be entitled to any share of the annual profit.

Article 30. 1. The society shall not raise its share capital by public subscription.

2. The society shall issue no shares other than registered shares which shall not be convertible into bearer shares.

3. The society shall not issue preferred shares.

4. The Articles of Association of the society shall accord equal treatment to all shareholders. In particular the Articles of Association shall not vest additional rights in certain shareholders or limit the rights of certain shareholders, nor shall it impose additional duties on selected shareholders.

5. Clause 3 and clause 4 shall not apply to a shareholder being a trade union, an organisation of employers, [or] a business chamber or an occupational community's self-regulating organisation operating pursuant to this Act.

Article 31. The general society shall have a share capital of no less than a zloty equivalent of ECU4,000,000 converted at the National Bank of Poland's average published exchange rate prevailing on the date of execution of the society's Articles of Association.

Article 32. 1. The share capital of the society shall not be contributed otherwise than in money.

2. The share capital of the general society shall be paid up in whole prior to the registration of the society.

3. The share capital of the general society shall not derive from a loan or credit, nor shall it be encumbered in any way.

Article 33. 1. The general society shall at all times maintain its own capital at or above a level of one-half of the minimum share capital referred to in **Article** 31.

2. Should the own capital decline below the level referred to in clause 1 the general society shall forthwith notify the Supervision Office to that effect.

3. Should the society fail to increase the own capital to the requisite level within such time period of no less than 3 months and no more than 12 months as the Supervision Office may appoint, this shall constitute a basis for the revocation by the Supervision Office of the permit to create the society.

Article 34. Where the general society is created by a corporation or corporations, the reservation set forth in the third sentence of **Article** 308 of the Commercial Code shall not apply.

Article 35. 1. The employee society may be created by [any of] the following founders: a natural person, a corporation, an unincorporated entity, resident or having its seat in the territory of the Republic of Poland.

2. If employers who are legal persons are founders of an employee society, Art. 34 shall duly apply.

Article 36. Throughout this Act any reference to the founders of a society shall be understood to include the shareholders of that society.

Article 37. 1. One entity shall be a shareholder of no more than one general society.

2. Affiliates shall be shareholders of no other but the same general society.

3. Where two or more entities being shareholders of different general societies have merged, or where [two or more] entities being shareholders of different general societies have become affiliates, the Supervision Office may agree to waive the limitation under clause 1 or clause 2 for up to 6 months with the object of allowing the operator evolved through the merger or, as the case may be, the entities which have become affiliates, to adjust their business to the requirements of this Act.

Article 38. 1. Any purchase or acquisition by other means of shares of the society shall require a permit of the Supervision Office, subject to clause 4. Any legal transaction executed in violation of the aforesaid reservation shall be invalid.

2. The application for the permit shall be filed, through the intermediary of the society, by the party proposing to purchase or otherwise acquire the shares.

3. The Supervision Office shall permit the purchase or acquisition by other means of the shares where the applicant satisfies the requirements laid down in this Act with regard to the founders of the society.

4. If a subscriber is an existing shareholder, he shall advise the Supervision Office of having subscribed shares within 14 days of their subscription. However, the subscription of shares which results in exceeding 20%, 25%, 33%, 50%, 66%, 75% or 80% respectively of voting rights at the General Meeting shall require permission from the Supervision Office

5. Clauses 1-4 shall apply respectively to the acquisition of rights in shares of the society.

Article 39. 1. The following are the governing bodies of the society:

1) the Management Board,

2) the Supervisory Board,

3) the General Meeting.

2. The society may appoint the Audit Commission. **Article** 43, **Article** 44, **Article** 59 clause 1, **Article** 148 item 3, **Article** 150 item 1b), **Article** 158 clause 1 item 5a), **Article** 204 clause 1 item 2, and Articles 206 and 209 to the extent concerning the Supervisory Board shall apply to the Audit Commission.

Article 40. 1. Save as otherwise provided in the Articles of Association, the members of the Management Board of the general society shall be appointed and recalled by the General Meeting.

2. The members of the Management Board of the employee society shall be appointed and recalled by the Supervisory Board.

3. The members of the first Management Board of the employee society shall be appointed by the founders for a 1-year term.

Article 41. 1. Eligible to sit on the Management Board of the society shall be those who satisfy the following requirements:

1) are possessed in full of the legal capacity,

2) have not been sentenced under a valid court verdict for an offence against property, [or] against the credibility of documents, [or] against trade, [or] against the money turnover or the securities trade, [or] against the Treasury, [or] for the offence referred to in Chapter 22,

3) have higher education,

4) have a record of employment of 7 years or more,

5) warrant the proper discharge of their duties as Management Board members, subject to clause 4.

2. No less than one-third Management Board members shall have higher education in Law or in Economics.

3. No less than two-thirds Management Board members shall satisfy the requirement laid down in clause 1 item 4.

4. The compliance with the requirement laid down in clause 1 item 5 shall be assessed on the basis of the enclosures, referred to in **Article** 54 clause 1 item 5 and item 6, to the application for permit to create the society.

5. Where the specifications laid down in clause 2 or clause 3 are not satisfied due to removal from office of a Management Board member, the society shall within 6 months adjust its business to the requirements laid down in this Act.

Article 42. 1. Ineligible to be a member of the Management Board of a general society shall be those sitting on a governing body or a supervisory body of:

1) a shareholder of the society,

2) another general society,

3) a depositary having the custody of an open fund's or an investment fund's assets,

4) a National Investment Fund or a firm managing the assets of a National Investment Fund,

5) an investment funds society or a shareholder of an investment funds society,

6) a firm pursuing the business of brokers as defined in the public trading in securities provisions, or any other business of public trading in securities,

7) an affiliate of any of the entities referred to in items 1-6.

2. The disqualification under clause 1 shall apply equally to those whose relation with the entities referred to in clause 1 arises from a contract of employment, a job contract, or a legal relationship of a similar nature.

Article 43. The members of the first Supervisory Board of the society shall be appointed for a 2-year term.

Article 44. 1. Eligible to sit on the Supervisory Board of the society shall be those who satisfy the requirements laid down in **Article** 41 clause 1 item 1 and item 2 and warrant the correct discharge of their duties as Supervisory Board members.

2. No less than one-half members of the Supervisory Board of the society shall have higher education in Law or in Economics, provided that with respect to the employee society the aforesaid requirement shall be understood to apply to no less than one-half of those members of the Supervisory Board who are appointed otherwise than pursuant to **Article** 45 clause 1.

3. No less than one-half members of the Supervisory Board of the general society shall be appointed from among those who are neither shareholders of the society nor sit on a governing or supervisory body of a shareholder of the society.

4. Clause 1 shall be applied subject, as appropriate, to clause 4 and clause 2 of **Article** 41, and clause 3 shall be applied subject, as appropriate, to clause 5 of **Article** 41.

Article 45. No less than one-half seats on the Supervisory Board of the employee society shall be filled by persons elected by those members of the employee fund to whose accounts contributions have been paid within the 12 months immediately preceding the election day.

2. The Articles of Association of the employee society shall determine a number of seats on the society's Supervisory Board to be filled by persons elected by the members of the employee fund; a procedure for the election of the said persons shall be determined in the rules adopted by the Supervisory Board.

3. The rules referred to in clause 2 shall establish in particular whether the election is directly by the [fund] members or by their chosen representatives and it shall lay down the terms of recalling the elected Supervisory Board members before the end of the Supervisory Board's term. The rules shall not make the validity of the election contingent upon a certain turnout.

4. Where the rules provide for the election by representatives of the membership, they shall likewise determine the procedure for the choosing and recalling of the representatives and the representatives' term of office.

5. The first election of the Supervisory Board members elected by the employee fund members shall be held no later than 3 months of that date on which the fund has received the first contribution. Prior to the said election the Supervisory Board shall sit in such number, which shall be no less than 5 members, as the founders of the employee society have appointed.

6. The failure to fill the Supervisory Board seats assigned to members elected by the employee fund members within the time period referred to in clause 5 shall not prevent the Supervisory Board from adopting important resolutions.

7. Where the mandate of a Supervisory Board member elected by the employee fund membership has expired before the end of the Supervisory Board's term, the Supervisory Board shall forthwith call a by-election.

Article 46. **Article** 379 paragraphs 3-5 of the Commercial Code shall apply solely to those members of the Supervisory Board of the society who are elected otherwise than pursuant to **Article** 45 clause 1.

Article 47. An individual who is a member of the management or supervision bodies or is employed or commissioned tasks or subject to any other legal relationship of a similar nature with the entities referred to in Art. 42,

clause 1, items 1-7, shall not be an employee of a universal society who can decide on the manner of investing the assets of an open fund

Article 48. 1. The society shall be liable to the fund members for any loss suffered through non-performance or negligent performance by the society of its duties as the fund manager and representative, save where a non-performance or negligent performance of the said duties should be due to circumstances for which the society is not responsible and which it has been incapable of preventing by the exercise of utmost care.

2. The fund shall not be liable for losses incurred through non-performance or negligent performance of the duties referred to in clause 1.

3. Where the general society's liability for a loss is excluded on the strength of clause 1, the loss shall be covered from the Guarantee Fund's resources, save where the loss should occur solely through the injured party's fault. **Article** 180 shall apply respectively.

4. Clause 3 shall apply equally where a general society should be proclaimed bankrupt [and] that loss for which the society is liable should be incapable of being made good from the society's bankrupt estate. The making good of a loss from the bankrupt estate shall be subject to the seniority of claims established in **Article** 177 clause 2.

5. Where the society has delegated the discharge of certain duties to a third person, this shall not limit the liability of the society.

Article 49. 1. The following persons shall be bound to protect professional secrets concerning the business of the fund:

1) the members of the society's statutory governing bodies,

2) the employees of the society,

3) those whose relation with the society or the fund arises from an agency contract or another legal relationship of a similar nature,

4) the employees of those entities which are linked with the society or with the fund by the relationship referred to in item 3.

2. For purposes of clause 1 the professional secret shall mean that information concerning the fund's investments, [or] the register of the fund members, [or] fund members' testamentary dispositions, [or] the statements referred to in **Article** 83 the disclosure of which might jeopardise certain interests of the fund members or of investors in publicly traded securities.

3. Clause 3 shall not apply to the disclosure of a professional secret [in the following circumstances:] to the public prosecutor in connection with a suspected commission of an offence; or at the request of the public prosecutor, or the court, or another relevant agency of the state where the request is made in connection with ongoing proceedings concerning the business of the fund, the society, or the depositary, including at the request of the Supervision Office in connection with the exercise by the Supervision Office of the duty of overseeing of the funds' performances.

Article 50. 1. The society shall not:

1) purchase or otherwise acquire equity stakes, shares or other securities, units of investment funds or units issued by mutual investment institutions domiciled abroad, or be a partner in an unincorporated partnership,

2) acquire securities issued by the depositary,

3) make loans, give guarantees, or stand surety, except for loans made from the employer-operated social benefits fund,

4) borrow, whether under loans, credits, or by making bond issues, in excess of 20 percent of the society's own funds cumulatively.

2. Clause 1 item 1 shall not apply to:

1) securities issued by the Treasury or the National Bank of Poland,

2) equity stakes in or shares of that company which keeps the register of members for a fund managed by the society,

3) equity stakes in or shares of those companies which carry on the business of clearing capital market transactions, [when the said equity stakes or shares are acquired] in such numbers which do not give rise to the relationship of a subsidiary and the controlling company as defined in the provisions on public trading in securities,

4) securities issued pursuant to the cheque law.

Article 51. 1. The society shall safe-keep and store in the archives the documents and other vehicles of information of the fund managed.

2. Should the fund be liquidated in the manner described in **Article** 71 clause 1, the documents and other vehicles of information referred to in clause 1 shall be kept by the fund liquidator -- and where an employee fund should be liquidated the manner described in **Article** 75, the documents and other vehicles of information referred to in clause 1 shall be kept by the depositary. The obligation to safe-keep [the aforesaid materials] shall continue for 50 years of the completion of the liquidation of the fund.

3. Notwithstanding the obligations laid down in clause 1, the depositary shall safe-keep and store in the archives, for 50 years of the completion of the liquidation of the fund, all such documents and other vehicles of information as pertain to the discharge of the tasks of the depositary.

4. In the event of failure of liquidation of the depositary **Article** 460 paragraph 2 of the Commercial Code shall apply to the documents and other vehicles of information pertaining to the management of the fund or to the performance of the tasks of the depositary. The court of competent jurisdiction shall advise the Supervision Office forthwith of the custodian appointed.

5. On matters not regulated in this Act the Commercial Code shall apply to the society.

CHAPTER 4
Business of pension society, terms of commencement

Article 53. The creation of the society shall require a permit of the Supervision Office.

Article 54. 1. The permit shall be issued against an application filed by the society founders, with the following documents appended:

1) the Articles of Association of the society,

2) the founders' agreement on the forming of the society, their assent to the text of the Articles of Association, and their commitment to take up the [society's] shares,

3) the society's rules of organisation, describing in particular the manner of preventing and deterring the disclosure of that information the use of which might be detrimental to interests of the fund members or of investors in publicly traded securities,

4) a list of the founders, stating whether they are or are not affiliates and describing the nature of relationships existing among them, with documents representing the founders' legal status and origins of money brought into the society as the share capital appended,

5) a specification of the members of the society's statutory governing bodies, exclusive of the persons referred to in **Article** 45, with the following documents appended: statements by each member, expressing his or her will to serve on the respective statutory body of the society and confirming that he or she satisfies the entirety of the respective requirements laid down in this Act; the personal data of the members and a synopsis of their professional qualifications and backgrounds,

6) documents attesting that none of the members of the statutory governing bodies of the society has a criminal record, to the extent arising from **Article** 41 clause 1 item 2,

7) documents representing financial standing of each of the shareholders of the society in the 5 years immediately preceding the application filing date, including documents confirming that [none of the shareholders] is in arrears of taxes,

8) the society's organisational and financial plan covering a period of 3 years.

2. When filing the application for the permit to create the general society the founders may apply to the Supervision Office for a provisional permit to create an open fund, to which application the following shall be appended:

1) a draft of the Articles of Association of the fund,

2) a draft of the contract with the depositary,

3) the personal data of those the society proposes to employ, when established, in positions rendering them capable of influencing to a significant degree the management of the fund's finances,

4) a list of persons to be appointed by the depositary to discharge the duties set forth in the draft contract,

5) a synopsis of the professional qualifications and backgrounds of the persons referred to in item 3 and item 4, naming those having the status of investment advisors.

Article 55. 1. The Supervision Office shall issue a decision concerning the permit within 3 months of that day on which the application has been filed.

2. The issuance of the permit shall be tantamount to approval by the Supervision Office of the Articles of Association of the society.

Article 56. 1. Where the founders have applied to the Supervision Office, contemporaneously with filing the application for the permit to create the general society, for the provisional permit to create an open fund -- and in the absence of grounds for refusal of the [provisional] permit -- the Supervision Office shall issue the same together with the permit to create the general society.

2. The Supervision Office shall define in the provisional permit the validity of the provisional permit which shall be no shorter than 6 months.

3. Throughout the provisional permit validity period the Supervision Office shall not refuse a permit to create the open fund, save where the contents of the enclosures referred to in **Article** 14 should change relative to the contents of the enclosures referred to in **Article** 54 clause 1 item 1 and clause 2.

4. The [Supervision Office] may refuse to issue the provisional permit to create a fund for [any of] the reasons stated in **Article** 15 clause 2.

Article 57. The Supervision Office shall refuse a permit to create the society where:

1) the application and the documents appended thereto should fail to satisfy the respective statutory requirements,

2) the Articles of Association of the society should contain provisions capable of putting at risk the security of the fund assets or otherwise prejudicial to interests of the fund members,

3) the society's 3-year organisational and financial plan as submitted by the founders should fail to sufficiently protect interests of the fund members,

4) founders of the society and members of the society's statutory governing bodies should fail to warrant the running of the society's affairs in a manner ensuring due protection to interests of the fund members,

5) the documents representing the society shareholders' financial standing in the recent 5 years should indicate that one or more shareholders are in arrears of taxes,

6) the share capital of the general society should derive from a loan or a credit or should be encumbered in any way.

Article 58. Any modification to the society's or the depositary's Articles of Association, or to the contract with the depositary, shall require a permit of the Supervision Office.

Article 59. 1. The appointment of the members of the society's Management Board and Supervisory Board shall require a permit of the Supervision Office, save for the re-appointment of those who have served on the said bodies during the preceding
term.

2. Clause 1 shall not apply to those members of the Supervisory Board of the employee society who are elected by the employee fund members.

Article 60. The society shall forthwith notify the Supervision Office of any change in the particulars stated in the enclosure, referred to in **Article** 54 clause 1 item 3, to the application for the permit to create the society.

CHAPTER 5
Takeover of management of pension fund, merger of pension funds, liquidation of pension fund

Article 61. Where a society should be proclaimed bankrupt or where a liquidation proceeding should be opened with respect to it, the Supervision Office shall issue a decision on revocation of the permit to create the society.

Article 62. 1. The Supervision Office may issue the decision on revocation of the permit to create the society where it has established that the fund has been conducting its business contrary to this Act, or contrary to the fund's Articles of Association, or in a manner prejudicial to interests of the fund members.

2. Prior to revoking the permit the Supervision Office may call upon the fund to put its business in order.

3. When withdrawing the licence referred to in clause 1 or when making the demand referred to in clause 2, the Supervision Office may administer upon the society a fine of up to 500,000 zloty in the event that the irregularities detected are exceptionally drastic.

Article 63. The Supervision Office shall name in the decision on revocation of the permit that date on which the decision takes effect.

Article 64. 1. As of the effective date of the decision on revocation of the permit to create the society the fund shall be represented by the depositary. Throughout that period the fund shall not admit new members.

2. Failing the assumption by another society, pursuant to **Article** 66 clause 3, of the management of the open fund within 3 months of the effective date of the decision on revocation of the permit, the management of the fund shall be assumed by a general society being the manager of that open fund which at the end of the month immediately preceding the one in which the decision on revocation of the permit has taken effect had the highest net asset value, on such terms as the Supervision Office may determine in the decision, in consideration of clause 3.

3. If a licence to form a universal society has been withdrawn due to there being a deficit in the open fund, the universal society which manages the fund having the highest rate of return referred to in Art. 172 will have priority in taking over the management of the open fund.

Article 65. Where the Supervision Office should issue a decision on revoking the permit on grounds other than those referred to in **Article** 61 and where the said decision should be appealed by complaint to the Supreme Administrative Court, the [Supreme Administrative Court] shall take cognizance of the complaint within 2 months of the same being filed.

Article 66. 1. A general society proposing to discontinue its heretofore business may, under a contract entered into with another general society, assign to the other society the management of the open fund it has hitherto managed.

2. That general society which takes over the management of the open fund shall assume the rights and obligations of the general society which has hitherto managed the open fund. Those provisions of the contract which exclude certain obligations shall be without effect on third persons.

3. Save as provided in clause 1, the society shall not take over the management of a fund otherwise than following revocation by the Supervision Office of the permit for the creation of the fund's hitherto manager society, subject to **Article** 67.

4. The management of the fund shall be taken over by no other society than one managing a fund of the same kind.

Article 67. 1. One society may merge with another.

2. **Article** 66 clause 4 shall apply respectively.

Article 68. 1. The taking over of the management of a fund in the circumstances referred to in **Article** 66 and the merging of two or more societies shall be subject to a permit issued by the Supervision Office.

2. An application for the permit shall be filed by that society which assumes the function of the fund manager and, where the permit sought concerns a merger, it shall be filed separately by each of the societies involved in the merger.

3. The permit to take over the management of the fund or, as the case may be, to bring about the merger of societies shall be equivalent to a permit to modify the fund's Articles of Association to the extent defined in **Article** 13 clause 2 items 2-4.

4. The permit of the Supervision Office shall define detailed terms of the takeover of the management of the fund or, as the case may be, of the merger of societies.

Article 69. 1. The Supervision Office permit for the takeover of the management of the fund or for the merger of societies shall constitute the legal grounds for liquidating that fund the management of which has transferred to another society, or that one which has hitherto been managed by a society taken over under the merger, or -- where the merger of societies is pursuant to **Article** 463 item 2 of the Commercial Code -- of that one which is indicated in the application for the permit for the merger of societies pursuant to clause 5.

2. The fund liquidation commencement and completion dates shall be set in the permit.

3. The Supervision Office shall forthwith notify the registration court that the permit has been issued, with a copy of the permit enclosed. The court shall ex officio record in the register of funds the liquidation commencement date and the identity of the liquidator.

4. That society which has taken over the management of the fund shall be the fund's liquidator.

5. Where the merger of societies is pursuant to **Article** 463 item 2 of the Commercial Code, the application for the permit to bring about the merger shall indicate the fund to be liquidated.

Article 70. 1. The open fund shall promptly give in a national daily paper an announcement of the substance of the Supervision Office permit for the takeover of the management of the fund or, as the case may be, the merger of general societies and of the rights attaching to the fund members in connection with the liquidation of the fund.

2. On receipt of a member's notice which shall be given within 2 months of the date of the announcement referred to in clause 1, to the effect that the member has entered into a contract with another open fund, the open fund shall by credit transfer remit the balance in the member's account to his or her account with the other fund. In the aforesaid circumstances the open fund shall not administer the charge referred to in **Article** 134 clause 1 item 2.

3. The employee fund shall forthwith communicate the substance [of the Supervision Office permit] referred to in clause 1, in such manner as the fund's Articles of Association may prescribe, to the shareholders of the employee society being the manager of the fund.

4. The fund shall forthwith inform the Supervision Office of the contents of the announcement referred to in clause 1 or, as applicable, of the communication referred to in clause 3.

5. Failing the discharge by the open fund of the duty referred to in clause 1 the Supervision Office shall have the announcement published for cost to the liquidator.

Article 71. 1. The liquidation of a fund shall consist in transferring its assets to a fund managed by that society which has taken over the management of the fund [under liquidation], or to a fund managed by that society which has taken over the fund's manager society as a result of the merger, and where the merger of societies is pursuant to **Article** 463 item 2 of the Commercial Code -- to that fund which is designated to survive the merger of societies, subject to clause 3.

2. The transfer of assets shall take effect on such date as may be appointed in the permit for the takeover of the management of the fund or for the merger of societies, the said date ensuing no later than 9 months of the day on which the Supervision Office has issued the permit. The day indicated in the permit shall be understood to be the fund liquidation completion date for purposes of **Article** 69 clause 2.

3. Upon supplying the Supervision Office with the information referred to in **Article** 70 clause 4 the fund under liquidation shall forthwith terminate its contract with the depositary having the custody of its assets and the fund may give notices of termination of contract, effective as of the liquidation completion date, to all others acting on the fund's behalf. Any such provisions of those contracts as may limit or exclude the termination of contract in the abovestated manner shall be deemed non-existent.

4. As of the liquidation completion date the transfer of the liquidated fund's assets to another fund shall be deemed effected and the receiving fund shall assume the entirety of rights and obligations of the liquidated fund. On the aforesaid date the receiving fund shall convert the existing accounting units of the taken over fund into its own existing accounting units.

5. The assets of the taken over fund shall be turned over to the depositary having the custody of the receiving fund's assets subject to the terms and requirements set forth in **Article** 163.

6. deleted

Article 72. On completing the liquidation of the fund the liquidator shall forthwith notify the Supervision Office that the transactions referred to in **Article** 71 clauses 3-5 have been executed and the liquidator shall file with the registration court a motion requesting that the fund be struck off the register of funds.

Article 73. 1. The liquidation of that employee fund the management of which has not been transferred to another employee society shall be effected pursuant to Articles 74-78.

2. The dates on which the liquidation of the fund shall commence and end shall be determined in the decision of the Supervision Office.

3. **Article** 69 clause 3 and **Article** 70 clause 3 and clause 4 shall apply respectively.

4. The depositary shall be the liquidator of the employee fund unless another liquidator be appointed by the Supervision Office.

Article 75. The liquidation of the employee fund shall consist in disposing of its assets, repossessing the fund's receivables, satisfying claims of the fund's creditors, and dispensing the balances in the members' accounts in accordance with the members' instructions.

Article 76. 1. Where an employee fund is liquidated, the balances in the members' accounts shall not be dispensed otherwise than by:

1) credit transfer to another employee fund, where the [account-owner] member satisfies that fund's membership criteria, or

2) removal to a life assurance institution, on the terms set forth in the Employee Pension Plans Act, or

3) removal to an open-end investment fund or a specialist open-end investment fund, on the terms set forth in the Employee Pension Plans Act, or

4) payment to the member in a one-time disbursement.

2. Where a member has not issued instructions as to the manner of dispensing his or her account balance, the dispensing shall be in the manner described in clause 1 item 4.

3. Those account balances which have not been dispensed pursuant to clause 1 shall be deposited with the court.

Article 77. On completing transactions referred to in **Article** 75 the liquidator shall forthwith notify the Supervision Office to that effect and the liquidator shall at the same time file with the registration court a motion requesting that the liquidated fund be struck off the register of funds.

Article 78. The Council of Ministers shall by Ordinance prescribe the detailed procedure for liquidating the employee fund in the circumstances referred to in **Article** 73, in particular the manner and time limits for the issuance by the fund members of instructions on the manner of dispensing the balances in their accounts.

CHAPTER 6
Restraint of trade

Article 79. 1. An intent to bring about a merger of two or more general societies or take over the management of an open fund shall be notified to the Chairman of the Office for Competition and Consumer Protection in the event that the cumulative net asset value of the funds to be put, following the proposed merger or takeover of management, under a single manager [general society] should exceed, in any month of the year preceding that year in which the notification of intend is given, 33 percent total net asset value of all open funds.

2. The notification of intent to bring about a merger or take over the management, as covered in clause 1, shall be given within 14 days of that day:

1) on which shareholders of each of the societies involved in the [proposed] merger have in General Meeting adopted a resolution on the merger,

2) on which an application for the permit to take over the management of the fund has been filed with the Supervision Office following the revocation of the permit to create [that] general society [which has hitherto managed the open fund],

3) on which the contract on assigning the management of the open fund, as covered in **Article** 66 clause 1, has been executed.

3. The notification of intent shall be given:

1) with regard to the merger of societies - separately by the Management Board of each society concerned,

2) with regard to the takeover of the management of a fund -- by the Management Board of that society which proposes to assume the management of the fund.

4. The following shall be appended to the notification of intent to bring about a merger of societies: a duplicate of [the appropriate] commercial register entry; the Articles of Association of the societies involved in the merger; information on the funds managed by the said societies, indicating in particular net asset value of each of these funds and the funds' respective positions on the financial services market; and the documents referred to in clause 2, as applicable.

5. The Chairman of the Office for Competition and Consumer Protection shall within no more than 2 months -- and, in the circumstances referred to in clause 2 item 2, within no more than 1 month -- advise the party which has given the notification of intent that he or she raises no objections, or he or she shall by decision forbid the merging of the societies or, as the case may be, the takeover of the management of the fund. The aforesaid decision shall not be issued for reasons other than that the merger or, as the case may be, the assumption of the management of the fund would give the society a dominant position on the market or strengthen its dominance of the market.

6. Clauses 1-5 shall not apply where the management of an open fund is transferred [to another society] for the reasons referred to in **Article** 64 clause 2.

Article 80. To the extent not covered in this Act, the 24 February 1990 Prevention of Monopolistic Practices Act [...]* shall apply to the merging of general societies or to the taking over of management of the open fund.

CHAPTER 7
Membership in pension fund

Article 81. 1. Membership in the open fund shall be acquired on execution of a contract with the fund.

2. The open fund shall not refuse to enter into the contract where the person applying for membership in the fund satisfies the requirements laid down in separate provisions.

3. Subject to **Article** 84, one person shall be a member of no more than one open fund.

4. Membership in a given open fund can also be acquired through a lottery held by the Social Insurance Institute in accordance with the principles stipulated in the provisions governing the social insurance system.

5. The Social Insurance Institute shall be obliged to communicate the results of the lottery. The interested party and the open fund which the party in question has joined shall be notified.

6. Together with the notification from the Social Insurance Institute a member shall receive the data on the open fund entered in the fund register, and the open fund shall receive the member's essential personal data referred to in Art. 89, clause 2; the open fund may also receive the data in an electronic format.

7. Having received the notification from the Social Insurance Institute and the member's essential personal data, in accordance with clause 6, the open fund shall confirm the membership conditions in writing without delay and shall call upon the member to meet the requirements specified in Art. 82, clause 1, and Art. 83, clause 1; it shall also inform the member of the consequences of failing to meet those requirements or mal-performing them, in accordance with Art. 132, clause 1 or Art. 83, clauses 3 and 4.

Article 82. 1. While entering into the contract with the open fund the applicant may name one or more persons to whom such proportion of the balance in his or her account as has not been otherwise dispensed pursuant to **Article** 131 shall be paid out on his or her death.

2. Where the member has named two or more persons entitled to receive upon his or her death the aforementioned residue of his or her account balance but has not specified their respective shares, these persons shall be deemed to benefit in equal proportions.

3. A member may change his previous instructions at any time, nominating individuals entitled to receive funds after his death, other than or besides the individuals referred to in clause 1, as well as otherwise specify the share which the individuals nominated have in those funds.

4. The naming of a beneficiary [under the testamentary disposition] shall be void where the beneficiary has predeceased the member. In such circumstances the deceased beneficiary's share shall pass in equal parts to the remaining persons named in the testamentary disposition, save where the member has otherwise disposed of it. However, if the deceased was the only individual nominated, the member may nominate another individual entitled to receive the funds after his death.

5. The fund shall be obliged to inform an individual joining the open fund of the consequences of failing to meet or mal-performing the requirement referred to in clause 4, sentence three, in accordance with Art. 132, clause 1.

Article 83. 1. While entering into the contract with the open fund the applicant shall furthermore submit a written statement explaining the property relationships existing between the applicant and his or her spouse -- and, in the absence of statutory community property, he or she shall document the [nature and legal basis of] the existing marital property arrangement. The aforesaid obligation shall attach equally to that member of the open fund who has contracted marriage subsequently to entering into the contract with the fund.

2. The member of the open fund shall notify the fund in writing of any such change [in his or her circumstances], relative to those named in the statement referred to in clause 1, which pertains to the balance in his or her account. A proof [of the changed circumstances] shall be appended to the notification.

3. In cases of failing to meet the requirement referred to in clause 1, sentence two, or in clause 2, it shall be assumed that there is statutory joint property of husband and wife between the spouses or that marital property relations

are reflected in the agreement concluded with the open fund or the last notification sent by the open fund member in accordance with clause 2.";

4. The open fund shall not be liable for any damage resulting from failure to meet or from mal-performing the requirement referred to in clause 1 or 2.

Article 84.1. If a member of an open fund joins another open fund, he shall be obliged to notify (in writing) the open fund to which he has been paying contributions so far of having signed an agreement with the other fund. Together with the notification, the member shall submit a declaration of will - in writing, in accordance with a proforma specified in a decree of the Council of Ministers – to terminate the existing agreement, and if he has acquired membership resulting from a lottery held by the Social Insurance Institute or upon opening an account – a declaration of will to resign membership in the current open fund, effective from the date of the transfer payment referred to in Art. 119.

2. The authenticity of the signature on the declaration of will to resign membership in the current open fund and on the declaration of approval for the deduction referred to in Art. 134, clause 1, item 3, should be attested by any organisational unit of the Social Insurance Institute or local authority for the place of residence of the open fund member or at a Polish diplomatic and consular post.";

Article 84a.1. Individuals born in 1949-1953, concluding an agreement with an open fund, shall be obliged to submit a declaration in writing, stating that they have read Arts. 24, 26, 46-50, 53, 183, 184, and 185 of the Act of 17 December 1998 on Retirement Pensions and Other Pensions paid out of the Social Insurance Fund (*Journal of Law* No. ..., item ...), which the individual concluding the agreement should confirm with his own signature.

2. An individual engaged in acquisition on behalf of an open fund in relation to the individual specified in clause 1 shall be obliged to inform that individual of the implications of the regulations referred to in clause 1, in particular of the fact that as a result of joining an open fund a retirement pension paid out of the Social Insurance Fund may be significantly lower or that one will not be eligible for a retirement pension before reaching the age specified in Art. 24 of the Act referred to in clause 1.

Article 85. The Council of Ministers shall by Ordinance prescribe:

1) the manner and procedure for the execution of that contract which gives rise to membership in the open fund,

2) the manner of execution and time limits for the submission of: the statement concerning the open fund member's marital property relationships; and the notification, to be given to the open fund, of any change in the member's circumstances, relative to those named in the statement, pertaining to the balance in the member's account,

3) the manner in which the member notifies the open fund of having joined another open fund and the time limit for giving the said notification,

4) the procedures and deadlines to be observed by an open fund when notifying the Social Insurance Institute of having concluded an agreement with a fund member, and the scope of data that the notification should contain;

5) proformas of the declarations of will referred to in Art. 84

Article 86. 1. Eligible for membership in the employee fund shall be that natural person who satisfied the employee pension plan participation criteria laid down in the Employee Pension Plans Act.

2. That person who has ceased to satisfy the criteria referred to in clause 1 shall retain the status of an employee fund member.

Article 87. Membership in the employee pension fund shall be received as of the execution of an employee pension contract, pursuant to the Employee Pension Plans Act.

Article 88. A member may surrender membership in the employee fund, by terminating the employee pension contract, pursuant to the Employee Pension Plans Act.

Article 89. 1. The fund shall keep the register of fund members wherein the following shall be recorded: the members' principal personal data; contributions paid into the fund and credit transfers received and records of

conversion of the contributions and credit transfers into accounting units; current balances in the accounts; and -- where the fund is an employee fund -- current [number and value] of shares in quantity accounts.

2. Essential personal data of the members referred to in clause 1 shall contain:

1) first and last names,

2) date of birth,

3) the PESEL ("Universal Electronic Population Records System") number, and if one does not have it or if there are doubts as to its correctness – the NIP Tax Identification Number, and the series and number of the member's identity card or passport;

4) residential address.";

3. The keeping of the register of fund members may be delegated to a third person subject to **Article** 49.

4. The Council of Ministers shall by Ordinance prescribe the detailed standards and requirements on the keeping of the register of fund members, in particular the detailed specification of information to be recorded therein and the terms of making and safe-keeping back-up copies of the entries.

Article 90. 1. Cases concerning those claims which arise from legal relationships existing between the open fund members and the fund or its agency shall be examined and decided by the national insurance court of competent jurisdiction for the area of the fund member's residence.

2. The cases referred to in clause 1 shall be processed pursuant to the Code of Civil Proceedings' provisions on proceedings instituted on matters governed by the labour and national insurance law, excluding **Article** 460 paragraph 1, **Article** 461 paragraphs 1 and 2, **Article** 463 paragraphs 11 and 3, **Article** 467 paragraph 4, **Article** 476 paragraphs 1-2 and 4-5, **Article** 4771 paragraphs 1-2, **Article** 4772, **Article** 4776, Articles 4779-47714a.

Article 91. Cases concerning those claims which arise from legal relationships existing between the employee fund members and the fund or its agency shall be examined and decided by the common insurance court of competent jurisdiction for the area of the fund member's residence.

CHAPTER 8
Open pension fund: Sales promotion

Article 92. 1. The open fund shall not conduct sales promotion by offering additional pecuniary benefits to be gained for reasons of membership in the open fund -- where the said offer is made with the object of inducing a person to obtain or retain membership in the fund.

2. Clause 1 shall apply respectively to practices other than that referred to therein -- where the said practices include promising additional pecuniary benefits in return for the accession to or retaining membership in a certain open fund.

3. For purposes of clause 1 sales promotion shall mean any gainful occupation pursued with the object of inducing a person to obtain or retain membership in the fund. Sales promotion shall include executing on behalf of the open fund of contracts giving rise to membership in the fund, and rendering services of intermediary in connection with the execution of the said contracts.

Article 93.1. Acquisition activities on behalf of an open fund, in the scope specified in Art. 92, clause 3, may only be conducted by an open fund or, at the request of that fund, by the following entities:

1) domestic banks as defined in the Banking Law of 29 August 1997 (*Journal of Law* No. 140, item 939),

2) insurance companies,

3) brokerage houses as defined in the regulations governing public trading in securities,

4) insurance agents,

5) entities involved in brokerage activities as defined in the regulations governing insurance activities,

6) "Poczta Polska," a State-owned public utility enterprise,

7) co-operative saving and loan societies.

2. An entity conducting activities in connection with the preparation and publication of advertisements, as part of its business activities, commissioned by the entities referred to in clause 1, shall not conduct acquisition activities as defined in Art. 92, clause 3

3. Sales promotion transactions shall be executed solely by natural persons entered in the register of persons licensed to provide sales promotion services to open funds. The register shall be kept by the Supervision Office.

4. Where the open fund promotes its product and services without intermediary of those referred to in clause 1, no entity other than natural persons employed by the general society being the agency of the fund shall execute sales promotion transactions on behalf of the fund.

5. The making of sales promotion transactions on behalf of the open fund shall not be a commercial service, save where the natural person making the said transactions is an insurance agent or carries on the business of brokers as defined in the insurance business provisions.

6. An individual entered in the register referred to in clause 3 may conduct acquisition activities on behalf of only one open pension fund

Article 93a. The employer or any other individual superior to employees in terms of professional hierarchy may not offer the employees any acquisition services on behalf of an open fund.";

Article 94. 1. Eligible for being entered in the register referred to in **Article** 93 clause 3 shall be those natural persons who:

1) reside in the territory of the Republic of Poland,

2) have not been sentenced under a valid court verdict for a wilful offence against property, [or] against the credibility of documents, [or] against the Treasury, or for the offence referred to in Chapter 22,

3) are possessed in full of the legal capacity.

2. The Supervision Office shall enter a person in the register on the basis of a motion filed by that entity which conducts sales promotion on behalf of the open fund or, where the open fund does not use services of an intermediary, by the fund. Refusal to make the entry shall be given by the instrument of administrative decision. The entry shall be made or refused within 1 month of the date of filing the application

3. The register of persons authorised to conduct sales promotion on behalf of open funds shall contain the following particulars:

1) the entry number,

2) principal personal data of [each] registered persons, covering:

a) the given names and surname,

b) the date and place of birth,

c) the parent's names,

d) the universal electronic census system number ("PESEL" number),

e) the registered address,

3) the name of the principal in whose name the registered person performs sales promotion transactions,

4) the name of that open fund on behalf of which the registered person performs sales promotion transactions.

4. The Supervision Office shall by the instrument of administrative decision strike a registered person off the register, whether on the motion of the said person's principal , or ex officio, where the said person:

1) no longer satisfies the registration criteria,

2) has not performed sales promotion transactions for more than 2 years,

3) has performed sales promotion transactions in an unlawful manner.

5. Where a registered person should discontinue the performance of sales promotion transactions in the name of his or her principal, the principal shall forthwith notify the Supervision Office to that effect whereupon the Supervision Office shall make a respective entry in the register.

6. Where a registered person has embarked upon sales promotion transactions made in the name of an entity other than his or her principal identified in the register, the other shall forthwith notify the Supervision Office to that effect. The notification shall predate the commencement of sales promotion transactions [conducted on behalf of the other]. The Supervision Office shall on the basis of the notification update the register and remove the entry referred to in clause 5.

7. Subject to clause 6 the principal of the registered person shall notify the Supervision Office of any change in such particulars as are subject to recording in the register within 30 days of becoming cognizant of the same. Refusal to enter the change in the register shall be given by the instrument of administrative decision.

8. The Supervision Office shall charge, for making an entry in the register and for updating a register entry, a fee which shall be the Supervision Office's targeted income referred to in **Article** 203 clause 5. The fee shall not be charged upon the removal of entry from the register in the circumstances referred to in clause 4, nor upon making and removing from the register the entry referred to in clause 5.

9. The Minister of Finance shall, upon consulting the Chairman of the Supervision Office, set by Order the amounts and the terms and dates of payment of the fees due pursuant to the first sentence of clause 8, provided that the fee for making an entry in the register shall not exceed 250 percent of the lowest pay as defined in the Labour Code and the fee for updating an entry shall not exceed 100 percent of the said pay.

CHAPTER 9
Accounts and conversion of contributions

Article 95. Contributions shall be paid into accounts operated by the open funds, in amounts and on terms set forth in separate provisions, or into accounts operated by employee funds, in amounts and at intervals defined on the basis of the principles referred to in the Employee Pension Plans Act.

Article 96. 1. The employee fund contributions shall be paid in in the names of the employees being members of that fund.

2. The contributions referred to in clause 1 shall be paid in, in the name of the employees, by their employer being a shareholder of the employee society.

3. An employee fund contribution may likewise be made by means of the credit transfer referred to in the Employee Pension Plans Act.

Article 97. 1. Payments into the open funds and the employee funds may be made in securities, pursuant to separate regulations.

2. Payments into the employee funds may be made is the shares referred to in **Article** 101, pursuant to Chapter 10.

Article 98. Upon a member's accession to the fund the fund shall open for the member an account into which contributions shall be paid in and credit transfers made.

Article 99. 1. The contributions paid into the fund and the credit transfers received shall be converted into accounting units.

2. deleted

3. The total value of the accounting units shall be at all times equal to the total value of the fund's net assets converted into the said units.

4. The contributions and credit transfers received may likewise be converted into fractions of one accounting unit and the balance in the member's account may be given in the said fractions of an accounting unit.

5. The fund's net asset value and the value of one accounting unit shall be established according to the terms and standards governing the valuation of the funds' assets and liabilities.

6. The Council of Ministers shall by Ordinance prescribe detailed terms and standards on the valuation of the funds' assets and liabilities.

Article 100. 1. The contributions and credit transfers received shall be converted into accounting units on an date determined in accordance with clause 2, hereinafter called "conversion day", at that day's accounting unit value.

1a. The value of the accounting unit on the conversion date shall be determined by dividing the fund's net assets on the conversion date by the number of accounting units entered on that date into the accounts kept by the fund.

2. With regard to the employee fund the conversion day shall be the last working day of [each] month, unless other conversion days be additionally appointed in the fund's Articles of Association. As regards open funds, each working day shall constitute a conversion date.

3. On the first conversion day, which shall be understood to follow the payment into the fund of the first contribution, the value of one accounting unit shall be 10 zloty.

4. Prior to conversion, the contributions and credit transfers shall be kept in a separate money account of the fund. Interest accruing on money deposited in the said account shall be a revenue of the fund.

5. The securities referred to in **Article** 97 clause 1 shall be converted into accounting units pursuant to separate provisions.

6. deleted

CHAPTER 10
Quantity accounts

Article 101. 1. Those shares, be they free or discount shares, which employee fund members have received as a result of the privatisation of their employer shall be deposited in quantity accounts which shall be operated by the employee funds on the terms laid down in the Employee Pension Plans Act.

2. The employee fund may delegate the keeping of the quantity accounts to an operator authorised to keep securities accounts.

3. A single quantity account shall not be used as a deposit account for shares of more than one issuer.

4. Shares deposited in the quantity account shall be shown [on the fund's books] by quantity.

5. The employee fund members shall not have the disposal of the shares deposited in the accounts or of dividend on the said shares.

6. A member of the employee fund may dispose of his or her right to take up shares of a new issue subject to **Article** 105.

Article 102. 1. The employee fund shall wind up the members' quantity accounts and transfer the shares deposited therein to the fund's assets according to a quantity accounts winding-up agenda which the employee society shall adopt by a Supervisory Board resolution and notify to the Supervision Office no later than 3 months before that day on which the winding up of the accounts is scheduled to commence.

2. The agenda referred to in clause 1 shall determine:

1) certain dates by which to transfer certain shares to the fund's assets ,

2) the terms of establishing the number of those shares deposited in the accounts by individual members which are subject to transfer to the fund's assets, including shares deposited by those whose join the fund after the agenda has been released,

3) numbers of those shares deposited by individual members in the quantity accounts which are subject to transfer to the fund's assets by certain dates.

3. With regard to those who have joined the fund following the release of the agenda the dates by which to transfer [their] shares to the fund's assets shall be set on a case-by-case basis.

4. Shares shall not be transferred to the fund's assets otherwise that on a conversion day.

5. On the share transfer day such number of accounting units as corresponds, by value, to the value of the shares transferred from [each member's] quantity accounts reduced by tax due, shall be credited to each member's account. The shares shall be valued according to the fund assets valuation standards.

6. The winding up of a quantity account in which shares of a given issuer are deposited shall commence no later than 3 years of that day on which a share of that issuer's has been deposited for the first time in the account, and it shall be completed no later than 10 years of that day on which the first share transfer from the quantity account to the fund's assets has been made.

7. Where the Supervision Office should establish that the implementation of the agenda might proceed or has proceeded unlawfully or in a manner prejudicial to interests of employee fund members, the Supervision Office may suspend the implementation of the agenda and call upon the employee fund to remove the irregularities detected.

8. The transfer of public companies' shares deposited in quantity accounts to the employee fund's assets shall be effected to the exclusion of the regulated market as defined in the 21 August Public Trading in Securities Act [...]*. **Article** 38 clause 3 and clause 4 of the 30 August 1996 Act on Commercialisation and Privatisation of State Enterprises [...]* shall not apply to the said share transfer.

Article 103. 1. Where a member has requested the payment, settlement by credit transfer, or refund of the balance in his or her employee fund account, that member's quantity account shall be promptly wound up and such shares as have not been transferred to the fund's assets shall be returned to him or her, subject to clause 2.

2. Where the employee fund has made by-instalment payments in settlement of the member's account balance, the member's quantity account shall be wound up on that day on which the last instalment is paid and the shares deposited in the [quantity] account shall be turned over to the member.

3. Upon the death of a member being the owner of a quantity account, or upon dissolution, whether by divorce or annulment, of such member's marriage, the shares deposited in the member's quantity account shall be turned over to an appointed beneficiary. **Article** 130 and **Article** 133 shall apply respectively.

4. Clause 3 shall apply respectively where marital community property should discontinue during the life of the employee fund member's marriage or where statutory martial community property should be excluded or limited under a contract between the member and his or her spouse.

Article 104. Dividend on the shares deposited in the member's quantity account and that price for which the employee fund has sold for the member his or her new issue rights shall be paid into the member's accounting-units account.

Article 105. The Minister of Finance shall by Ordinance prescribe the detailed requirements and standards on the execution and settlement of those transactions whereby the employee fund sells for the fund member new issue rights carried by the member's shares deposited in the quantity account, and detailed requirements and procedures for the exercise of the said rights by the fund member personally.

Article 106. 1. Where the number of a given issuer's shares deposited in the employee fund's all quantity accounts should exceed 1 percent of that issuer's [issued] shares, rights in the said shares other than property rights shall be exercised by a representative of those fund members who hold the shares in their quantity accounts, hereinafter called "representative".

2. The representative shall be elected for a 3-year term, by secret ballot, by those fund members who hold the said issuer's shares in their quantity accounts.

3. The procedure for the election of the representative shall be laid down in rules adopted by the Supervisory Board of the employee society. The rules shall establish in particular whether the members elect the representative directly or by their chosen representatives, and it shall lay down the terms of recalling the representative before the end of his or her term of office. The rules shall not make the validity of the election contingent upon a certain turnout.

4. **Article** 45 clause 4 shall apply respectively.

CHAPTER 11
Disbursement of account balance

Article 107. 1. The fund member shall not be free to dispose of the balance in his or her account.

2. Clause 1 shall not apply to the fund member's testamentary disposition.

Article 108. The balance in the open fund member's account shall not be subject to execution.

Article 109. The balance in the employee fund member's account shall be subject to execution on the terms laid down in the Employee Pension Plans Act.

Article 110. The terms of acquisition by the open fund member of the right to withdraw the balance in his or her account and the terms of disbursement of the said balance shall be governed by separate provisions.

Article 111. The disbursement of the balance in the open fund account shall be effected by removal of the said balance to that pension insurance company indicated by the [account owner] fund member from which the member has taken out a for-life pension policy.

2. The Council of Ministers shall by Ordinance prescribe detailed requirements and procedures for the issuance by the open fund member of instructions concerning the removal of his or her account balance to a pension insurance company in connection with the taking out of a for-life pension policy, and for the removal of the balance to the pension insurance company.

Article 112. The manner of employing the balance in the open fund account of that member who has obtained a social security invalidity pension entitlement shall be governed by separate provisions.

Article 113. The terms of acquisition by the employee fund member of the right to have the balance in his or her account paid out, removed by credit transfer, or refunded shall be as laid down in the Employee Pension Plans Act.

Article 114. 1. The employee fund shall offer to its members the option of having the entirety of their account balances paid out in an one-off disbursement.

2. The account balances may likewise be paid out by instalments, on such terms and according to such procedures as may be set in the [employee] fund's Articles of Association.

3. The account balance shall be paid out, whether in the both or in one of the aforesaid forms, at the member's written request.

Article 115. The one-off disbursement shall be made no later than 3 months of that day on which the employee fund has received the member's payout notice.

Article 116. Where the account balance is paid out by instalments, the first instalment shall be due no later than 1 month of that day on which the employee fund has received the member's payout notice, save where the member has stipulated that the payment be made at some later date.

Article 117. Where the payment of the account balance is made by instalments, the member may at any time demand that the amount outstanding be paid in an one-off disbursement. That one-off disbursement shall be made pursuant to **Article** 115.

Article 118. Where the employee fund member has not given a payout notice to the fund before or on his or her seventieth birthday, the fund shall pay out the member's account balance in an one-off disbursement within 3 months of the member's seventieth birthday.

Article 119. Where the open fund member has joined another open fund, the hitherto fund shall make credit transfer to that fund which the member has joined, on the basis of the member's notification that he or she has entered into contract with the other fund. The open fund to which the credit transfer has been made shall not refuse to receive the same.

2. deleted

Article 120. The employee funds shall make credit transfers on the terms laid down in the Employee Pension Plans Act.

Article 121. No credit transfer shall be made from an open fund account into an employee fund account or from an employee fund account into an open fund account.

Article 122. 1. Credit transfers between open funds shall be executed on the last working day of February, May, August, and November.

2. An amount of the credit transfer shall be established on the fifth working day preceding the transfer.

Article 123.1. Credit transfers between open funds shall be settled by the National Securities Deposit Joint-Stock Company hereinafter called "National Deposit".

2. A universal society which manages an open fund which has made a transfer payment shall refund the Social Insurance Institute the costs of the activities performed in connection with a member's transfer to another open fund; it shall also refund the National Depositary the costs of activities performed in connection with accounting for transfer payments.

3. The Council of Ministers may determine by decree the maximum fee referred to in clause 2

Art. 123a. The Council of Ministers shall specify by decree the deadline and procedure for making transfer payments in the circumstances referred to in Art. 70, clause 2, and Art. 119, and in the provisions of Chapters 12 and 13. In particular, the decree should specify the principles for the co-operation of the National Depositary with the Social Insurance Institute and the co-operation of open pension funds with the Social Insurance Institute in accounting for transfer payments, and the manner of applying interest on funds kept in an account, transferred by open funds as part of accounting for that payment

Article 124. The detailed procedures for the settlement of credit transfers between open funds shall be determined by the National Deposit in Rules which shall be approved by the Supervision Office. The by-laws shall also specify the amount of fees payable to the National Depositary by open funds in connection with accounting for transfer payments

Article 125. The [execution of] a credit transfer shall not exclude the liability of the society being the agency of the transferor fund to the former fund member or to that other person for credit to whom the transfer has been made.

CHAPTER 12
Distribution of account balance following divorce or annulment of marriage

Article 126. Where the marriage of the open fund member has been dissolved by divorce or annulment [and where] the member's account balance has been awarded to the member's former spouse under the community property settlement, the said account balance shall be remitted by credit transfer to the former spouse's open fund account.

Article 127. The open fund shall make the credit transfer within the period of time referred to in Art. 122, after presenting the fund with evidence that the member's account balance has been awarded to the former spouse.

Article 128. 1. The fund shall immediately confirm in writing the membership conditions applicable to the eligible spouse. As of the opening of the account the beneficiary former spouse shall acquire membership in the fund. **Article** 81 clause 1 shall not apply.

2. In the circumstances referred to in clause 1 the open fund shall call upon the beneficiary former spouse to discharge forthwith the duty referred to in **Article** 82 clause 1.

Article 129. Articles 126-128 shall apply respectively where community property should cease during the life of the open fund member's marriage, or where statutory community property should be excluded or limited under a contract between the fund member and his or her spouse.

Article 130. 1. In the event of dissolution, whether by divorce or by annulment, of the marriage of the employee fund member, the member's account balance falling under community property shall be paid out directly to the member's former spouse within 3 months of that day on which evidence that the account balance has been awarded to the member's former spouse has been submitted to the fund.

2. Clause 1 shall apply respectively where community property should cease during the life of the employee fund member's marriage, or where statutory community property should be excluded or limited under a contract between the employee fund member and his or her spouse.

CHAPTER 13
Distribution of account balance on death of pension fund member

Article 131. 1. Where the member of the open fund had at the time of his or her death a living spouse the fund shall by credit transfer remit one-half of the balance in the deceased's account to his or her spouse's account with an open fund, insofar as the said account balance was subject to community property.

2. The credit transfer shall be effected within the period of time referred to in Art. 122, after the widowed spouse has presented to the fund: duplicates of the death certificate and the marriage certificate; and a written statement declaring whether or not the decedent's circumstances had changed, relative to those described in the statement referred to in **Article** 83 clause 1 or in the notification referred to in **Article** 83 clause 2, by the time of his or her death; and -- where the circumstances had changed -- a proof of the changes.

3. Where the decedent's spouse has no account with an open fund, **Article** 128 shall apply respectively.

4. If the deceased failed to meet the requirement specified in Art. 83, clause 1, sentence two or in clause 2, his/her spouse should confirm in writing that the property relations between the spouses, determined in accordance with Art. 83, clause 3, did not change up to the death of the fund member; if those relations did change, the spouse in question should produce relevant evidence of those changes.

5. The open fund shall not be liable for any of the consequences of failing to meet or mal-performing the requirement referred to in clause 2 or 3.

Article 132. 1. That proportion of the balance in the deceased open fund member's account which has not been dispensed pursuant to **Article** 131 shall be remitted to those whom the decedent had named pursuant to **Article** 82 clause 1 and, and if there are no such individuals or none have been nominated, in equal parts to the decedent's nearest relations. The nearest relations shall be understood to include: spouse, children, parents and grandchildren of the decedent.

2. The decedent's spouse and children shall be primary beneficiaries of that proportion of the decedent's account balance which descends to his or her nearest relations and the parents and grandchildren shall be secondary beneficiaries .

3. The open fund shall disburse that proportion of the account balance which descends to the beneficiary named by the decedent or to the decedent's nearest relative within 3 months of the date of service upon the fund of an official document wherein the beneficiary is identified, provided that the share due to the decedent's spouse may be remitted, at the spouse's request, to his or her open fund account -- in which case **Article** 128 shall apply respectively to the disbursement by credit transfer of the share descending to the deceased member's spouse.

4. The disbursement made directly to a beneficiary named by the decedent or to the decedent' nearest relative shall be made either as a one-off payment or by instalments which shall be spread over no more than 2 years, according to the beneficiary's written instruction.

5. The terms of by-instalment disbursement shall be laid down in the open fund's Articles of Association.

Article 133. 1. In the event of the employee fund member's death the balance in the deceased member's account shall be paid out to that person whom the decedent named as the beneficiary after his or her death. Where the decedent made no testamentary disposition, the account balance shall be included in his or her estate.

2. The account balance referred to in clause 1 shall be paid out directly to the beneficiaries, within 1 month of that date on which the fund has been furnished with proof that the account balance descends to those beneficiaries.

CHAPTER 14
Pension fund: Financing of operations

Article 134. 1. The open fund shall not administer charges otherwise than:

1) by deducting a certain amount, given in percent, from contributions paid in -- provided that the said deduction shall be made before the contributions have been converted into accounting units,

2) by way of deducting, when making a transfer payment, a specific amount from the funds in a fund member's account, on condition that such a deduction can only be made if less than 24 months have passed between the date of entering the first contribution into a fund member's account with that fund and the date of a transfer payment to another open fund.

3) by way of deducting, when making a transfer payment, an amount equivalent to 4% of the lowest salary determined by the minister for labour issues, on the basis of Art. 77^4 of the Labour Code, irrespective of the amount referred to in clause 2.

2. The fund shall forthwith remit to the general society sums equivalent to the charges referred to in clause 1.

Article 135.1. The open fund shall apply the same method of assessing and administering the charges referred to in clause **Article** 134 clause 1 in respect of all members, provided that the charges referred to in **Article** 134 clause 1 item 1 may be reduced in respect of members with such long membership records
as may be determined in the fund's Articles of Association but the charges shall not be varied in respect of members having equal records of membership.

2. The following shall also be taken into consideration when determining the duration of membership in a given open fund:

1) the duration of membership in an open fund of a different type, referred to in Art. 229, clause 2, managed by the same universal society,

2) the duration of membership in another open fund if it was liquidated by having its assets transferred to that fund.

3. Membership, in consideration of clause 2, shall start on the date of payment of the first contribution to an open fund. For the purposes referred to in clause 1, it shall cover uninterrupted membership in a given open fund, exclusive of periods of over 12 consecutive months during which no contributions were paid.

Article 136. 1. Such costs arising from the execution of fund assets purchase or sale transactions as represent an equivalent of charges paid to those third persons whose services of intermediary the fund must use pursuant to separate provisions, and such costs involved in the custody of the said assets as represent the depositary's fee, shall be covered by the fund directly from the fund's assets.

2. The fund may likewise cover directly from its assets costs of management of the fund by the society, in such amount as may be set in the Articles of Association provided that the said amount shall not exceed in a single month 0.05 percent of the value of the net assets so managed. The said amount shall be established separately for each fund net asset valuation day and it shall be paid on the last working day of each month.

3. The value of the investment instruments referred to in **Article** 141 clause 1 item 8 and of the units [and shares] of foreign-domiciled mutual investment institutions referred to in **Article** 143 clause 1 shall not be taken into account for purposes of assessing the value of the fund's managed net assets referred to in clause 2.

Article 137. 1. Those operating costs of the fund which are not covered directly from the fund assets shall be covered by the society.

2. The employers being shareholders of the employee society shall cover the society's operating costs on such terms as may be laid down in the society's Articles of Association.

Article 138. The Council of Ministers shall by Ordinance establish the charge assessment rules and maximum amounts of the charges referred to in **Article** 134 clause 1 item 2.

CHAPTER 15
Pension fund: Investment

Article 139. When investing its assets the fund shall proceed according to the provisions of this Act, seeking to maximise the security and profit efficiency of investment.

Article 140. The shares held on deposit in the quantity accounts and the balance in the separate money account referred to in **Article** 100 clause 4 shall not be taken into account for purposes of establishing those proportions of the employee fund assets which may be invested in certain categories of instrument.

Article 141. Subject to **Article** 146, the fund assets shall not be invested in any category of instruments other than:

1) bonds, bills and other securities issued by the Treasury or the National Bank of Poland, likewise in loans and credits made to the aforesaid subjects,

2) those bonds and other debt instruments representing the issuer's pecuniary obligation which are guaranteed or backed by the Treasury or the National Bank of Poland, likewise in deposits, credits and loans guaranteed or backed by the aforesaid subjects,

3) bank deposits and bank securities,
4) shares of companies listed with a stock exchange,

5) shares of companies quoted on a regulated over-the-counter market or of those companies which, while not listed with a stock exchange or quoted on a regulated over-the-counter market, have been admitted for public trading,

6) National Investment Fund shares,

7) investment certificates of closed-end investment funds or hybrid investment funds,

8) units sold by open-end investment funds or specialist open-end investment funds,

9) those bonds and other debt instruments issued by local government entities, their associations and the capital city of Warsaw admitted for public trading,

10) those bonds and other debt instruments issued by local government entities, their associations and the capital city of Warsaw admitted for public trading,

11) those fully secured bonds of issuers other than local government entities, their associations and the capital city of Warsaw admitted for public trading,

12) those fully secured bonds of issuers other than local government entities, their associations and the capital city of Warsaw not admitted for public trading,

13) bonds and other debt securities issued by listed companies, other than the securities referred to in items 11 and 12,

14) such other instruments as the Council of Ministers may by Ordinance identify, provided that investment in derivative rights as defined in the Public Trading in Securities Act shall be made solely with the object of limiting the exchange rate risk involved in the instruments referred to in **Article** 143.

2. Subject to the limitations laid down in **Article** 142, the funds may invest their assets in units of open-end investment funds or specialist open-end funds providing that those investment funds' investment policies, conducted pursuant to their Articles of Association and published from time to time pursuant to separate provisions, admit investing in no other categories of instrument than those referred to in clause 1 and in **Article** 143.

3. Throughout this Act any reference to open-end investment funds, investment funds societies managing the said funds, and units sold by the said funds, shall be understood to include, respectively, the trust funds and trust funds societies referred to in the 22 March 1991 Public Trading in Securities and Trust Funds Act [...]* and units sold by the said funds.

Article 142. 1. Investment in the categories of instrument referred to in **Article** 141 clause 1 items 1-9 and item 11 shall account cumulatively for no less than 95 percent of the pension fund's assets.

2. Investment in the categories of instrument referred to in **Article** 141 clause 1 items 2-13 shall be subject to the following limitations:

1) with regard to the instruments referred to in **Article** 141 clause 1 item 2, no more than 10 percent of the fund's assets shall be invested in a single kind of securities,

2) with regard to the instruments referred to in **Article** 141 clause 1 item 3, no more than 5 percent of the fund's assets shall be deposited with a single bank or with two or more affiliated banks, providing that with regard to a single bank or a group of affiliate banks selected at random the abovestated limit may stand at 7.5 percent,

3) with regard to the instruments referred to in **Article** 141 clause 1 item 7, no more than 2 percent of the fund's assets shall be invested in investment certificates of a single closed-end investment fund or a single hybrid investment fund,

4) with regard to the instruments referred to in **Article** 141 clause 1 item 8, no more than 5 percent of the fund's assets shall be invested in units sold by a single open-end investment fund or a single specialist open-end investment fund provided that the fund's total investment in all open-end investment funds and specialist open-end investment funds managed by a single investment funds society shall not exceed 15 percent of the fund's assets,

5) the total value of the fund's investment in all securities of a single issuer or of two or more affiliated issuers shall not exceed 5 percent of the fund's assets.

3. The limitations under clause 2 item 4 shall not apply to the employee fund.

4. The limitations under clause 2 item 5 shall not apply where the fund is bound to accept payments made in the form defined in **Article** 97 clause 1. **Article** 149 clause 2 and clause 3 shall apply respectively.

5. The Council of Ministers shall by Ordinance determine such maximum proportion of the open fund's assets as may be invested in each of the categories of instrument referred to in **Article** 141.

6. The Council of Ministers may by Ordinance determine such maximum proportion of the employee fund's assets as may be invested in each of the categories of instrument referred to in **Article** 141.

Article 143. 1. The fund may, under a general permit issued by the Minister of Finance by Order and on terms laid down therein, invest its assets outside the territory of the Republic of Poland in securities of companies listed with major stock exchanges of O.E.C.D. countries or of such non-O.E.C.D. countries as may be named in the permit, and in treasury bonds and bills issued by the governments or central banks of the said countries, and in units or shares of those mutual investment institutions domiciled in the said countries which offer their units or shares to the general public and redeem the same at the investor's request.

2. **Article** 142 shall apply respectively to the instruments referred to in clause 1.

Article 144. The open fund shall not invest its assets in:

1) shares or other securities of that general society being its manager,

2) shares or other securities of a shareholder of the general society being its manager,

3) shares or other securities of an affiliate of the issuers referred to in clause 1 and clause 2.

Article 145. The employee fund shall not invest its assets in securities of that employee society which is its manager.

Article 146. 1. The employee fund shall invest no more than 5 percent of its assets, cumulatively, in [a portfolio of] shares or other securities, unless those securities are admitted to public trading, of shareholders of the employee society being its manager and of those shareholders' affiliates.

2. Where the portfolio referred to in clause 1 covers both securities admitted for public trading and those not admitted for public trading, in the event that the securities admitted for public trading account for no less than 7.5 percent, by value, of the fund's assets the limit under clause 1 shall stand at 12.5 percent, by value, of the fund's assets.

Article 147. Where the fund's Articles of Association so permit, the employee fund may invest its assets in securities of shareholders of the fund's manager employee society or in securities of affiliates of those shareholders.

Article 147. The employee fund's Articles of Association shall determine whether or not the fund may invest its assets outside the territory of the Republic of Poland and it shall specify those securities, treasury papers, and units or shares of mutual investment institutions in which the fund may so invest.

Article 148. Any and all investment by the employee fund in units of open-end investment funds or specialist open-end investment funds shall be subject to the following limitations:

1) an investment funds society being the manager of that open-end investment fund or specialist open-end investment fund in units of which the employee fund has invested shall hold no more than 5 percent shares of any of the shareholders of the employee fund's manager employee society and no more than 10 percent of the total number of [issued] shares of all the shareholders of the said employee society,

2) the open-end investment fund or specialist open-end investment fund shall have on its portfolio no more than 5 percent shares of any of the shareholders of the employee society,

3) no member of the employee society's Management Board or Supervisory Board shall sit in the Management Board or Supervisory Board of that investment funds society which is the manager of the open-end investment fund or specialist open-end investment fund.

Article 149. 1. Where the fund has unintentionally infringed any provision of this Chapter, whether as a result of changes in those market prices which constitute the basis for the valuation of the fund's assets and liabilities, or as a result of exchange rate changes, or changes in organisational or cross-ownership relationships of the issuers of financial instruments in which the fund has invested, or following other developments beyond the fund's direct control, the fund shall forthwith take appropriate steps towards adjusting its investment portfolio to the requirements of this Act.

2. The fund shall adjust its investment portfolio to the requirements of this Act within no more than 6 months of that day on which an unlawful situation has developed, or of that day on which a valuation of the fund's assets has

4. Where as a result of the implementation of the agenda referred to in **Article** 102 the fund should contravene -- with the object of protecting the employee fund members' interests -- the provisions of **Article** 146, the fund shall adjust its portfolio to the requirements laid down in **Article** 146 no later than within 1 month of that day on which such unlawful situation has developed or has been revealed, pursuant to clause 2, provided that the Supervision Office may at the fund's request grant an extension of the said time limit up to 6 months whereupon clause 3 shall apply respectively.

Article 150. The fund shall not:

1) sell its assets to:

a) its manager society,

b) members of the [manager] society's Management Board or Supervisory Board,

c) employees of the [manager] society,

d) the spouses of the persons referred to in items b)-c) or those related with the said persons by consanguinity or affinity within the second degree,

e) shareholders of the [manager] society,

f) affiliates of the [manager] society,

g) affiliates of shareholders of the [manager] society,

h) the depositary having the custody of the fund's assets,

2) divert its assets to purchasing from any of the entities referred to in item 1 any of their assets,

3) make loans and credits and stand surety, subject to **Article** 141 clause 1, **Article** 143 clause 1 and **Article** 151.

Article 151. 1. The fund may employ its assets by making money loans to the entities referred to in **Article** 141 clause 1 item 4 and item 5. The said loans shall be equal [in status] to investment in aforementioned borrower's shares.

2. The fund may make loans of securities admitted for public trading, on such terms and subject to such requirements as the Council of Ministers shall by Ordinance determine.

Article 152. 1. The employee fund may delegate the management of the fund's assets, to the extent and on the terms laid down in the provisions on public trading in securities, to that entity which is authorised under the aforesaid provisions to render the services of portfolio manager and holds a permit to pursue the said business issued by the Securities and Exchange Commission.

2. The portfolio manager referred to in clause 1 shall be appointed by the employee fund under a resolution adopted by the Supervisory Board and it shall manage the entirety or a part of the employee fund's assets under an appropriate contract made with the fund and in accordance with the fund's investment standards laid down in the fund's Articles of Association.

3. In the circumstances referred to in clause 1 the employee fund's Articles of Association shall specify those terms on which the fund may delegate the management of the entirety or a part of its assets, or it shall vest in the employee society the authority to establish the said terms by the instrument of Supervisory Board resolution.

Article 153. With regard to the fund's foreign investment activity, the fund may entrust the management of its assets, to the extent determined in **Article** 143, to those entities domiciled in the countries referred to in therein which under laws and regulations in effect in the said countries may legitimately render the services of portfolio manager.

Article 154. 1. The loans and credits contracted by the fund shall not at any time exceed 2.5 percent, by value, of the fund's assets.

2. The employee fund shall not contract a loan or credit otherwise than on the authority of a decision issued by the employee society by the instrument of Supervisory Board resolution.

Article 155. The Council of Ministers may by Ordinance put additional constraints on investment by the funds, where [such additional constraints] are imposed with the object of protecting interests of the fund members.

Article 156. Failing the compliance by the fund with the investment standards and requirements laid down in this Act, or the discharge by the fund of the obligations under **Article** 149 clause 1, clause 2, and clause 3, the Supervision Office may impose on the society a fine of up to 500,000 zloty.

CHAPTER 16
Depositary

Article 157. The fund shall choose a depositary to have the custody of the fund's assets under a contract.

Article 158. 1. Eligible to be the depositary shall be that bank which:

1) is a domestic bank in the meaning given to that term in the Banking Law Act,

2) has own funds of no less than a zloty equivalent of ECU100,000,000 where the [contract is] for the custody of the open fund's assets, or of ECU30,000,000 where [the contract is] for the custody of the employee fund's assets,

3) owns no shares of the manager society of that fund the assets of which it keeps, nor shares of an affiliate of the said society, nor has any capital affiliation with the aforesaid entities,

4) is not a lender or creditor of that fund the assets of which it keeps, or of the fund's manager society -- save where the amount of a loan or credit [made to the fund or the fund's manager society] is no higher than 1 percent of the fund's assets, and

5) does not employ and does not have on any of its governing bodies persons who:

a) sit on the Management Board or Supervisory Board or are employees of the manager society of that fund the assets of which it keeps,

b) sit on the Management Board or Supervisory Board or are employees of an affiliate of the society referred to in item a).

2. The Supervision Office may be the depositary inasmuch as it satisfies the requirements laid down in clause 1 items 3-5.

Article 159. The duties of the depositary with regard to the custody of the fund's assets shall cover:

1) the keeping of a register of the fund's assets as entered in appropriate accounts and as kept by the depositary and by others authorised, whether under separate regulations or under contracts executed with the sanction of the depositary, to hold the same

2) ensuring that the fund's net asset value is established in a manner rendering the fund capable of discharging the duties referred to in Chapter 17,

3) ensuring that the contracts concerning the acquisition and disposal of fund assets are legitimate and according to the fund's Articles of Association,

4) carrying out instructions given by the fund, unless those be unlawful or contrary to the fund's Articles of Association, or unless, in the depositary's opinion, they put at risk the security of the fund assets,

5) ensuring that the fund's assets are invested lawfully and in accordance with the fund's Articles of Association,

6) ensuring that contracts concerning the fund's assets and contracts with the fund members are settled in a timely manner,

7) carrying out the liquidator's instructions pertaining to the liquidation of the fund,

8) discharging other duties provided in this Act.

2. The depositary may, at the fund's request, enter into the contracts referred to in clause 1 item 1 with banks or financial institutions domiciled outside the territory of the Republic of Poland, provided that those banks or financial institutions have own capitals of no less than ECU200,000,000.

3. The depositary shall, acting for the fund members, bring action against the society to seek redress for a loss suffered through non-performance or negligent performance by the society of its duties as the manager and representative of the fund.

4. The depositary shall ensure that the fund discharges the duties referred to in clause 1 items 2-3 and 5-6 lawfully and in accordance with the fund's Articles of Association and to this end the depositary shall, as a minimum, exercise day-to-day supervision of the fund's practical and legal transactions and shall cause these to be according to the law and the fund's Articles of Association.

Article 160. 1. An agreement with a depositary relating to storage of a fund's assets should specify the depositary and the fund's duties, the manner of their performance, the depositary's remuneration, the manner of calculating costs and collecting fees payable by the fund, as well as specify the individuals appointed by the depositary to carry out the agreement. The agreement may also specify the depositary's remuneration for acting as the fund's representative, in accordance with Art. 64, clause 1, or the employee fund's liquidator. The agreement must not limit the depositary's statutory responsibilities.

2. The depositary shall be liable for any and all losses due to non-performance or negligent performance of the statutory duties of the depositary.

3. The liability referred to in clause 2 shall not be excluded or limited either under the contract for the custody of the fund assets or on the grounds of delegation by the depositary of the custody of a part or the entirety of the fund assets to another.

4. The fund or the depositary may terminate the contract for the custody of the fund assets subject to a notice which shall be given at least 6 months in advance. The party giving the notice shall forthwith advise the Supervision Office to that effect.

Article 161. 1. Where the depositary should fail to discharge the duties set forth in the contract for the custody of the fund assets or perform the said duties negligently:

1) the fund shall give a notice of termination of the contract and advise the Supervision Office forthwith to that effect,

2) the Supervision Office may instruct the fund to replace the depositary with another.

2. The Supervision Office may likewise instruct the fund to replace the depositary with another where the depositary's financial standing has deteriorated such extent as may put at risk the security of the assets in the depositary's custody.

3. The National Bank of Poland shall forthwith advise the Supervision Office of any substantial downturn in the financial standing of any bank being the depositary referred to in clause 2.

4. The Securities and Exchange Commission shall forthwith advise the Supervision Office of any substantial downturn in the financial standing of the National Deposit in the circumstances referred to in clause 2.

5. In the circumstances referred to in clause 1 and clause 2 the contract may be terminated subject to a shorter notice period than that referred to in **Article** 160 clause 4.

Article 162. 1. Where the depositary should be proclaimed bankrupt, or where liquidation proceedings should be instituted in respect of the depositary, or where the Supervision Office should establish that the depositary is guilty of such breach of the contract as puts at risk the security of the fund's assets or interests of the fund members, the fund shall promptly replace the depositary with another. The first sentence of **Article** 160 clause 4 shall not apply.

2. Clause 1 shall apply respectively where the depositary should no longer satisfy any of the criteria under **Article** 158. The depositary shall forthwith advise the fund and the Supervision Office that it no longer satisfies the said criteria.

Article 163. 1. Whenever the depositary is replaced with another, the replacement shall be effected in a manner ensuring uninterrupted discharge of the duties pertaining to the custody of the fund's assets.

2. On termination of the hitherto depositary's contract the hitherto depositary shall transfer the fund's assets held and all documents relating to the discharge of the duties referred to in clause 1 to that depositary with has succeeded it under a contract made with the fund. [The said transfer shall be made] within such time as the parties may agree upon, but without an unreasonable delay.

Article 164. The depositary shall advise the Supervision Office forthwith of any such act or negligence by the fund which in the depositary's opinion contravenes the law or the fund's Articles of Association, or through which the fund members' interests are not duly taken care of.

2. On becoming satisfied that the fund has established its net asset value, accounting unit value, and rate of return figures as referred to in **Article** 166, 169 and 170 incorrectly or by irregular methods, the depositary shall forthwith advise the Supervision Office of the said errors and irregular practices.

Article 165. Those assets of the fund which are deposited pursuant to this Chapter shall be exempt from execution against the depositary or against the entities referred to in **Article** 159 clause 1 item 1, nor shall they be included in the bankrupt estate of the depositary or of the abovestated entities, or involved in a proceeding instituted with a view to making an arrangement with creditors.

CHAPTER 17
Valuating pension funds' assets and rates of return

Article 166. The fund shall establish its net asset value on each valuation day referred to in **Article** 168, at the said day's figures, and the fund shall advise [the net asset value figure so established] to the Supervision Office.

Article 167. The valuation of the fund's net assets shall constitute the basis on which the value of the accounting unit shall be established pursuant to Chapter 9.

Article 168. 1. The open fund's valuation day shall be any working day other than a Saturday and the employee fund's valuation day shall be the last working day of each month.

2. The Articles of Association of the employee fund may additionally designate other valuation days.

Article 169. The fund shall establish the value of its accounting unit on each valuation day, at that day's figures, and it shall notify [the value of the accounting unit so established] to the Supervision Office and, where the fund is the employee fund, to one of those news agencies which the Supervision Office has designated.

Article 170. That open fund which has taken in contributions for no less than 24 months shall at the end of the last month of each quarter establish its rate of return for the past 24 months. The rate of return shall be notified to the Supervision Office and to one of those news agencies which the Supervision Office has designated.

Article 171. The fund shall notify to the depositary the figures and ratios referred to in **Article** 166, **Article** 169 and **Article** 170 promptly on establishing the said figures and ratios.

Article 172. The rate of return shall be understood as a quotient, given in percent, of the difference between the value of the accounting unit on the last working day of the last month of a given quarter and the value of the accounting unit as established on that last working day of a month which occurred 24 months earlier, and the said value of the accounting unit on the last working day of the month which occurred 24 months earlier.

Article 173. 1. The 24-month weighted average rate of return of all open funds shall be understood as the sum total of products established for each of the open funds referred to in **Article** 170 by multiplying the fund's rate of return by its average market share index. The average market share index of a given open fund shall be understood as an arithmetic average of that fund's market share index on that last working day of a month which immediately precedes a given 24-month period and its market share index on the last working day of that month which ends the said

24-month period. The open fund's market share index, as established for a given day, shall be understood as a quotient of the fund's net asset value and the net asset value of all the open funds referred to in **Article** 170, established at the index computation day figures.

2. The Chairman of the Supervision Office shall from time to time publish the weighted average rate of return of all the open funds.

Article 174. The Council of Ministers shall by Ordinance prescribe:

1) the detailed standards on establishing the rate of return and the weighted average rate of return of all the open funds, including the procedure for the rounding up of results

2) the manner in which the open fund shall notify its rate of return figure to the Supervision Office and the time limit for giving the said notification, and the manner of and time limit for the release by the open fund of its rate of return figure to the news agency,

3) the manner in which the Chairman of the Supervision Office shall publish the weighted average rate of return figure of all the open funds, as referred to in **Article** 173 clause 1,

4) the manner in which the fund shall notify to the Supervision Office its net asset value and accounting unit value figures and the time limit for giving the said notification.

CHAPTER 18
Deficit

Article 175. 1. The open fund shall be understood to be in deficit where its rate of return for the 24-month period referred to in **Article** 170 has fallen below a mandatory minimum rate of return.

2. The mandatory minimum rate of return shall be understood as a rate of return lower by 50 percent than the weighted average rate of all the open funds established for a given period, or a rate of return 4 percent points lower than the aforesaid average, whichever is lower.

3. The deficit amount shall be established by multiplying the number of the open fund's accounting units existing on the last working day of the 24-month period by the difference between such accounting unit value figure as would ensure the minimum rate of return and the real accounting unit value figure as established on the last working day of the 24-month period.

Article 176. 1. The open fund being in deficit shall, within 3 days of that day on which the Chairman of the Supervision Office has published the weighted average rate of return for all the open funds, divert the entire balance of the reserve account referred to in **Article** 181 clause 1 to offsetting the deficit.

2. Where the balance in the reserve account is not sufficient for offsetting the deficit, the general society shall cover the deficit from its own resources within 14 days of that day on which the Chairman of the Supervision Office has published the weighted average rate of return for all the open funds.

Article. 177.1. A deficit which has not been covered by a universal society's own funds, in accordance with Art. 176, clause 2, shall be covered by the Guarantee Fund resources within 21 days of the date on which the Chairman of the Supervision Office made a public announcement about the average weighted rate of return of all the open funds.

2. As a result of covering the deficit, the Guarantee Fund shall be entitled to a refund – from the universal society or its estate in bankruptcy – of the Guarantee Fund resources which were used to cover the deficit.

Article 178.1. If a universal society is not able to cover the deficit in the manner specified in Art. 176, clause 2, its Board of Directors shall be obliged to notify the Supervision Office immediately, which shall file a bill in bankruptcy in respect of that society to the relevant court.

2. If the bankruptcy of the society is declared, its estate in bankruptcy may only be used to satisfy the claims of the Guarantee Fund, referred to in Art. 177, clause 2, after the society's liabilities to other creditors have been settled in the order specified in Art. 204, § 1, items 1-2, of the Decree of the President of the Republic of Poland of 24 October 1934, the Bankruptcy Law (*Journal of Law* of 1991, No. 118, item 512, of 1994, No. 1, item 1, of 1995, No. 85, item

426, of 1996, No. 6, item 43, No. 43, item 189, No. 106, item 496 and No. 149, item 703, of 1997, No. 28, item 153, No. 54, item 349, No. 117, item 751, No. 121, item 770 and No. 140, item 940, and of 1998, No. 117, item 756), but before settling the liabilities referred to in Art. 204, § items 2a-9, of that Decree.

Article 179. 1. Where the deficit has occurred due to the depositary having lost tangible assets of the fund, the depositary shall make good the deficit before the reserve account balance, or the general society's own resources, or the Guarantee Fund's resources have been employed to that end.

2. The depositary shall make good the deficit within 14 days of that date on which the deficit has been detected, whether the loss of the fund's assets has occurred through the depositary's fault or otherwise.

3. Where the Guarantee Fund has covered the deficit, this shall give rise to the Guarantee Fund's claim against the depositary or the depositary's bankrupt estate for the refund of the Guarantee Fund's money thus expended.

Article 180. The Treasury shall cover, as a guarantor, that deficit which is incapable of being covered from the Guarantee Fund's resources, on terms and according to procedures laid down in separate provisions.

Article 181. 1. The open fund shall set up a reserve account which the general society shall supply with its own resources.

2. The balance in the reserve account shall be part of the fund's assets.

3. The Supervision Office may impose a fine of up to 500,000 zloty on that society which fails to supply the reserve account pursuant to clause 1.

Article 182. The balance in the reserve account shall be exempt from execution against the general society.

Article 183. The Council of Ministers shall by Ordinance prescribe:

1) the detailed standards governing the offsetting of deficit in the circumstances referred to in Articles 176-179,

2) such proportion of the open fund's net assets as must be kept in the reserve account, providing that the said proportion shall be no lower than 1 percent and no higher than 3 percent of the fund's remaining assets and providing that the said proportion may be established taking into account the share of a given fund's net assets in the sum total of net assets of all the open funds,

3) the manner in which the general society shall establish the level of its reserve account provisions,

4) the manner in which the general society shall withdraw surplus money from the reserve account.

CHAPTER 19
Guarantee Fund

Article 184. The Guarantee Fund is hereby created, the National Deposit being its administrator.

Article 185. 1. The Guarantee Fund shall have the following revenues: contributions made by the general societies from their own resources; and such incomes as the Guarantee Fund may earn by investing its resources. The Guarantee Fund resources shall be exempt from execution from the property of the general society.

2. A general society's contributions to the Guarantee Fund shall represent a certain proportion, given as a percentage share which shall be identical for all open funds, of the net asset value of the fund managed by that society.

3. The Council of Ministers shall by Ordinance establish the contribution rate and terms of making contributions to the Guarantee Fund, providing that the total value of the Guarantee Fund's resources shall be no higher than 0.1 percent of the cumulative net asset value of all the open funds unless the Guarantee Fund's liabilities to open pension funds exceeds that amount.

Article 186. 1. The manner and procedure for contributing to the Guarantee Fund and the manner and procedure governing the Guarantee Fund's performance, including those standards the Guarantee Fund shall follow when

investing its resources, shall be laid down by the National Deposit in Rules which shall be subject to approval by the Supervision Office.

2. The Rules shall likewise prescribe the requirements and standards on the management of the Guarantee Fund's resources, the fees paid to the National Depositary for managing the Fund and the procedure for paying them, the detailed terms and procedures for disbursing the said resources and returning the same to general societies, and the manner of making settlements with those general societies which have ceased to contribute to the Guarantee Fund following the winding up of their business as defined in this Act.

3. The Rules may include such other provisions as are expedient for ensuring suitable performance by the Guarantee Fund.

Article 187. The Guarantee Fund resources shall be used for making disbursements to open funds in deficit -- insofar as the balance in the [fund's] reserve account and the general society's own means are insufficient for offsetting the deficit; and for covering the losses referred to in **Article** 48 clause 1 -- insofar as the general society is not liable for the losses, or the losses are incapable of being made good from the [general society's] bankrupt estate.

Article 188. For purposes of the corporate tax provisions, such money as the general society receives in refund of Guarantee Fund contributions shall be a revenue of the general society.

CHAPTER 20.
Reporting duties of pension funds

Article 189. The open fund shall at least once a year publish its offering circular in that national daily paper which is designated in its Articles of Association.

2. The offering circular of the open fund shall contain: the fund's Articles of Association, information on the fund's investment performance, and the fund's approved annual report.

Article 190. 1. The open fund shall make its offering circular available to any person who has applied for membership in the fund. The offering circular shall be made available [to the applicant] before the applicant and the fund have entered into a contract.

2. The open fund shall likewise make available its offering circular, together with the latest semi-annual financial statements, whenever a fund member should so stipulate.

3. The offering circular, the semi-annual financial statements and the annual report shall be submitted to the Supervision Office promptly on being prepared and the annual report shall be additionally so submitted upon being approved by the general society under a General Meeting resolution.

Article 191. The fund shall serve upon each member, at regular intervals of no more than 12 months, a written report on: the balance in the member's account; dates of receipt, within the reporting period, of member contributions and credit transfers; conversion of the said contributions and credit transfers into accounting units; and the fund's investment performance figures.

Article 192. The fund shall, when so instructed by a member, supply the member with a written report on the money value of the balance in the member's account.

Article 193. 1. The fund shall make available information concerning the structure of the fund's assets, subject to clauses 2-4.

2. The open fund shall at monthly intervals make available information on the respective percentage shares of separate categories of instrument referred to in Chapter 15 in the fund's assets, at a given month's last valuation day figures.

3. The open fund shall at 6-month intervals make available a report on the respective values of separate instruments on the fund's portfolio and on those instruments' respective percentage shares in the fund's assets, with the issuer of each instrument named. The above 6-month data shall be at the figures established on the last valuation day in the month ending a given 6-month period, provided that the 6-month data shall be prepared only for those instruments which account for 1 percent or more, by value, of the fund's assets.

4. The open fund and the employee fund shall make available a comprehensive review of the structure of the its assets, inclusive of instruments accounting for less than 1 percent, by value, of the fund's assets, at the end of each 1-year period.

Article 194. The open fund shall forthwith deliver the information referred to in **Article** 193 clauses 2-4 to the Supervision Office and to one of those news agencies which the Supervision Office has designated and the open fund shall additionally publish the information referred to in **Article** 193 clause 3 and clause 4 in a national daily paper.

2. The employee fund shall forthwith deliver the information referred to in **Article** 193 clause 4 to the Supervision Office and to the shareholders of its manager employee society.

Article 195. The society and the fund shall furnish the Supervision Office with periodical reports and day-to-day information on their performances and financial standing.

Article 196. The Council of Ministers shall by Ordinance prescribe:

1) the detailed requirements and standards on the offering circular and such information as must at all times be given in the report referred to in **Article** 191 and **Article** 192,

2) the manner in which the fund shall make available the offering circular and the information referred to in Articles 191-193, and time limits for making the said materials available,

3) the scope of the [periodical] and day-to-day reporting by the society and the fund to the Supervision Office and time limits for the delivery of the said reports.

Article 197. 1. Such information concerning the open fund, including advertising material, as the general society may publish <u>or at the request of the universal society, as well as on behalf of the universal society or an open pension fund</u>, and such information concerning the employee fund as the employee society may make available shall reliably present the fund's financial standing and the risks involved in membership in the fund.

2. Where the Supervision Office should establish that the published materials or information referred to in clause 1 are misleading or open to misconstruction, the Supervision Office may forbid the same to be published or made available and order that appropriate corrections be published or made available by an appointed date.

3. Failing the compliance with the ban or order [referred to in clause 2] the Supervision Office shall impose upon the society a fine of up to 500,000 zloty and the Supervision Office shall have suitable corrections published or made available for cost to the society.

Article 198. Failing the discharge by the society or the depositary of their reporting duties, as laid down in this Act, towards the Supervision Office or the fund members, the Supervision Office may impose [on the society or the depositary] a fine of up to 500,000 zloty.

CHAPTER 21
Supervision of pension funds

Article 199. 1. The Office for Pension Funds Supervision is hereby created as a central administrative agency of the government.

2. The Supervision Office shall be subject to supervision by the Chairman of the Council of Ministers.

Article 200. 1. The Supervision Office shall be responsible for protecting the interests of members of the funds and members of the employee pension plans.

2. In discharge of the responsibility referred to in clause 1 the Supervision Office shall:

1) oversee the funds' performances,

2) inspire, organise and launch projects conducive to furthering the development of the funds system in Poland,

3) oversee the functioning of employee pension plans,

4) further public awareness of the funds' objectives and terms of operation, in particular of the rights appertaining to the fund members,

5) further public awareness of the objectives and terms of operation of the employee pension plans, in particular of the rights appertaining to the pension plan members,

6) working with administrative agencies of the government, the National Bank of Poland, the National Insurance Board, societies, agents of the funds, unions of employers, trade unions and other civic organisations towards the shaping of such policy of the state as will ensure secure development of the pension funds and employee pension plans,

7) supply the National Bank of Poland with information, to such extent as may be required for the exercise of supervision of depositary banks and banks being shareholders of societies,

8) furnish the Securities and Exchange Commission with information, to such extent as may be required for the exercise of supervision of the performance of the National Deposit,

9) take other actions as provided in this Act.

Article 201. 1. The Supervision Office shall be headed by the Chairman who shall be appointed by the Chairman of the Council of Ministers for a 5-year term.

2. The Chairman of the Council of Ministers may recall the Chairman of the Supervision Office before the end of his or her term subject to approval of the Advisory Committee of the Supervision Office referred to in **Article** 211 clause 1, which approval shall be given by a resolution voted in on a simple majority in the presence of no less than two-thirds Advisory Committee of the Supervision Office members.

3. The Chairman of the Council of Ministers shall appoint and recall Supervision Office Vice-chairmen on the recommendation of the Chairman of the Supervision Office. The Chairman of the Council of Ministers may likewise on his or her own initiative recall Supervision Office Vice-chairmen.

4. The resources allocated to the emoluments of the Chairman, Vice-chairmen, General Director and personnel of the Supervision Office shall be determined annually in the Budget Act taking as the reference the societies' pay levels, inclusive of bonuses and pay surpluses.

4a. The Prime Minister shall specify by decree the principles for remunerating the individuals mentioned in clause 4, including the manner of determining the amount of funds for the remuneration referred to in clause 4.

5. The Chairman of the Council of Ministers shall by Ordinance grant the Supervision Office's charter wherein the organisation and objects of the Supervision Office shall be defined.

Article 202. 1. Save as otherwise directed in this Act, proceedings before the Supervision Office shall be governed by the Code of Administrative Proceedings.

2. The decision of the Supervision Office shall be appealable by complaint to the Supreme Administrative Court.

3. Where a motion stipulating that the Supervision Office consider the case on review is filed, this shall not stay the execution of the Supervision Office's decision revoking the permit to create the society for reasons other than those referred to in **Article** 61.

4. When determining the fine imposed in accordance with the provisions of the Act, the Supervision Office shall be obliged to take into account the type and relative importance of the irregularities revealed.

Article 203. 1. The expenditures of the Supervision Office shall be covered from the state budget, up to an amount authorised each year in the Budget Act.

2. A charge shall be administered monthly on each general society, in an amount not exceeding 0.02 percent contributions paid in a given month into the open funds managed by the society.

3. A charge shall be administered quarterly on each employee society, in an amount not exceeding 0.2 percent contributions paid in a given quarter into the employee funds managed by the society.

4. A charge shall be administered quarterly on each employer operating an employee pension plan, in an amount not exceeding 0.1 percent contributions paid in a given quarter on behalf of the employee pension plan members.

5. One-half of the money received in the charges administered by the Supervision Office and referred to in clauses 2-4 shall be a targeted income of the Supervision Office. The said income shall be diverted to improving the performance of the Supervision Office and professional qualifications of the Supervision Office staff, and to bonuses for the Supervision Office Chairman, Vice-chairmen, General Director and employees. The residue shall be an income of the state budget.

6. The Chairman of the Supervision Office shall establish the detailed pattern of allocation of the targeted income receipts and the standards and criteria of granting bonuses to the Supervision Office personnel in Rules which shall be approved by the Advisory Committee of the Supervision Office.

7. The terms and criteria of granting bonuses to the Chairman, Vice-chairmen, and General Director of the Supervision Office shall be laid down in the Charter referred to in **Article** 201 clause 5.

8. The Council of Ministers shall by Ordinance determine the levels of the charges referred to in clauses 2-4 and the procedure and time limits for the payment of the said charges.

Article 204. 1. In exercise of supervision of the funds' performances the Supervision Office may in particular:

1) instruct the society to make available copies of documents relating to the business of the fund, and study the said documents,

2) call on members of the society's Management Board and Supervisory Board and on employees of the society to supply such information or explanations as the Supervision Office has at its discretion demanded.

2. Those duly authorised by the Chairman of the Supervision Office shall have the right to enter the premises:

1) of the society -- with a view to ascertaining that the society conducts its business lawfully and in accordance with its Articles of Association,

2) of the depositary -- with a view to ascertaining that such business as the depositary transacts in connection with the custody of the fund's assets is lawful and in accordance with the contract for the custody of the fund's assets,

3) of that entity to which the fund has delegated the keeping of the register of fund members -- with a view to ascertaining that such business as the said entity transacts in connection with the keeping of the register is lawful.

3. The inspectors [referred to in clause 2] shall have the right:

1) to inspect books, documents and other vehicles of information,

2) to order duplicates of the said documents and vehicles of information to be prepared and turned over to the inspector,

3) to demand information from members of the inspected party's governing bodies and the inspected party's employees.

4. The society shall ensure that the inspector have access to all such books, documents and other vehicles of information relating to the business of the society as may be in third parties' possession for reasons of delegation to the said third parties, under separate contracts, of the execution of certain transactions.

5. The extent of each inspection shall be defined in the respective authority issued by the Chairman of the Supervision Office.

6. After the inspector has made a record of the transactions performed, the Supervision Office shall notify the inspected party of such irregularities as the inspection revealed and the Supervision Office shall appoint a time limit for the removal of the said irregularities.

7. Failing timely removal of the irregularities detected, the Supervision Office may administer upon the inspected party a fine of up to 500,000 zloty. Where drastic irregularities have been detected, the Supervision Office may impose the fine immediately upon the exposure of the same.

Article 205. 1. A fund member may lodge with the Supervision Office a complaint against the fund where in the member's opinion the fund conducts its business unlawfully or in contravention of the fund's Articles of Association.

2. A complaint against the fund may likewise be lodged by one who was a member of the fund at any time within a period of 6 month immediately preceding the lodging of the complaint.

3. A complaint against the fund may likewise be lodged on behalf of two or more fund members by that public-interest organisation the statutory objects of which do not include the pursuit of a business.

Article 206. 1. The Supervision Office may demand that the society call a meeting of its Management Board or Supervisory Board, or a General Meeting of its shareholders, and put certain matters on the agenda of the body thus convened -- where in the opinion of the Supervision Office this should be essential to correct supervision of the fund's business.

2. In the circumstances referred to in clause 1 the Supervision Office shall delegate its representative to attend the meeting of the Management Board or Supervisory Board, or the General Meeting. The said representative shall be authorised to speak on the matters on the agenda.

Article 207. On civil matters concerned with the forming and performance of the fund the Chairman of the Supervision Office shall have those powers which under the Code of Civil Proceedings are vested in the public prosecutor.

Article 208. The Chairman of the Supervision Office shall once a year report to the Chairman of the Council of Ministers on the work of the Supervision Office.

Article 209. 1. The Chairman, Vice-chairmen, General Director and employees of the Supervision Office shall not, while serving in the aforesaid capacities, be shareholders of the society or discharge the duties of the Management Board or Supervisory Board member, nor shall they be employees or agents of the society or be associated with the society under a similar legal relationship. 2. Clause 1 shall not prejudice the provisions on limitations on the conduct of business by those holding a public office.

Article 210. **Article** 49 shall apply respectively to the Supervision Office Chairman, Vice-chairmen, employees, and those whose legal relationship with the Supervision Office is that of agents or of a similar nature.

Article 211. 1. The Advisory Committee of the Supervision Office is hereby created as the Supervision Office's advisory and opinion-giving body responsible making available to the Supervision Office informed opinion on matters relating to the funds' performances and the functioning of the employee pension plans.

2. The tasks of the Advisory Committee of the Supervision Office shall include:

1) giving opinion on draft legislation concerning the funds' performances and the functioning of the employee pension plans,

2) giving opinion on Supervision Office work reports prepared by the Chairman of the Supervision Office,

3) putting before the Supervision Office opinions on matters relating to the funds' performances and to the functioning of the employee pension plans,

4) approving the removal from office of the Chairman of the Supervision Office,

5) approving the Rules referred to in **Article** 203 clause 6.

Article 212. 1. The Advisory Committee of the Supervision Office shall consist of 15 members.

2. The members, Chairman, and Vice-chairman of the Advisory Committee of the Supervision Office shall be appointed by the Chairman of the Council of Ministers from among candidates well-versed in matters relating to the tasks of the Supervision Office.

3. The Chairman of the Council of Ministers shall appoint no less than 6 members of the Advisory Committee of the Supervision Office from among candidates recommended by the Tripartite Commission for Socioeconomic Affairs.

4. Each member of the Advisory Committee of the Supervision Office shall be appointed for a 6-year term which shall commence on the day on which the member is appointed, providing that every 2 years the term of office of one-third members shall end. The members of the Advisory Committee of the Supervision Office shall continue to discharge their duties until their successors are appointed.

5. The Chairman and Vice-chairman of the Advisory Committee of the Supervision Office shall be appointed for a 2-year term.

6. **Article** 49 shall apply respectively to the members of the Advisory Committee of the Supervision Office.

7. The Chairman of the Council of Ministers shall by Ordinance set the terms of remunerating the members of the Advisory Committee of the Supervision Office and the remuneration amounts.

Article 213. The operating costs of the Advisory Committee of the Supervision Office shall be covered from the state budget.

Article 214. The standards of performance and work practices of the Advisory Committee of the Supervision Office shall be laid down in Rules which shall be adopted by the Advisory Committee of the Supervision Office and approved by the Chairman of the Council of Ministers.

CHAPTER 22
Penal provisions

Article 215. Whoever unlawfully incorporates the words referred to in **Article** 10 clause 2 or in **Article** 28 clause 1 in the name (trade name) of his or her business or uses the said words to describe or advertise his or her business, shall be liable to a of fine up to 1,000,000 or to imprisonment of up to 2 years.

Article 216. Whoever carries on, without a required permit, the business referred to in **Article** 2 clause 2 or **Article** 29 clause 1 shall be liable to a of fine up to 5,000,000 or to imprisonment of up to 5 years.

Article 217. Whoever, when taking investment decisions on behalf of the fund, infringes the investment standards laid down in this Act thereby putting at risk interests of a fund member, shall be liable to a of fine up to 1,000,000.

Article 218. 1. Whoever, while being responsible for information given in the offering circular, supplies such false data or conceals such true data as are capable of reflecting importantly on the substance of the resulting disclosure shall be liable to a fine of up to 5,000,000 zloty or to imprisonment of up to 3 years.

2. Whoever, while being responsible for such other information as is supplied pursuant to this Act to the fund members or to the Supervision Office, commits the act referred to in clause 1, shall be liable to a fine of up to 1,000,000 zloty.

Article 219. 1. Whoever, while promoting [the open fund's product], violates the ban under **Article** 92 clause 1 by offering the additional pecuniary benefits referred to therein with the object of inducing another to join the open fund or remain with the open fund shall be liable to a fine of up to 1,000,000 zloty.

2. Likewise liable shall be whoever, while not duly registered as an agent authorised to conduct sales promotion for the open funds, engages in sales promotion transactions for an open fund, or whoever conducts sales promotion otherwise than through the intermediary of one registered as an agent authorised to perform sales promotion transactions for the open funds.

3. Likewise liable shall be whoever, when conducting the business referred to in **Article** 92 clause 2, offers additional pecuniary benefits in return for the accession to a certain open fund or for remaining with that fund.

4. Any individual who, in defiance of the prohibition specified in Art. 230a, enters into agreements or accepts statements which put him under an obligation to join a given open fund or make use of the services of a given entity when joining an open fund shall be liable to the same penalty.

Article 219a. Any individual who is engaged in acquisition activities on behalf of an open fund and who infringes the principles specified in Art. 93a shall be liable to a fine of up to Zl 20,000.

Article 220. 1. Whoever, while being bound by a professional secret relating to the business of the fund, discloses or makes use of the same, shall be liable to a fine of up to 1,000,000 or to imprisonment of up to 3 years.

2. Whoever commits the act referred to in clause 1 for profit or for a personal advantage, shall be liable to a fine of up to 5,000,000 or imprisonment of up to 5 years.

Article 221. Whoever, while being bound to take the steps referred to in Chapter 18 in connection with a deficit suffered by an open fund, fails to discharge the relevant duties, shall be liable to a fine of up to 1,000,000.

Article 222. Subject to criminal liability under Articles 215-221 shall likewise be whoever commits the acts referred to in the aforestated Articles while acting for a corporation. * * *

CHAPTER 23
Modifications to provisions in effect

Article 223. In **Article** 476 paragraph 3 of the 17 November 1964 Code of Civil Proceedings Act [...]* the period shall be deleted and the following words shall be inserted: "and cases brought in connection with those claims which arise under legal relations existing between the members of the open funds and the funds or agencies of the funds."

Article 224. In **Article** 7 of the 30 May 1989 Business Chambers Act [...]* the following clause 1a shall be inserted after clause 1:

"1a. The limitations under clause 1 shall not apply where all the founders are, without exception, pension societies conducting their business pursuant to the provisions on the organisation and functioning of the pension funds."

Article 225. In **Article** 10 of the 28 July 1990 Insurance Business Act [...]* the following clause 1a shall be inserted after clause 1:

"1a. Clause 1 shall not apply to sales promotion conducted by the insurance company on behalf of open funds and pursuant to the provisions on the organisation and functioning of the pension funds."

Article 226. The 26 July 1991 Personal Income Tax Act [...]* shall be modified as follows:

1) In **Article** 2 clause 1 item 4 the period shall be replaced with a coma and the following item 5 shall be inserted:

"5) revenues deriving from the division of the spouses' joint property following the cessation or limitation of community property.";

2) In **Article** 17:

a) item 4 shall be modified to read:

"4) dividend and those other revenues deriving from the sharing in corporate profits the title to which is carried by equity stakes (shares) in companies, including dividend on shares deposited by employee funds members in their quantity accounts; interest on member shares payable from that share of the cooperative's balance-sheet surplus (earned income) which is attributable to the members; revenues arising from the distribution among the shareholders (members) of the estate of a liquidated company (cooperative); likewise, the value of services and benefits rendered and provided to [cooperative] members or shareholders free of charge or at a discount, the said value being established pursuant to **Article** 12 clause 3 and clause 3a,"

b) in item 6 the period shall be replaced with a coma and the following items 7 and 8 shall be inserted:

"7) revenues received in return for transferring to another, for a payment, of a [first refusal] right to shares of a new issue, including such revenue as the employee fund has received for selling the said [first refusal] right to shares of a new issue on behalf of a fund member,

8) revenues obtained by employee fund members due to the transfer to the fund's assets of the members' shares deposited in quantity accounts."

3) In **Article** 20 clause 1 shall be modified to read:

"1. The revenues from other sources referred to in **Article** 10 clause 1 item 9 shall include in particular: money paid after the death of an open fund member to a beneficiary named by the decedent or to the decedent's nearest relation as defined in the provisions on the organisation and functioning of the pension funds; social security benefits received in money; alimony other than child support allowances; scholarships; subsidies (grants) other than those referred to in **Article** 14; pay supplements, bonuses and gratuitous benefits other than the benefits referred to in **Article** 12, **Article** 14 and **Article** 17; and revenues unmatched by the [taxpayer's] disclosed sources of revenue.";

4) In **Article** 21 clause 1 item 57 the period shall be replaced with a coma and the following item 58 and item 59 shall be inserted:

"58) disbursements made from an employee pension fund's resources to a member of the said fund,

59) disbursements made from an open pension fund's resources for credit to the former spouse of a member of the fund, the said disbursements being made by credit transfer to an account maintained by the member's former spouse with an open pension fund.";

5) In **Article** 22 the following clause 1c shall be inserted after clause 1b:

"1c. With regard to employers being shareholders of the employee pension society, the cost of earning revenue shall likewise include:

1) expenditures incurred for the purpose of covering the operating costs of the employee pension societies,

2) the charges administered by the Office for Pension Funds Supervision, as referred to in the provisions on the organisation and functioning of the pension funds.";

6) In **Article** 24:

a) in clause 5 the period shall be deleted and the words "and dividend on the shares deposited by employee pension funds members in their quantity accounts." shall be added,

b) the following clause 5a shall be inserted after clause 5:

"5a. The income obtained due to the transfer to the fund's assets of the shares deposited in the employee pension fund member's quantity account shall be understood as the difference between the value, established in accordance with the standards of pension fund assets valuation, of the said shares on the day of the transfer and the purchasing cost of the said shares.";

7) In **Article** 30 clause 1 item 8 the period shall be replaced with a coma and the following items 9-11 shall be inserted:

"9) on those amounts which are paid out on the death of a member of the open pension fund to a beneficiary named by the decedent or to a decedent's nearest relative as defined in the provisions on the organisation and functioning of the pension funds, except for the disbursements referred to in **Article** 21 clause 1 item 59 -- at the rate of 20 percent of the revenue obtained,

10) on that revenue which a member of the employee pension fund has obtained due to the shares deposited in his or her quantity account being transferred to the fund's assets -- at the rate of 20 percent of the revenue obtained,

11) on revenues deriving from the sale by the employee pension fund, on behalf of a fund member, of that member's [first refusal] right to shares of a new issue -- at the rate of 20 percent of the revenue obtained."

8) In **Article** 41 the following clause 4a and clause 4b shall be inserted after clause 4:

"4a. The open pension fund acting as a withholding agent shall collect income tax, administered as a lump sum, on the disbursements referred to in **Article** 30 clause 1 item 9.

4b. The employee pension fund acting as a withholding agent shall collect income tax, administered as a lump sum, on:

a) the incomes referred to in **Article** 30 clause 1 item 10,

b) the revenues referred to in **Article** 30 clause 1 item 11."

Article 227. The 15 February 1992 Corporate Income Tax Act [...]* shall be modified as follows:

1) In **Article** 6 clause 1 item 10 the period shall be replaced with a coma and the following item 11 shall be added:

"11) pension funds created pursuant to the provisions on the organisation and functioning of the pension funds."

2) In **Article** 15 the following clauses 1e-1g shall be inserted after clause 1d:

"1e. With regard to the general pension society the cost of earning revenue in a given tax year shall be understood to cover costs established pursuant to clause 1, and:

1) expenditures incurred by covering operating costs of the open pension fund,

2) amounts transferred to the open pension fund's reserve account,

3) expenditures incurred by covering the open pension fund's deficit, where the balance in the fund's reserve account is insufficient for making good the deficit,

4) the Guarantee Fund contributions referred to in the 28 August 1997 Act on Organisation and Functioning of Pension Funds [...]* -- up to such amounts as may be set in separate provisions,

5) the charges administered by the Office for Pension Funds Supervision, as referred to in the Act referred to in item 4.

1f. With regard to the employee pension society the cost of earning revenue in a given tax year shall be understood to cover costs established pursuant to clause 1, and:

1) expenditures incurred by covering operating costs of the employee pension fund,

2) the charges administered by the Office for Pension Funds Supervision, as referred to in the Act referred to in clause 1e item 4.

1g. With regard to the employers being shareholders of the employee pension society the cost of earning revenue in a given tax year shall be understood to cover the costs established pursuant to clause 1, and:

1) expenditures incurred by covering operating costs of the employee pension society,

2) the charges administered by the Office for Pension Funds Supervision, as referred to in the Act referred to in clause 1e item 4."

3) In **Article** 17 clause 1 the following item 30 shall be added:

"30) the Guarantee Fund's incomes referred to in the Act cited in **Article** 15 clause 1e item 4."

Article 228. The 28 September 1994 Accounting Practices Act [...]* shall be modified as follows:

1) In **Article** 2 clause 1:

a) in item 3 the word "or" shall be replaced with a coma,

b) the words "or the provisions on the organisation and functioning of the pension funds" shall be added after the words "the insurance business provisions";

2) In **Article** 64 clause 1 the following item 2a shall be inserted after item 2:

"2a) those entities which conduct their business pursuant to the provisions on the organisation and functioning of the pension funds,";

3) In **Article** 81 clause 3 the following item 5 shall be added:

5) upon consulting the Chairman of the Office for Pension Funds Supervision detailed accounting standards binding on the pension fund, including: standard forms of the balance sheet, of the profit-and-loss account, of the supplementary information sheets, and of other components of the financial statement; the deadline for the preparation and release of the annual report; the scope of the published annual report; the deadline for the approval of the annual report."

CHAPTER 24
Interim and final provisions

Article 229. 1. Till 31 December 2004 the general society shall manage no more than one open fund operating pursuant to this Act.

2. As of 1 January 2005 the general society may manage two open funds which shall bear, respectively, the designates "A-type open pension fund" and "B-type open pension fund".

3. That open fund which invests according to the terms and standards laid down in Chapter 15 shall before or on 1 January 2005 incorporate in its name the words "A-type open pension fund" .

4. The B-type open pension fund shall not invest its assets in the categories of instrument referred to in **Article** 141 clause 1 items 3-8, item 10, item 12 and item 14 and in **Article** 143.

5. The weighted average rate of return and the mandatory minimum rate of return shall be established separately for the A-type open fund and the B-type open fund.

6. Throughout this Act any reference to the ratio of an open fund's net asset value to the cumulative net asset value of all open funds shall, as of 1 January 2005, be understood to mean a ratio of the net asset value of an open fund of a given type to the net asset value of all open funds of that type.

7. Membership in the B-type open fund shall not be granted before the candidate's fiftieth birthday.

Article 230. When appointing the first Advisory Committee of the Supervision Office, the Chairman of the Council of Ministers shall indicate in respect of each member that he or she is appointed for a 2-year term, or for a 4-year term, or for a 6-year term.

Article 230a. Until 15 of February 1999 it is forbidden to conduct any canvassing practice, including this of advertising nature for the open pension funds and to perform canvassing activities for these funds

Article 231. This Act shall come into force on 1 January 1999, except for:

1) Articles 199-214 and **Article** 230 -- which shall take effect on 1 May 1998,

2) Articles 1-60, **Article** 147, **Article** 152, Articles 157-164, **Article** 197, Articles 215-222 -- which shall take effect on 1 August 1998.

3) Art. 81-85, art. 90, art. 98 i art. 189-190 which shall take effect from 1 March 1999

President of the Republic of Poland: A. Kwasniewski

Final version of the Act including the Senate's amendments

Act
of 22 August 1997

on employee pension programs

Chapter 1
General provisions

Art. 1

The Law gives the rules for establishment and operation of employee pension programs, the conditions to be met by entities involved in their management, and the rules for concluding agreements which constitute the programs.

Art.2

The following definitions shall apply throughout the document:

1) Employee - a person working under an employment contract, a contract of appointment, election, special appointment and cooperative contract of employment, on a full or part time basis; a person employed on the basis of an agency contract, or a contract for services if the person is entitled to social insurance benefits in relation to the employment; a person employed on the basis of a contract signed as a result of appointment or election in a body which represents a legal entity, including management contracts,
2) Employer - an entity which employs employees as defined in section 1 of this article,
3) Employment - signing of an employment contract or another contract described in 1) above as well as appointment, election and special appointment,
4) Life insurance firm - a life insurance firm in the form of a joint stock company as defined by the Insurance Law of 28 July 1990 (DzU of 1996 No. 11/62, of 1997 No. 43/272, No. 88/554, No. 107/685 and No. 121/769 and 770),
5) Mutual life insurer - a mutual life insurance firm as defined by the Insurance Law,
6) Investment fund - an open or specialized open investment fund as defined by the Investment Fund Law of 28 August 1997 (DzU No 139/933)

6a) Group investment employee life insurance – a type of group 3 section I of the Insurance Act insurance, in recognition of art. 7a,

7) Participant - a person who has entered an employee pension program,
8) Funds - financial contributions in employee accounts maintained on the basis of a company pension agreement by life insurance firms, mutual life insurers, investment funds or employee pension funds,
9) Employee representatives - a company trade union organization or representatives chosen in the way defined by Art. 15.4 of the Act if no trade union operates in the company
10) Disbursement - a payment to an employee of funds accumulated under the employee pension program in accordance with the terms described in the company pension agreement,
11) Transfer disbursement - a transfer of funds accumulated by an employee participating in an employee pension program to another life insurance firm, a mutual life insurer, an investment fund, or an employee pension fund, accumulating funds via another employee pension program referred to in art. 28/1,
12) Repayment - a withdrawal of funds accumulated by an employee participating in an employee pension program if there is no legal title for a disbursement or transfer disbursement,
13) UN (Urz d Nadzoru) - Office for Pension Fund Supervision,

14) Register - a register of "employee pension programs" maintained by UN.
15) Remuneration – the participant's revenue received from the employer engaged in running the employee pension program, which constitutes the basis for calculating pension and disability pension insurance contributions as per the Act of 13 October 1998 on the social insurance system (DzU No. 137/887 and No. 162/1118 and 1126, from 1999, No. 26/228, No. 60/636, No. 72/802, No. 78/875 and No. 110/1256 and from 2000 No. 9/118).

Art.3

1. An employee pension program comprises company pension agreements, employee pension agreements, and, subject to section 2, agreements with life insurance firms or mutual life insurers, or with investment funds, or statutes of employee pension funds and, subject to art. 9/1, agreements on joint intercompany pension programs, which define the terms for accumulation of employee contributions which are to be disbursed upon retirement or on obtaining rights to disability benefits, which meet criteria set out by the Act.
2. If the employer is an insurance company or a mutual life insurer, an employee pension company or an investment fund society, terms and conditions for accumulating funds referred to in section 1 are determined by the employee pension agreement.
3. The regulation of section 2 shall not apply to entities, which do not manage all assets accumulated as part of the program.

Art. 4

1. Employee pension programs may be offered under the terms of this Act by an employer or jointly by at least two employers who employ at least five employees each.
2. The employers should be entered in appropriate registers no later than one year before the signing a company pension agreement. The requirement to be entered into the register does not apply to companies established as a result of ownership transformations of state enterprises.
3. An employer which has been incessantly in business for at least 3 years may offer an employee pension program if it employs at least 3 employees.
4. The self-employed, partners in partnership firms, general partnerships and those partners in limited partnerships who are fully liable may also participate in employee pension programs if they maintain pension programs for their employees which allow employer participation as well.
5. Regulations of the Act, which relate to employees shall be appropriately applied to people who participate in employee pension programs, based on section 4.

Art.5

1. In order to participate in an employee pension program employees must have been working for a given employer for at least 3 months, unless the company pension agreement states otherwise.
2. Employees who have been employed within the territory of the Republic of Poland or within another territory may participate in employee pension programs if they have been seconded there by an employer whose domicile or place of residence are in the territory of Poland, irrespective of the employees' citizenship or foreign exchange or tax law status.
3. A person employed by more than one employer each of which maintains employee pension programs may participate in more than one pension program at the same time.

Art. 6

1. A company pension agreement may not stipulate any other conditions for the participation of employees in the pension program than those defined in the Act. These conditions may not give rise to a situation whereby less than a half of all employees would have the right to participate in the employee pension program as at the date of filing the application for registering the program.
2. (deleted)

Art. 7

1. Employee pension programs may be maintained at the employer's choice only in one of the following types of employee pension insurance:

   1/ an employee pension fund,
   2/ an agreement on contributing employee contributions to an investment fund,
   3/ a group employee life insurance agreement concluded with a life insurance firm,
   4/ an agreement on contributing employee contributions in respect of employees who are going to become members of mutual life insurers being a party to that agreement.

1a. Agreements referred to in section 1.2 may also be concluded by the employer with different investment funds managed by the same investment fund society.

2. Agreements referred to in section 1.3 and 1.4 may only be signed for investment-linked life assurance and additionally, on a voluntary basis, with sickness and accident insurance if they complement group investment linked life assurance.
3. Forming employee pension funds and pension societies, setting their statutes and registration shall be carried out under the Law of 28 August 1997 on establishment and operation of pension funds (DzU No. 139/934).

Art. 7a.

1. Regulations of sections 2-17 shall apply to operation of insurance firms and mutual life insurers in respect of group investment linked employee life insurance agreements concluded by them as part of the employee pension program
2. Agreements referred to in art. 7.2 should define the portion of the contribution which:
   1) turns into funds,
   2) is appropriated to insurance cover,
   3) covers costs of the insurance firm or mutual life insurer.
3. The insurance firm and the mutual life insurer are obliged to make valuations of the funds' assets as part of the employee pension program and to publish the results of those valuations at least on a monthly basis in a nation-wide newspaper, together with data allowing participants of the program determine the respective portion of the fund's assets.
4. The insurance firm and the mutual life insurer are obliged to publish in a nation-wide newspaper annual and semi-annual detailed information on funds established in connection with group investment-linked employee life insurance agreements concluded as part of employee pension programs. Annual and semi-annual information should also be forwarded to the participant on demand.
5. The detailed scope of information referred to in section 4 shall be determined by the minister responsible for financial institutions by virtue of a decree.
6. Insurance firms and mutual life insurers invest assets covering funds set up in connection with group investment-linked employee life insurance agreements concluded as part of employee pension only in:

1) bonds, bills and other securities issued by the State treasury or the National Bank of Poland, as well as loans and bank loans extended to these entities,

2) bonds and other debt securities relating to cash benefits, guaranteed or warranted by the State Treasury or the National Bank of Poland, as well as deposits, loans and bank loans guaranteed or warranted by these entities,

3) bank deposits and securities,

4) shares of companies quoted on the regulated stock market,

5) shares of companies quoted on the regulated over-the-counter market or of companies not quoted on the regulated stock market or regulated over-the-counter market but admitted for public trading,

6) shares of National Investment Funds,

7) investment certificates issued by closed-ended investment funds or mixed investment funds,

8) participation units sold by open-ended investment funds and specialised open-ended investment funds,

9) bonds and other debt securities issued by local authorities, their associations or the municipality of Warsaw, which have been admitted for public trading,

10) bonds and other debt securities issued by local authorities, their associations or the municipality of Warsaw, which have not been admitted for public trading,

11) totally secured bonds issued by entities other than local authorities, their associations or the municipality of Warsaw, which have been admitted for public trading,

12) totally secured bonds issued by entities other than local authorities, their associations or the municipality of Warsaw, which have not been admitted for public trading,

13) bonds and other debt securities issued by public companies other than the securities referred to in items 11 and 12,

14) mortgage bonds,

15) other investments which may be determined by the Council of Ministers by virtue of a decree.

7. Based on the general permit given by the minister responsible for financial institutions, by virtue of a decree and on terms determined in the permit, assets comprising funds set up in connection with group investment-linked employee life insurance agreements concluded as part of employee pension programs may be invested outside the territory of Poland in securities issued by public companies of OECD member states or other foreign states, which will be defined in the permit, as well as in treasury securities issued by governments or central banks of these countries, and participation titles issued by joint investment institutions with their registered offices in these countries, if the institutions offer public participation titles and redeem them on the participant's order.
8. In respect of investments referred to in section 7, the limit determined on the basis of art. 63/4 of the Insurance Act shall be applied.
9. Insurance firms and mutual life insurers cannot invest more than 5% of the value of assets constituting funds created in connection with group investment-linked employee life insurance agreements concluded as part of employee pension programs in securities issued by one entity and in that entity's receivables.
10. An insurance firm and a mutual life insurer may invest up to 10% of the value of assets comprising funds created in connection with group investment-linked employee life insurance agreements concluded as part of employee pension programs in securities issued by one entity and receivables of that entity, if the total value of such investments does not exceed 40% of the value of the fund.
11. An insurance firm and a mutual life insurer may invest up to 100% of the value of assets comprising funds for accumulating employee pension program finance in investments defined in section 6.8. The limits of sections 9 and 10 do not apply to these investments.

12. The limits referred to in section 10 do not apply to investments in securities issued or guaranteed by the State Treasury or the National Bank of Poland and to investments in securities issued or guaranteed by OECD states and international financial institutions, of which the Republic of Poland or at least two OECD states are member, in recognition of section 8.
13. Investments referred to in section 6 in securities of one issuer or guaranteed by one entity may not exceed 35% of the value of the fund, unless the insurance contract terms allow otherwise and indicate the issuer or guarantor.
14. If the employee pension program is being realised based on insurance contract providing for investment of 100% of funds in the fund's participation units, in case of bankruptcy of the insurance firm or mutual life insurer, these participation units are not included in the estate in bankruptcy, and funds accumulated using this investment (if no transfer payment is made) are paid out to participants of the pension program. Participation units cannot be subject to composition arrangement with the insurance firm or mutual life insurer, or to executive proceedings with respect to the insurance firm or mutual life insurer.
15. If the life insurance, or accident or sickness risk cover contribution is not paid, it may not be deducted from funds accumulated in funds set-up in connection with group investment-linked employee life insurance agreements concluded as part of employee pension programs.
16. If 100% of funds referred to in section 6 is to be invested in participation units of investment funds, the agreement with the insurance firm or mutual life insurer and the company pension agreement should define the investment fund or funds whose participation units are to be purchased as part of the agreement, as well as procedures for changing the investment fund.
17. Offering the product defined in art. 7.1.3 and 4, an insurance firm or a mutual life insurer shall be obliged to use the term "group investment-linked life insurance".

Art. 8

The terms: "pension program", "pension plan", and "pension agreement", also preceded by the words "employee" or "company", may only be used in relation to programs, plans and agreements governed by the Act.

Chapter 2
Intercompany pension programs

Art. 9

1. For the purpose of a joint offer of a pension program to employees, employers may sign joint intercompany pension program agreements determining the form of employee pension insurance and the terms offered in the company pension agreement.
2. Provisions of Art. 10.2 and art. 14.3, sentence two, apply to joint intercompany pension programs.
3. Employers may agree that in the event of insolvency or winding up, sale, demerger or merger related to any one of them, the other employers will maintain the pension program for employees of the company who had participated in the program to date, if the new employer agrees to enter the program.
4. Employers are obliged in the event of occurrences stated in 3 above, to secure the servicing and management of funds accumulated in the accounts of employees participating in the program to date, up to the date of their disbursement, transfer disbursement or repayment.

Art. 10

1. Employers bound by a joint inter-company pension program agreement may, at the request of another employer who accepts the terms of the agreement and program, agree to his signing the agreement and inclusion in the program if the employer accepts the program terms according to appropriate procedures.
2. The access of an employer to an inter-company pension program does not relieve him of the obligation to conclude a company pension agreement.
3. In case of accessing a registered agreement on joint intercompany pension program in the form of an amployee pension fund, the company pension agreement indicates an existing employee pension fund.

Art. 11

1. An employee pension program may stipulate the parallel maintenance of various forms of retirement insurance described in Art. 7 in cases where the employer acquires a company or an organized part thereof (plant) together with the liabilities relating to the company pension agreement, agreements with investment funds, life insurance firms or mutual life insurers, or the acquisition of shares in an employee pension society, or if employers maintaining employee pension programs decide to merge.
2. Within three years from the date of acquisition or merger in situations described in section 1 the employer should ensure the amendment of company pension agreements and agreements signed with investment funds, mutual life insurers or life insurance companies or the merger of pension societies or the take-over of a pension fund by one of the mutual life insurers and the liquidation of the other so as to offer all employees one form of employee pension program.

Chapter 3

Formation of employee pension programs

Art. 12

A company pension agreement is an agreement signed by the employer and employee representative.

Art. 13

An employee pension agreement is an agreement signed by virtue of voluntary access of an employee to an employee pension program.

Art. 14

1. The employer presents to the employee representatives a draft of the company pension agreement including a chosen form of the program described in Art. 7.1 and setting out the draft terms agreed with an investment fund, a life insurance firm, a mutual life insurer, or a draft statute of the society and statute of the employee pension fund.
2. A company pension agreement shall determine:

    1) the form of the program, including naming a specific investment fund or funds, life insurance firm or a mutual life insurer, or an employee pension fund which will accumulate funds and manage them on the basis of an agreement concluded with the employer,
    2) conditions and procedures for entering and exiting the program,

3) base contribution amount,
4) minimum permissible additional monthly contribution,
5) dates and methods of declaring additional contributions by participants, as well as dates of calculating and deducting the contributions by the employer in order to transfer them to participants' accounts,
6) dates and methods of calculating and transfer of base contributions to participants' accounts,
7) conditions for accumulation and managing funds by the life insurance firm or mutual life insurer, an investment fund or an employee pension fund with which the employer has signed an agreement, and specifically costs and fees charged to the employee and employer,
8) the conditions for amending and terminating the company or employee pension agreement,
9) cases and conditions for terminating the agreement with the entity managing the funds,
10) conditions, methods, dates costs and fees as well as consequences to the participant's rights resulting from disbursement, transfer disbursement, transfer of funds between investment funds or repayment.
11) a model pension plan,
12) cases and conditions of changing the form of an employee pension program or the entity responsible for managing the funds.

3. If a company pension agreement determines the realization of the program in the form of an employee pension fund it should also state the conditions for creating an employee pension society to manage the fund and the terms and conditions described in the Act on the organization and operation of pension funds. An employee pension agreement which determines that the program be realised in the form of an employee pension fund should be attached to the application for the licence to create an employee pension fund referred to in the Act on organisation and operation of pension funds, and in the case referred to in art. 10.3, it should be attached to the application for issuing a licence to take up or acquire shares in an employee pension society.
4. If a company pension agreement determines the realization of the program in the form of accumulation of funds in an investment fund it should also determine the rules for making payments by employees to the fund in respect of selling and purchasing units, referred to in the Investment Fund Act.

4a In cases and on terms and conditions defined in the company pension agreement a participant is entitled to change funds by transferring funds to another investment fund comprising a part of the same employee pension program. The transfer is done through a transfer disbursement.

5. Only the employer may market employee pension programs and particular forms of pension insurance on the company premises.

Art. 15

1. A company pension agreement shall be signed by the employer and the employee representatives.
2. In a company where

   1) one trade union operates, the employer concludes an agreement with that union,
   2) more than one trade union operates the employer signs a joint agreement with all of them.

3. If the agreement is not signed within 6 months of presenting the proposal of the program to the trade union due to inability to agree on its contents by the parties, provisions of section 4 apply,
4. If there is no trade union in the company, employee representatives are chosen by a general meeting of employees on terms defined by them. The employer calls the meeting in a way traditionally accepted by the company no later than 7 days before it is due to be held.

Resolutions made in the course of the meeting are valid irrespective of the number of people present on the condition that it was summoned in an appropriate manner.

5. Disputes arising between parties to company pension agreements shall be resolved by general courts.

Art. 15a.

An agreement with an entity managing the funds should determine specifically:

1) terms and conditions for accumulating and managing funds, including costs and fees charged to the employer and participant,
2) cases and terms of terminating the agreement,
3) terms and conditions of making disbursements, repayments and transfer disbursements.

Art. 16

1. Employee pension agreements are prepared in writing and the contents include the following stipulations of the employee pension program:
   1) identification of parties to the agreement,
   2) information compliant with the statement referred to in art. 17,
   3) the pension plan.

2.The pension plan defines:

1) the form of an employee pension program indicating the investment, insurance firm, mutual life insurer or an employee pension fund, which will accumulate funds and manage them based on an agreement with the employer,
2) the amount of base contribution, and the minimum acceptable additional monthly contribution and the method of its declaration
4) conditions, depending on the form of the program for:
   a) an agreement signed with an insurance firm or a mutual life insurer,
   b) an agreement concluded with an investment fund,
   c) the statute of an employee pension fund,
5) terms of disbursement, transfer disbursement and repayment of funds accumulated on a participant's account, giving the anticipated disbursement schedule according to expected future conditions, period needed for accumulation of funds, rate of return, and contribution level, as well as risk associated with participation in the program,
6) terms for amending or terminating the employee pension agreement, and its consequences, including financial consequences,
7) information indicating:
   a) beneficiaries' or inheritors' rights in the event of employee's death,
   b) cases and consequences of the liquidation of a program,
   c) the possibility of transferring the rights to accumulated funds,
   d) tax effects of contributions.

3. The employer shall be obliged to inform participants of changes to the legal status within the scope referred to in section 2.7.

Art. 17

1. To enter an employee pension program an employee or a person mentioned in Art. 4.4 shall make a statement to the employer on participation in the program.
2. A statement of participation of an employee in the program should include:

1) the amount of the declared additional contribution, authorization for the employer to calculate it, deduct appropriate amounts from remuneration and transfer them to the employee account maintained by the entity which manages the funds,
2) an employee's statement that he has acquainted himself with the terms of the employee pension agreement and with the voluntary character of access to the program on these terms,
3) the potential arrangements in the event of the employee's death.
4) a statement by the employee to the effect that he did not lose entitlement to participate in employee pension programs to the date of submitting the statement.

3. The employer is obliged to accept the statement if the person submitting it complies with the terms of the program or return the statement with a justification within one month of its submission if there are reasons (defined by the Act or by the company pension agreement) for not signing the employee pension agreement.
4. The agreement is concluded on reaching the deadline for returning the statement and the employer is obliged from that moment on to release a signed agreement to the participant.
5. Disputes relating to the signing of agreements and claims relating to legal relationships between participants of employee pension programs and employers shall be settled by general courts appropriate to the participant's domicile.

Art. 18

1. A company pension agreement may stipulate voluntary contribution of employer's shares by the participant to the employee pension fund.
2. The ban on sale of shares included in the regulations on commercialization and privatization of state enterprises shall not apply to shares acquired from the State Treasury, to be contributed in accordance with section 1.
3. An employee pension agreement should include conditions for contributing shares to the account with a fund, the terms for maintenance of those accounts. The participant shall state (in the statement referred to in this article) the number of employer's shares he will contribute to his account at the amount consistent with the company pension agreement.

Art. 19

1. An employee shall, through the employer, make a statement of intent in respect of matters covered by the employee pension program related to insurance, participation in an investment fund or in an employee pension fund, for a life insurance firm, a mutual life insurer, an investment fund or an employee pension fund.
2. The provisions of section 1 above shall apply on termination of employment unless management of an employee pension fund has been transferred to another employee pension society, there has been a merger or demerger of societies, and the employer is not a shareholder but the shareholder who is going to take over the responsibilities of the existing employer has been determined. In the case of a merger, demerger, sale of a company or its organized part and the employer change involved, the participant in an employee pension program makes a statement of intent through the new employer.
3. In cases relating to an employee pension program an employer may not be the plenipotentiary of the participant.

Art. 20

1. A joint intercompany pension program, a company pension agreement, employee pension agreements, agreements with life insurance firms and mutual life insurers, and agreements with investment funds become valid no earlier than upon the registration of the program by UN.
2. Amendments to a company pension agreement shall be governed by Art.15.
3. Amendments to the company pension agreement which could cause an increase in the financial liability of the participants or would worsen the terms relating to transferring funds by the participants may come into force no earlier than after they have been registered and five months after written notifications about the amendment have been sent out to participants.

Art. 21

A person who, although still a participant of an employee pension program, no longer qualifies, or ceases to be employed with the employer who maintains the pension program does not have to withdraw his funds until the time of their disbursement or transfer on his entering another pension program.

Art. 22

1. . The basic contribution is financed by the employer, and the additional contribution – by the participant.
2. The amount of base contribution is determined as a percentage share of the participant's salary.

3. An employee may elect to make an additional contribution. The amount of the additional contribution is determined on a lump-sum or percentage of remuneration basis.
4. Base contribution cannot exceed 7% of the participant's remuneration.
5. The amount of the base contribution is determined in the company pension agreement, and the amount of the additional contribution – by the employee, in his declaration of participation in an employee pension program.
6. Base contribution is not included in remuneration constituting the basis for determining compulsory social insurance contributions.
7. A participant may change the amount of his additional contribution (which will have effects in the future) by changing the statement of participation in an employee pension program.
8. An employer has to:
   1) calculate and deduct base contributions,
   2) calculate, deduct and transfer additional contributions.
9. Contributions are transferred to individual accounts of the participants maintained by the entity which manages the funds.
10. Additional contributions are deducted from an employee's remuneration received from the employer who runs the employee pension program, after taxation.
11. Additional contributions for a given month are deducted from that month's remuneration, unless the company pension agreement states otherwise.
12. The employer calculates and deducts contributions:
    1) in respect of components of remuneration payable for periods not longer than one month – at the dates of payment of these remuneration components binding the employer, and transfers them monthly,
    2) in respect of components payable in periods longer than one month – at the dates of payment of these components, and transfers them also on these dates.

Art. 23

(deleted)

Art. 24

(deleted)

Art. 25

1. The employer, insofar as signing employee pension agreements, agreements with investment funds, life insurance firms or mutual life insurers, or employee pension funds is concerned, acts in its own name and on behalf of: insurers, employee pension funds, employees or investment funds, respectively.
2. The employer shall be liable to the participants for the failure to carry out or improper carrying out of duties following from the company pension agreement and for timeliness and correctness of calculation, deduction and transfer of contributions to employee accounts.

Chapter 4

Rules for disbursements and liquidation of employee pension programs

Art. 26

1. Disbursement of funds accumulated under the employee pension program is made only in the following circumstances:

a) at the request of a participant after attaining the age of 60 or upon obtaining early retirement rights, or in the case of an appropriate body issuing a certificate on gaining rights to disability benefits due to the inability to continue work;
b) if the participant does not request the disbursement of funds before he is 70 years old, once he attains that age,
c) in case of the liquidation of an employee society or pension fund unless transfer disbursements are made or the society is taken over by another pension society;
d) in the case of liquidation of an employee pension fund unless a transfer disbursement or a transfer of funds to another fund managed by the same society is made,
e) in the case of liquidation of a life insurance firm or mutual life insurer unless a transfer disbursement is made or rights relating to the agreement signed by the employer and the insurer are ceded on behalf of another life insurance firm or mutual life insurer.
f) in the case of a participant's death - to his beneficiaries or inheritors named in the insurance agreement.

2. Depending on the request of the participant payments may be made on a one-off basis or in installments, in cash or transferred to an indicated account, including an account with a life insurance firm or a mutual life insurer, on the condition that it is not maintained as part of an employee pension program. One-off disbursements must be made within three months of requesting them. In the case of installment disbursements the first installment is payable within a month of requesting it unless the participant asks for a later disbursement.
3. Unsolicited disbursement is made upon the participant's attaining the age of 70 years, on a one-off basis, within 3 months of that date.
4. A disbursement results in the forfeiture of rights of participation in employee pension programs in the future except for the situation described in section 1.3-5.
5. A disbursement cannot be made in a situation described in art. 5.3 if, once it was made, the employee remained a participant of another pension program. In such a case only a transfer disbursement can be made.

Art. 27

1. The statute of an employee pension fund, an agreement with an investment fund, or an agreement with a life insurance firm or a mutual life insurer should determine, in compliance with the provisions of a company pension agreement, dates and conditions for installment disbursements, ensuring the option of termination and a one-off disbursement within 3 months and a cession of rights to third parties accompanied by a possibility of their simultaneous blocking for a pre-defined period.
2. In the scope not regulated by the Act, calculation and disbursement of funds accumulated on an employee pension fund account are regulated by the Act on organization and operation of pension funds, of funds accumulated on accounts with investment funds - the Act on investment funds and of funds accumulated in life insurance firm or mutual life insurer accounts - the Insurance Act. Detailed rules are set out in the appropriate statutes, general terms of insurance, or by-laws.
3. Disbursements made under the Act are not subject to limits stipulated by the Foreign Exchange Act of 2 December 1994 (DzU No. 160/1063 and from 1999, no. 83/931) in respect of transfer of foreign currency abroad and sale of foreign exchange to foreign persons by banks.

Art. 28

1. A transfer disbursement is made to another life insurance firm, mutual life insurer, investment fund or an employee pension fund on the basis of an employee request when participation in the previous program ceases and upon entering a new program as a result of a change of employer, withdrawal from the old program or the liquidation of an employee pension

program, or a change in the form of the employee pension program or in the entity which manages the funds.

2. An company pension agreement should include dates and conditions for accepting new participants who intend to transfer their funds and participate in the employee pension program after they change employers if they comply with the terms and conditions of the agreement.
3. Agreements signed with a life insurance firm or a mutual life insurer, investment fund agreements, and statutes of employee pension funds should determine the dates and conditions and ensure receipt of transfer disbursements and acceptance of participants who intend to continue participation in an employee pension program.

Art. 29

1. The repayment of funds accumulated in a program is made in case of the termination of an agreement by a participant due to liquidation of the program in cases defined in art. 34.1.4 unless there is justification for their disbursement or making a transfer disbursement.
2. The entity which manages the funds ensures their repayment within the notice period in the manner requested by the employee expressed in his notice.
3. (deleted)

Art. 30

Disbursement, transfer disbursement or repayment of funds accumulated in an investment fund in the realization of an employee pension program is made in a monetary form upon redeeming units held in a participant's account by the fund.

Art. 31

1. A participant may at any time terminate an employee pension agreement in writing by giving notice to the employer; the period of notice stipulated by the company agreement cannot be shorter than 1 month and longer than 3 months.
2. In the case of the termination of the agreement funds accumulated in the employee's account to date are left in the account to the date of their disbursement in compliance with the stipulations of the company pension agreement, except for a transfer disbursement to another employee pension program at a participant's request.
3. (deleted)
4. (deleted)

Art. 32

1. In his statement, a participant of an employee pension program may dispose of funds accumulated in his account as part of the employee pension program by indicating a beneficiary who will collect the funds in the event of his death. The instruction may be changed or cancelled at any time.
2. If the participant does not state what to do with his funds in the event of his death, his inheritors benefit under general regulations in force. A disbursement them should be made within 1 month of the date of submitting a certificate of their coming into inheritance, and the inheritors have to indicate a person authorized to receive the disbursement.

Art. 33

Funds accumulated as part of the employee pension program from basic contributions are not subject to court or administration execution unless the obligation to repay or disburse them arose; in that case they are subject to execution proceedings from the date they mature. These restrictions do not relate to execution proceedings for the purpose of satisfying claims in relation to alimony payments.

Art. 34

1. An employee pension program may be liquidated in the event of:
   1) the winding up or insolvency of the employer,
   2) the winding up or insolvency of a life insurance firm or a mutual life insurer
   3) the liquidation of all investment funds in which contributions were accumulated as part of an employee pension program,
   3a) liquidation of an employee pension fund,
   4) a diminution in value of funds contributed as part of the program below the level stipulated by the agreement with the life insurance firm or mutual life insurer, investment fund or the statute of the pension fund,
   5) deletion of the program from the register.

1a. If the agreements referred to in art. 7.1.2 have been concluded by the employer with different investment funds managed by the same investment fund society, the employee pension fund may only be liquidated upon the liquidation of all those funds.

2. Agreements with entities which manage funds should ensure, in the event of the liquidation of a program, the maintenance of funds in participants' accounts until they are disbursed, subject to a transfer disbursement or repaid.
3. In the case described in section 1.2-3a, an employer is obliged to ensure that a new agreement with a new society, life insurance firm, or an investment fund is signed or that contributions are sent to another existing employee pension fund and to suggest necessary amendments to the company pension agreement.

3a The regulation of section 3 applies accordingly to cases referred to in section 1a.

3b If the agreements referred to in art. 7.1.2 have been concluded by the employer with different investment funds managed by the same investment fund society, in case of liquidation of one of the funds the employer is obliged to ensure conclusion of an agreement on contribution transfers to another of these funds.

4. A decision on the liquidation of an employee pension program is sent out by the employer to the participants giving the date from which contributions will not be calculated and deducted and the reasons for the liquidation indicating actions which had been taken by him in accordance with the provisions of this Act and the Act on organization and operation of pension funds.

Chapter 5

Registration of employee pension funds

Art. 35

1. In order for an employee pension program to be established the following actions are required: conclusion of a company pension agreement, conclusion of an agreement with an investment fund, a life insurance firm or a mutual life insurer, or establishment of a pension society and an employee pension fund, in recognition of art. 10.3, and making an entry in the register maintained by UN.
2. An employer's request to enter an employee pension program in the register should be filed immediately and should include the employer's data: name, domicile, REGON number, mail address, and source documents confirming those data as well as the following enclosures: the agreement with an insurer, the agreement with an investment fund or a statute of the employee fund, the joint inter-company pension program agreement, the company pension agreement, a pro forma employee pension agreement, information on employment, authorizations of employee representatives to conclude the agreement and a certificate of timely payment of social security contributions and lack of default tax payments.

Art. 36

1. An entry of an employee pension program in the register should contain the following:
   1) the employer's data included in the application,
   2) a note stating whether the program is a joint one or not,
   3) the form of the pension program and the details of the life insurance firm, the mutual life insurer, the investment fund or the employee pension fund, which is going to manage the accumulated funds,
   4) program participation conditions included in the company pension agreement.

2. The employer has the obligation to notify about any changes to those data within two weeks of their occurrence.
3. A change in an employee pension agreement may come into force effective from the date of registering the changes referred to in section 2 by UN, at the earliest.

Art. 37

1. UN has the obligation to review the application for entering a given program into the register within a month of the submission.

2. If the application does not meet conditions stipulated by this Act, UN has the obligation to urge the employer within a month to eliminate irregularities, and to indicate a period for that elimination no shorter than three weeks.

Art. 38

UN may refuse to register an employee pension program only in circumstances referred to in Art. 37.2

Art. 39

1. UN supervises employee pension programs with regard to their compliance with the law.

2. In particular, UN has the right to request any data, documents and explanations related to managing the program from the employer who manages a given employee pension program.

3. If any irregularities in the management of a given program are noted UN notifies the person who manages the program about them and sets the deadline for their elimination.

4. If the irregularities have not been eliminated by that deadline UN may impose a fine of up to Zl 500,000 on the employer who manages the program.

5. In cases not regulated by this Act UN's responsibilities are regulated by the Act on organization and operation of pension funds.

Art. 40

1. UN proceedings are governed by the Administrative Procedure Code. Registration, refusal to register a program or amendments thereto, or removal of a program from a register are effected by virtue of an administrative decision.

2 The minister responsible for social insurance shall stipulate, by means of a decree, detailed rules for maintenance of pension programs as well as deadlines for and the manner of issuing copies of register entry certificates.
3. The minister responsible for social insurance will determine, by virtue of a decree, rules for preparing simulation disbursement schedules, referred to in art. 16.2.5.

Chapter 6

Penal regulations

Art. 41

1. Any entity which without authorization uses the terms specified in Art. 8 of this Act as part of its name, or to describe its business activities, or for advertising purposes, shall be subject to a fine up to Zl 1,000,000 or to imprisonment for a period no longer than five years.
2. Anyone who on behalf of a legal entity acts in the way described in Art.41.1. shall be subject to the same penalty.

Chapter 7

Changes to existing regulations, interim and final provisions

Art. 42

With regard to the Inheritance and Donation Tax Act of 28 July 1983 (DzU of 1997 No. 16/89 and 137/926), Art. 1.2 the period is replaced with a comma and the following words are added "as well as acquiring uninherited rights to funds accumulated in an employee pension fund, an open investment fund or a specialized open investment fund - as a result of the realization of an employee pension program, pursuant to an instruction given by a participant of that program in the event of his death."

Art. 43

With regard to the Personal Income Tax Act of 26 July 1991 (DzU of 1993 No. 90/416, 134/646, of 1994 No. 43/163, 90/419, 113/547, 123/602, 126/626, of 1995 No. 5/25, 133/654, of 1996 No. 25/113, 87/395, 137/638, 147/686, 156/776, of 1997 No. 28/153, 30/164, 71/449, 85/538, No. 96/592, No. 121/770, No. 123/776 and No. 137/926) the following are amended:

1) Art. 14.2(8): the period is replaced by a comma and the following subsection (9) is added:
   "9) remuneration received for management of an employee pension program of a participant, in relation to repayment of funds from additional contributions.";
2) Art. 22: after section 1a the following section 1b is added:
   "1b. Expenditure incurred by an employer on ensuring proper realization of an employee pension program as defined by regulations concerning employee pension programs shall also be considered tax deductible costs."

Art. 44

With regard to the Corporate Income Tax Act of 15 February 1992 (DzU of 1993 No. 106/482, 134/646, of 1994 No. 1/2, 43/163, 80/368, 87/406, 90/419, 113/547, 123/602, 127/627, of 1995 No. 5/25, 86/433, 96/478, 133/654, 142/704, of 1996 No. 25/113, 34/146, 90/405, 137/639, 147/686, of 1997 No. 9/44, 28/153, 79/484, No. 96/592, No. 107/685, No. 118/754, No.121/770, No. 123/776 and 777, No. 137/926) subsection 1d is added after subsection 1c in Art. 15:

"1d. Expenditure incurred by an employer on ensuring proper realization of an employee pension program as defined by regulations concerning employee pension programs shall also be considered tax deductible costs."

Art. 45

1. (deleted)

2. (deleted)

3. The employer's actions in respect of concluding and realization of a company pension agreement, collection of contributions, repayment and disbursement of funds shall not constitute insurance agency activities as understood by the Insurance Act.

Art. 45a

If the employer and the employee representatives intend to set up the employee pension program in the form of an employee pension fund, the company pension agreement may be concluded from 1 January 1999; this also relates to a joint intercompany pension program agreement.

Art. 45b.

1. Employees who run group employee investment-linked life insurance or any other form of group accumulation of funds for pension purposes, and who, based on different regulations, are entitled to deduct expenses incurred from the basis of social insurance contribution, may adapt existing agreements to the terms of the Act and form an employee pension program.
2. In the case described in section 1, the employee may decide whether to continue accumulating funds as part of the employee pension program.
3. In the case described in section 2:

1) other funds accumulated before the employee enters the employee pension program are treated as funds from basic contribution as per this Act and shall not be included in the calculation of basic social insurance contribution,
2) an employee shall not be obliged to repay the amounts deducted for social insurance.

Art. 45c.

1. Regulations of art. 45b shall apply respectively if the employer and the employee representatives resign from group investment-linked life insurance or another form of group accumulation of funds for pension purposes and change the form of the current pension program.
2. In the case referred to in section 1, an insurance firm, a mutual life insurer or an investment fund are obliged, based on an employee's instruction, to transfer the funds to his account maintained as part of the employee pension program.

Art. 46

The Act shall come into force on 1 April 1999, with the exception of:
1) art. 45a, which comes into force on 1 January 1999,
2) art. 3-6, art. 7.1.1 and 7.3, art. 9-11, 13, 14.1-3 and 5, art. 15, 18, 27, 28 and 34 in the scope relating to employee pension programs in the form of employee pension funds, which come into force on 1 January 1999.

Social Insurance System ACT

of October 13th 1998

Social Insurance System ACT

of October 13th 1998

Chapter 1.
General Provisions

Article 1.

Social insurance shall cover the following:

1) pension insurance,
2) disability pension insurance,
3) insurance for sick leave and maternity leave, hereinafter referred to as "sick leave insurance",
4) insurance against accidents at work and occupational disease, hereinafter referred to as "workman's compensation".

Article 2.

1. The Act shall determine the following:
   1) rules for social insurance liability,
   2) rules for establishing social insurance contributions, and the basis for determining the rates thereof,
   3) principles, procedure and dates for the following:
      a) filing notification of social insurance participation,
      b) keeping records concerning the insured and the contribution payers,
      c) settlement of social insurance contributions, sick leave and workman's compensation insurance benefits,
      d) payment of social insurance contributions,
   4) operating principles of accounts of the insured and the contribution payers,
   5) organisation and operating principles of the Social Insurance Fund, hereinafter referred to as "FUS" (*Fundusz Ubezpiecze Spo ecznych)*,
   6) organisation and operating principles of the Social Insurance Institute, hereinafter referred to as "the Institute" or "ZUS" (*Zak ad Ubezpiecze Spo ecznych*),
   7) operating principles of the Demographic Reserve Fund hereinafter referred to as "FRD" (*Fundusz Rezerwy Demograficznej*) and principles for its management,
   8) control principles for performance of social insurance tasks performance.
2. The types of social insurance benefits, conditions for eligibility, as well as the rules and procedures for granting such eligibility shall be defined by virtue of separate regulations.
3. Payment of all social insurance benefits shall be guaranteed by the State.

Article 3.

1. Social insurance tasks as defined in this Act shall be performed by the following entities:

1) the Social Insurance Institute,

2) open pension funds as defined by regulations on pension fund organisation and operation,

3) pension insurance institutes as defined by regulations on pension insurance institutes,

4) contribution payers.

2. Tasks relating to determining eligibility for benefits, the amount and payment of benefits from sick leave insurance shall be performed by the contribution payer against remuneration. The remuneration of contribution payers shall be calculated as a percentage of the benefit amount. The percentage rate and procedures for settlement of the remuneration shall be determined by a decree of the minister responsible for social insurance issues. Other social insurance-related tasks shall be performed by the contribution payers free of charge.

3. The scope of social insurance tasks performed by open pension funds and pension insurance institutes shall be determined by regulations on pension fund organisation and operations and on pension insurance institutes.

Article 4.

The terminology as applied in the Act shall have the following meaning:

1) the insured - shall mean individuals liable to at least one form of social insurance referred to in Article 1,
2) contribution payer - shall mean:
   a) the employer as defined by the Labour Code, with relation to the employees, as well as an organisational entity or individual bound by legal relationship to another individual, such relationship justifying the former to be liable to social insurance,
   b) an entity which pays social benefits – in respect of individuals who receive social benefits when on holiday leave as well as those who receive social benefits when retraining or searching for new employment,
   c) an entity on behalf of which paid work is done by individuals serving a prison sentence or under temporary arrest, in respect of individuals who perform the work on the basis of a work appointment,
   d) an insured individual exclusively liable to pay contributions for the benefit of his or her own insurance,
   e) the Chancelleries of the Houses of the Polish Parliament, the *Sejm* (Lower House of the Polish Parliament) and the Senate in respect of members of both Houses,
   f) diocese clergymen or superiors of convents and orders in respect of the convent members,
   g) an organisational entity supervised by the minister responsible for defence issues in respect of
      - non-professional soldiers in active military service or individuals in substitute forms of service
      - professional soldiers,
   h) an organisational entity supervised by the Main Police Headquarters (*Komenda G ówna Policji*) in respect of police officers,
   i) an organisational entity supervised by the minister responsible for home affairs – in respect of officers and soldiers,
   j) an organisational entity supervised by the minister responsible for justice in respect of prison service officers,
   k) social welfare centres in respect of individuals receiving permanent or guaranteed temporary benefits from social welfare,

l) the State Security Bureau – in respect of officers of the State Security Bureau
m) district job centre – in respect of individuals who receive unemployment benefits or scholarships,
n) the Institute in respect of individuals on child care leave and receiving maternity benefit,
o) the entity which pays sports scholarships – in respect of individuals who receive these scholarships.

3) contributions - shall mean social insurance contributions of individuals defined in item 1,
4) benefits - shall mean benefits and rehabilitation benefits from sick leave and workman's compensation insurance,
5) a settlement declaration - a schedule of information on contributions payable to funds, the contributions being collected by the Institute, amounts charged to contributions and amounts to be paid out,
6) name-specific monthly report - shall mean information on an individual liable to social insurance for a given calendar month, submitted by a contribution payer to the Institute,
7) account of the insured - shall mean an account in which the contributions, as well as other information pertaining to an insured individual's insurance history, is recorded,
8) payer's account – shall mean an account in which the amount of liability in respect of social contributions and other contributions of the payer collected by the Institute, as well as contributions paid, settlement balances and other information about the contribution payer are recorded,
9) income – shall mean revenue as per personal income tax regulations derived from: employment under a contract of employment, work by job, service, holding a seat in either House of Parliament, performing work when serving a prison sentence or under temporary arrest, receiving unemployment scholarships or benefits or sports scholarships, from performing non-agricultural business activities, agency contracts and short-term job contracts, as well as from co-operating in those activities or in the execution of a contract,
10) income derived from membership in an agricultural manufacturing co-operative or a co-operative of farmers' societies – income derived from work in the co-operative and from manufacture of agricultural products on its behalf,
11) open pension fund - a fund selected by the insured from pension funds as described by regulations on pension fund organisation and operations.

12) pension insurance institute - a pension insurance institute chosen by the insured, which pays out a life annuity, and acts pursuant to regulations on pension fund organisation and operations.

Article 5.

1. Should the individual farmers not be liable to social insurance on the basis of the Act, their social insurance liability shall be governed by separate regulations.

2. Citizens of foreign countries not domiciled permanently in Poland, employed by foreign diplomatic agencies, embassies, consulates, missions and special missions or international institutions, shall not be subject to the provisions of the Social Insurance Act, unless international treaties stipulate otherwise.

Chapter 2.
Rules of Social Insurance Liability

Article 6.

1. In recognition of clause 3, and Article 8 and 9, mandatory pension and disability pension insurance shall apply to individuals in the territory of Poland who are:

   1) employees, with the exception of prosecutors,

2) individuals performing work by job,
3) members of agricultural production co-operatives and co-operatives of farmers' societies, performing their work on a basis other than an employment contract (hereinafter referred to as "co-operative members"),
4) individuals performing work on the basis of agency agreements or short term job contracts, if the contracts have been concluded with one engager for a period longer than 14 days, and the period of interval between two contracts does not exceed 60 days (hereinafter referred to as contractors) and any individuals co-operating with them, in recognition of clause 4,
5) individuals engaged in non-agricultural business activities and any individuals co-operating with them,
6) members of both Houses of Parliament receiving relevant remuneration,
7) individuals receiving sports scholarships (hereinafter referred to as "scholarship sportspeople"),
8) individuals performing paid work on the basis of a work assignment while under temporary arrest or serving a prison sentence,
9) individuals receiving unemployment benefits, and graduates receiving scholarships while taking training courses or employed for a trial period, being assigned by the administration district job centre (hereinafter referred to as "the unemployed"),
10) members of the clergy,
11) non-professional individuals in active military service
12) individuals in substitute forms of military service,
13) professional soldiers,
14) police officers,
15) officers of the State Security Bureau,
16) Border Guard officers,
17) National Fire Brigade officers,
18) Prison Service officers, and
19) individuals on child care leave or receiving maternity benefits,
20) individuals receiving social benefits paid while on leave or individuals receiving social welfare benefits paid in the period of retraining or searching for another job, resulting from different regulations or collective work arrangements.

2. The principles of pension insurance liability applicable to individuals receiving permanent or guaranteed temporary benefits from the social welfare system are governed by separate legal regulations.

3. Individuals referred to in clause 1, items 13-18, who took up service after the act came into force, shall be insured under mandatory pension and disability pension insurance.

4. Individuals referred to in clause 1, item 4, shall not be insured under mandatory pension and disability pension insurance if they are students of post-elementary or university level schools, until they attain the age of 26.

Article 7.

The following individuals shall be eligible for voluntary pension insurance:

1) spouses of employees delegated to work with the diplomatic services, in consulates, at permanent representative offices of the United Nations Organisation, as well as on other special missions abroad, and at institutes, information and cultural centres abroad,

2) individuals who are not liable to pension insurance for reasons described in Article 6, clause 1 and 2 due to their taking care of a family member who is entitled to a nursing benefit,

3) Polish citizens performing work abroad with foreign entities, and Polish citizens performing work with foreign entities based within the territory of the Republic of Poland, should these entities not have their seat or representative office in Poland.

4) Students and participants of full time PhD studies, if they are not eligible for pension benefits from other titles,

5) Alumni of religious seminars, novices, postulants and juniorists, until they attain the age of 25.

Article 8.

1. An employee shall be deemed to be any individual on an employment contract, in recognition of clause 2.

2. For the purposes of social insurance an employee shall be deemed to be a co-operating individual, as long as they meet the criteria for co-operating individuals described in clause 11.

3. An individual performing work by job shall be deemed to be a person employed on the basis of a work by job contract.

4. A co-operative member shall be deemed to be a member of an agricultural manufacturing co-operative, or of another type of co-operative engaged in agricultural production, functioning according to Art. 138-178 and Art. 180 § 3 of the Act of September 16th 1982 – Co-operative Law (*Journal of Law* of 1995, No. 54, item 288 and No. 133, item 654, of 1996, No. 5, item 32, No. 24, item 110 and No. 43, item 189, and of 1997, No. 32, item 183, No. 111, item 723, and No. 121, items 769, and 770) who performs work on behalf of the co-operative on grounds other than an employment contract or produces agricultural products on its behalf on a farm run by himself.

5. A co-operative member as described in clause 4 shall be considered equal to any other individual who is not a member of the co-operative and who performs work for the benefit of the co-operative or on the co-operative's farm on grounds other than a contract of employment, should they be remunerated according to the principles applicable to co-operative members and candidates.

6. Individuals engaged in non-agricultural business activities shall be deemed to be:

    1) individuals operating a business enterprise on their own pursuant to regulations applicable to business activities or other specific regulations,

    2) individuals engaged in creative work and artists,

    3) individuals engaged in freelance work pursuant to personal income tax regulations.

7. Individuals involved in creative work, as described in clause 6, item 2, shall be deemed to be individuals undertaking creative work (subject to copyright) in fields such as architecture, interior design, landscape architecture, town planning, literature, art, music, photography, audio-visual creations, choreography, and artistic string instrument manufacturing, as well as folk art.

8. Artists, as described in clause 6, item 2, shall be deemed to be individuals performing paid work in fields such as acting and stage performance, stage and theatre performance production, dance, the circus, or in conducting, vocal or instrumental performance, costume and stage design, as well as

audio-visual production: directors, script writers, image and sound operators, film editors, and stunt performers.

9. Work shall be deemed to be creative or artistic and the date of its commencement shall be decided by the Committee for Pension Benefits for Individuals Involved in Creative Work, operating under the aegis of the minister responsible for cultural issues.

10. The minister responsible for cultural issues in consultation with the minister responsible for social insurance shall appoint, by virtue of a decree, the Committee referred to in clause 9, and shall determine in detail its tasks and composition and operating procedures.

11. Individuals co-operating with individuals engaged in non-agricultural business activities and contractors described in Article 6, clause 1, item 4 and 5, shall be deemed to be the spouse, children, the spouse's children, adopted children, parents, stepmother and stepfather, and adopted parents of the individuals, as long as they share a joint household and co-operate in their business activities or in the realisation of an agency agreement or a short term job contract, except for individuals who have concluded an employment contract with a view to preparing for a job.

12. Scholarship sportspeople shall be deemed to be individuals receiving a sports scholarship, with the exception of school or university level students if they are not liable to pension or disability pension insurance by virtue of other titles.

13. Members of the clergy shall be deemed to be members of the clergy and of male and female convents and religious orders of the Catholic Church and other churches and religions, except for alumni of religious clerical seminars, novices, postulants and juniorists who have not attained 25 years of age.

14. Employment within the territory of the Republic of Poland shall also mean the employment of Polish citizens abroad with Polish diplomatic services and at consulates, at permanent representative offices of the United Nations Organisation, other missions, and on other special missions abroad, as well as at other Polish entities, institutions or enterprises, unless international agreements provide otherwise.

15. Individuals in service shall be deemed to be professional soldiers, and officers of:
    1) The Police
    2) The State Security Bureau
    3) The Border Guard
    4) The National Fire Brigade
    5) The Prison Service.

Article 9.

1. In recognition of clause 5, individuals referred to in Article 6, clause 1, item 1, 3, and 12 - 18, who concurrently meet the criteria for mandatory pension insurance coverage from other titles, shall be covered by the insurance only on grounds of employment on an employment contract, membership in a co-operative or service. They may also receive pension insurance cover by virtue of other titles on a voluntary basis, on application.

2. Individuals who meet the criteria for mandatory pension insurance cover on the grounds of several titles referred to in Article 6, clause 1, item 2, 4 - 6, and 10, shall be liable to insurance on the grounds of the title which arose first. Individuals may, however, upon application, also be liable to voluntary pension insurance by virtue of all or selected titles, or may change the title of insurance, in recognition of clause 7.

3. An individual engaged in several types of non-agricultural business activities shall be liable to pension and disability pension insurance on the grounds of one chosen type of activity.

4. Individuals referred to in Article 6, clause 1, item 1, 3, and 13 - 19, who have an established right to a pension or disability pension, shall be liable to mandatory pension and disability pension insurance.

5. Individuals referred to in Article 6 and not mentioned in clause 4, who have an established right to a pension or disability pension, shall be liable to voluntary pension insurance.

6. Individuals referred to in Article 6, clause 1, items 8 and 19, shall be liable to mandatory pension and disability pension insurance if they do not have an established right to pension or disability pension and are not eligible for social insurance benefits on the grounds of other titles.

7. Members of the clergy who may be liable to both the mandatory pension insurance and the disability pension insurance on the grounds of engaging in business activities shall be liable to insurance in respect of being engaged in such activities.

Article 10.

Individuals with mandatory pension and disability pension coverage and individuals referred to in Art. 7 item 3, shall be entitled to voluntary continuation thereof following its expiry only if the period of coverage exceeds 10 years; there will be no obligation to pay a minimum benefit should the balance of the individual's account not ensure it.

Article 11.

1. Individuals mentioned in Article 6, clause 1, items 1, 3 and 12, shall be eligible for mandatory sick leave insurance.

2. Individuals liable to mandatory pension and disability pension insurance as stipulated by Article 6, clause 1, items 2, 4, 5, and 8 and 10, shall be eligible for voluntary sick leave insurance upon application.

Article 12.

1. Individuals liable to pension and disability pension insurance shall be eligible for mandatory workman's compensation insurance in recognition of provisions contained in clause 2 and 3 hereto.

2. Neither the unemployed who receive unemployment benefits nor the individuals defined in Article 6, clause 2, items 2, 11, and 13 - 20, Article 7 and in Article 10 shall be eligible for workman's compensation insurance.

3. Individuals referred to in Article 6, clause 1, item 4 shall not be eligible for workman's compensation insurance if they perform their work outside the premises of their engager.

Article 13.

Individuals shall be eligible for mandatory pension, disability pension, sick leave and workman's compensation insurance in the following periods:

1) employees - from the date of concluding an employment contract to the date of its cancellation,

2) individuals performing work by job and contractors - from the date defined in the relevant contract as the date of commencement of work to the date of cancellation or expiry of the contract,

3) co-operative members - from the date of commencement of work on behalf of the co-operative to the date of its cessation,

4) individuals engaged in non-agricultural business activities - from the date of commencement of these activities to the date of their cessation,

5) co-operating individuals - from the date of commencement of co-operation in non-agricultural business activities or performance of work pursuant to an agency contract or a short term job contract to the date of ending this co-operation,

6) Members of Parliament - from the date of obtaining the right to relevant remuneration to the date of loss of these rights,

7) scholarship sportspeople - from the date of meeting the criteria referred to in Article 8, clause 12, to the date they cease to meet these criteria,

8) individuals who perform paid work while serving a prison sentence or being under temporary arrest - from the date of commencement of the work to the date of its cessation,

9) the unemployed - from the date of acquiring the right to a benefit or scholarship to the date of losing this right,

10) members of the clergy - from the date of being accepted as members of clergy to the date of withdrawal,

11) non-professional soldiers in active military service and individuals in substitute forms of service - from the date of appointment or called-up to the date of being dismissed from service,

12) individuals referred to in Article 6, clause 1, item 13 - 18 - from the date of appointment to the date of dismissal from service,

13) individuals on child care leave or receiving maternity benefits - from the date of complying with the necessary conditions referred to in Article 9, clause 6, to the date of ceasing to comply with the conditions described thereunder.

14) individuals referred to in Article 6, clause 1 item 20 – from the date of acquiring the right to the social benefits or social welfare benefits to the date of losing this right.

Article 14.

1. Voluntary pension and disability pension insurance coverage shall be deemed to be valid as of the date specified in the application for insurance coverage, albeit no earlier than the date of the application being filed.

2. Voluntary pension and disability pension insurance coverage, referred to in clause 1, shall expire:
   1) as of the date specified in the application for insurance coverage expiry, albeit no earlier than the date of the application being filed,
   2) upon failure to pay such contributions for these types of insurance due for one full month. In justified cases the Institute may restitute the term of contribution payment (following an application from the insured),
   3) as of the date of termination of the eligibility title.

3. A period of receiving pay during illness or isolation due to contagious diseases, as well as periods during which benefits are received shall not be deemed to be a period of failure to pay contributions.

Chapter 3.

Rules of Defining Social Insurance Contributions

Article 15.

1. The rates of contributions for pension, disability pension, and sick leave insurance shall be identical for all insured.
2. The rate of contribution for workman's compensation insurance shall be diversified for contribution payers, and depend both on the extent of occupational hazard involved, and of the outcome of such hazard.

Article 16.

1. Pension and disability pension insurance contributions for the following:

   1) employees,
   2) individuals performing work by job
   3) co-operative members,
   4) contractors,
   5) members of both the House of Sejm and House of Senate,
   6) scholarship sportspeople,
   7) individuals performing paid work on the basis of a work assignment while serving a prison sentence or being under temporary arrest,
   8) co-operating individuals
   9) professional soldiers,
   10) police officers,
   11) State Security officers
   12) Border Guard officers,
   13) Fire Brigade officers,
   14) Prison Service officers,

shall be covered in equal shares by the insured and by contribution payers, in recognition of clause 7.

2. Sick leave insurance contributions for relevant individuals specified in clause 1, item 1-4, 7, and 8 shall be paid in full by the insured themselves, and from their own funds.
3. Workman's compensation insurance contributions for individuals specified in clause 1, items 1, and 3-8, individuals co-operating with individuals engaged in non-agricultural business activity, and the unemployed who receive scholarship, shall be paid in full by contribution payers, from their own funds.
4. Pension, disability pension, and workman's compensation insurance contributions for individuals:

   a) engaged in non-agricultural business activities,
   b) referred to in Articles 7 and 10,

shall be paid in full by the insured themselves, from their own funds.

5. Contributions for pension and disability pension insurance of non-professional soldiers in active military service and individuals in substitute forms of service, as well as contributions for sick leave

insurance of individuals in service substitute to mandatory military service shall be fully financed from the funds administered by the minister responsible for defence issues.

6. Contributions for pension and disability pension insurance of individuals who receive permanent or guaranteed temporary benefits from social welfare, shall be financed in full by social welfare centres.

7. Contributions for pension and disability pension insurance of individuals who are in service as candidates for Police, Border Guard and National Fire Brigades officers shall be financed in full by the relevant headquarters from funds placed at their disposal.

8. Contributions for pension and disability pension insurance of individuals on child care leave and individuals receiving maternity benefits shall be fully financed from the State budget.

9. Contributions for pension and disability pension insurance of the unemployed shall be fully financed by administration district job centres from the labour fund.

10. Pension, disability pension and workman's compensation insurance of individuals referred to in Article 6, clause 1, item 1, shall be financed as follows:
a) by the members of the clergy - 20% of the contribution, and from the Church Fund - 80% of the contribution,
b) from the Church Fund - 100% of the contribution amount for members of contemplative and enclosed convents and religious orders, and missionaries in the periods when they engage in work in mission territories.

11. Sick leave insurance contributions of clergymen shall be financed in full by the clergymen themselves, from their own funds.

12. Contributions for pension and disability pension insurance of individuals referred to in Article 6, clause 1, item 20, and clause 2, shall be financed in full from the State budget.

13. Contributions for social insurance of some employed handicapped individuals shall be financed, pursuant to Article 25 of the Act of August 27th 1997 on occupational and social rehabilitation and employment of the handicapped (*Journal of Law* No. 123, item 776, and No. 160, item 1082, and from 1998, No. 99, item 628, and No. 106, item 668).

14. The minister responsible for social insurance matters in consultation with the minister responsible for the budget, shall determine, by virtue of a decree, the type of documents which will form the basis of financial settlement of contributions, referred to in clause 13.

Article 17.

1. Pension, disability pension, workman's compensation and sick leave insurance contributions for individuals specified in Article 16, clauses 1-3 and 5 - 13, shall be calculated, settled and delivered to the Institute by contribution payers exclusively.

2. Contribution payers specified in clause 1 shall calculate the portion of the pension, disability pension, and sick leave insurance contributions financed by the insured, and after deducting it from the income of the insured shall transfer them to the Institute.

3. Pension, disability pension, sick leave, and workman's compensation insurance contributions for individuals not specified in clause 1, shall be calculated and paid to the Institute by the insured themselves each month.

Article 18.

1. The basis of the pension and disability pension insurance contribution rates for the insured specified in Article 6, clause 1, items 1-3 and 8, and items 13 - 18, shall be deemed to be income, as described by Article 4, items 9 and 10, in recognition of clause 2, clause 4 item 5, and clause 13.

2. The basis of the pension and disability pension insurance contribution rates of individuals referred to in Article 6, clause 1, item 1 - 3, shall include neither remuneration paid for the period of inability to work due to sickness or isolation resulting from contagious disease, nor benefits.

3. The basis of the pension and disability pension insurance contribution rates for contractors shall be defined in compliance with the provisions of clause 1, should the agency or short term job contract specify the amount of pay for services thus rendered in actual monetary terms, or as an amount per hour or per piece.

4. The basis of the pension and disability pension insurance contribution rates for the following:

   1) members of both the House of Sejm and House of Senate - shall be deemed to be the remuneration amount,
   2) scholarship sportspeople - shall be deemed to be the scholarship amount,
   3) the unemployed - shall be deemed to be the unemployment benefit or scholarship amount,
   4) individuals described in Article 6, clause 1, item 20 – shall be deemed to be the amount of social benefit or social welfare benefit,
   5) non-professional soldiers in active military service and insured individuals in substitution forms of military service, candidates for Police, Border Guard and State Fire Brigade officers, as well as clergymen - shall be deemed to be the lowest salary rate determined by the minister responsible for labour issues on the basis of Article 77^4 of the Labour Code, hereinafter referred to as the lowest salary,
   6) soldiers serving additional terms in the army – shall be deemed to be the amount of the remuneration,

   together with the tax deductible costs and the amount of the tax liability described in personal income tax regulations.

5. The basis of the pension and disability pension insurance contribution rates of individuals who receive permanent or guaranteed temporary benefit from social welfare, as well as individuals on child care leave, shall constitute the lowest salary.

6. The basis of the pension and disability pension contribution rates for individuals receiving maternity benefits shall be deemed to be the amount of that benefit.

7. The basis of the pension and disability pension insurance contribution rates for the insured specified in Article 6, clause 1, item 4, as well as for the insured liable to voluntary pension and disability pension insurance, shall be deemed to be the amount declared, not lower than the lowest salary, in recognition of clauses 3, 9, and 10.

8. A declared amount, no lower than 60% of average monthly salary in the previous quarter shall comprise the basis for calculation of pension and disability pension contribution rates referred to in Article 6, clause 1, item 5.

9. With regard to the month when pension or disability pension insurance obligations arose or terminated, and when they related to a month which was not a full calendar month, the basis of the lowest pension and disability pension insurance rates shall be proportionally decreased by dividing them by the number of calendar days in the given month and then multiplying by the number of days the insurance cover was in force.

10. The rules for decreasing the lowest basis of contribution rates referred to in clause 9 shall be applied respectively in case of receiving benefits for a part of a month.

11. On application by an insured individual, referred to in Article 6, clause 1, item 10, the basis of contribution rates may exceed the basis defined in clause 4, item 5. The part of contribution on declared income exceeding the lowest salary shall be financed by members of the clergy, and institutions of dioceses and religious orders.

12. A monetary equivalent of unused holiday leave payment to which the individuals described below are entitled shall form the basis of pension, disability pension, sick leave and workman's insurance contribution rates for employees directed to work or service in diplomatic agencies, consulates, permanent representative United Nations offices and other special missions abroad.

13. In respect of employees whose remuneration is financed from Guaranteed Employee Remuneration Fund funds, income referred to in clause 1 shall be deemed to be remuneration receivable by the employee for the period to which the financing pertains.

Article 19.

1. The annual basis of contribution rates for pension and disability pension insurance of individuals mentioned in Articles 6, 7 and 10 in a given calendar year may not exceed the equivalent of thirtyfold the projected average monthly salary rate in the national economy sectors for a given calendar year as determined in the Budget Law or in its draft if the Budget Law has not yet been passed, in recognition of clause 2 and 9.
2. If the average monthly salary rate referred to in clause 1 cannot be established, the salary shall be established based on the average monthly salary from the third quarter of the preceding calendar year.
3. Until the amount referred to in clause 1 has been collected, the pension and disability pension insurance contributions shall be calculated and transferred to the Institute on the basis of the amount determined in accordance with Article 18. No pension and disability pension contributions shall be calculated from amounts exceeding the amount mentioned in clause 1.
4. If the individual referred to in clause 1 is entitled to a pension and disability pension insurance cover by virtue of several titles, the Institute shall immediately inform the contribution payers and the said individual via the contribution payers once the amount referred to in clause 1 has been collected.
5. If the contribution payers or the insured themselves shall be obliged to pay contributions on behalf of the individuals referred to in clause 1, the insured, after exceeding the annual basis of contribution rates may submit a declaration stating cessation of withholding contributions, and inform the Institute, through the payer, of the fact. The insured shall be responsible for any outcome of an erroneous declaration.
6. The Institute shall check the annual basis of pension and disability pension contributions on a current basis. If the Institute learns that the annual basis for contributions exceeded the amount stipulated in clause 1, the Institute shall return the contributions calculated and paid in the amount exceeding the amount stipulated. Contributions paid into open pension funds shall not be reimbursed.
7. The period in which pension and disability pension insurance contributions are not paid due to exceeding the amount of annual basis of contribution rates as described in clause 1 during the calendar year shall be treated as an insurance period within the meaning of regulations on pension and disability pension paid from the Social Insurance Fund.
8. The regulation of clause 7 shall apply to individuals who pursuant to Articles 13 and 14, clause 2, ceased to be liable to pension and disability pension insurance, respectively, after having paid contributions calculated on the basis of the annual base rate referred to in clause 1.
9. The regulation of clause 8 shall not apply to sick leave and workman's compensation insurance liability.

10. The minister responsible for social insurance issues shall by the end of a calendar year announce in Monitor Polski, the official journal of the Republic of Poland the amount constituting the limit on the basis of the contribution rates, referred to in clause 1.

Article 20.

1. The basis of the sick leave and workman's compensation insurance contribution rate shall be deemed to be the basis of the pension and disability pension insurance contribution rate, in recognition of the provisions contained in clause 2 hereto.
2. The limitations defined in Article 19 clause 1 shall not apply when determining the basis of sick leave and workman's compensation insurance contribution rates.

Article 21.

The minister responsible for social insurance issues shall determine, by virtue of a decree, detailed rules for the determination of the basis of contribution rates, taking into consideration the limitation referred to in Article 19, clause 1, and exclusion of some types of income from the calculation of the contribution basis.

Article 22.

1. The rates for social insurance contributions shall amount to:
   1) 19.52 % of the basis of contribution rate - for pension insurance in recognition of clauses 3 and 4,
   2) 13.00 % of the basis of contribution rate - for disability pension insurance,
   3) 2.45 % of the basis of contribution rate - for sick leave insurance,
   4) from 0.40 % to 8.12 % of the basis of contribution rate - for workman's compensation insurance.
2. In recognition of Article 121, the Institute shall define - by virtue of a decision - for each and every contribution payer, for a period no longer than three years, the contribution rate for workman's compensation insurance. The regulations of the Act on Social Insurance with regard to Accidents at Work and Occupational Diseases shall determine the rules for differentiation of workman's compensation insurance contribution rates.
3. A portion of the pension insurance rate which originated from the insured individual's contributions, in the amount of 7.3% of the basis of calculation of the contribution rate, shall be transferred by the Institute to an open pension fund selected by the insured, in recognition of Article 111.
4. One part of the pension insurance contribution in the amount of 1% of the basis of the contribution rates shall be transferred by the Institute to FRD, in recognition of Article 112, clause 2.

Article 23.

1. Late payment penalty interest shall be due from contribution payers on any contributions not paid on a timely basis, in compliance with the rules and rates determined by the provisions of the Tax Law of August 29th 1997 (*Journal of Law* No. 137, item 926, and No. 160, item 1083).
2. Interest realised on the portion of the pension insurance contribution mentioned in Article 22, clause 3, shall be paid to the individual account of the insured in the open pension fund chosen by the insured.

3. Contributions collected in administrational or court execution proceedings as well as contributions paid in instalments, and respectively indexed, shall be recorded in the account of the insured individual, if the account had not been earlier supplemented pursuant to procedures defined in Article 40.

4. The regulations in clauses 2 and 3 shall pertain to contributions transferred from the Guaranteed Employee Benefit Fund.

Article 24.

1. Should contribution payers fail to pay contributions or pay them in insufficient amounts, the Institute shall be entitled to impose an additional fee thereon, at a rate of up to 100% of any contribution payment due. The decision on the additional fee may be appealed in court according to the rules described in Article 83.
2. Contributions, as well as any late payment penalty interest, execution costs, additional fees and prolongation fees, hereinafter referred to as contribution dues, not paid in time shall be subject to collection in compliance with the administrative or court execution procedure regulations.
3. Contribution dues shall be collected in compliance with administrative execution procedures before any other dues, with the exception of: execution expenses, payroll creditors, alimony dues, and annuities paid out as compensation for inflicting a disease, rendering an individual disabled or unable to work, or causing their death, as well as costs of the terminal illness and funeral expenses of the debtor, in amounts corresponding to local custom.
4. Contribution dues shall be deemed prescribed following a period of 5 years, and should the course of prescription as provided for in clause 5 be interrupted, they shall be deemed prescribed following a period of 10 years as of the date of maturity thereof.
5. The course of prescription shall be interrupted by a postponement of the social insurance contribution payment date, by dividing any such payables due into instalments, as well as by any other action aimed at the collection thereof, if the debtor had been duly informed of any such action.
6. The course of prescription defined in clauses 4 and 5 shall be suspended from the date of death of the bequeather to the date of validation of the court's decision on the transfer of the estate, however no later than within two years of the death of the bequeather.
7. No insurance contributions paid unnecessarily can be claimed from the Institute for reimbursement, should 5 years have passed as of the time of paying the same.
8. Contributions paid unnecessarily to an open pension fund shall be appropriated to future contribution payments.
9. Late payment interest, execution costs and additional fees shall be fully financed by the contribution payer from his own funds.

Article 25.

Contribution dues shall be excluded from any reconciliation procedures as provided for by reconciliation procedure regulations.

Article 26.

1. The Institute has a right to put forward an application to start a mortgage register in respect of the real estate of a debtor who has failed to pay social insurance contributions, also when the debtor is a state organisational entity which is not a budgetary entity.
2. Documents issued by the Institute which testify to the existence of liabilities in respect of social insurance contributions and state their amount shall form the basis of a mortgage entry into the

mortgage register of the real estate owned by the liable party. If the real estate is not accompanied by a mortgage register, the collateral takes the form of filing those documents.

3. Contribution dues shall be secured by statutory mortgage on all real property of the debtor. The mortgage shall be instated on the date when the Institute issues a decision on the amount of contribution dues.

4. Relevant regulations of the Tax Law relating to statutory mortgage shall apply to the mortgage referred to in clause 3.

Article 27.

1. Contribution dues shall be secured by the statutory right to lien on movable property and transferable rights of the debtor.
2. Relevant provisions of the Tax Law relating to treasury liens shall apply to the lien referred to in clause 1.
3. An excerpt from the lien register referred to in Article 46 paragraph 1 of the Tax Law shall be submitted free of charge following an application by the Institute.

Article 28.

1. Contribution dues may be cancelled wholly or partially by the Institute, in recognition of clauses 2-4.
2. Amounts due in respect of contributions may only be cancelled in case of absolute uncollectibility.
3. Absolute uncollectibility mentioned in clause 2 occurs when:
   1) the debtor has died without leaving any property, or has left movables not subject to execution on the basis of separate regulations, or has left household articles of everyday use whose total value does not exceed three times the amount of an average salary, and, simultaneously, there exists no possibility of passing the liability on to third parties,
   2) a court of law has waived the motion to declare the debtor's bankruptcy or has discontinued bankruptcy proceedings for the reasons mentioned in Article 13 and in Article 218, paragraph 1, item 1 in recognition of paragraph 2 of the decree of the President of the Republic of Poland of October 24th 1934 - the Bankruptcy Law (*Journal of Law* of 1991 No. 118, item 512, of 1994, No. 1, item 1, of 1995, No. 85, item 426, of 1996, No. 6, item 43, No. 43, item 189, No. 106, item 496, and No. 149, item 703, of 1997, No. 28, item 153, No. 54, item 349, No. 117, item 751, No. 121, item 770, and No. 140, item 940),
   3) as regards debtors who are legal persons, when the debtor has been removed from the relevant register of legal persons, and in the event of there being no property that might form the basis of exacting the payment, and in view of a lack of possibility of passing the liability on to third parties,
   4) the receivable was not settled after the liquidation proceedings had been finalised,
   5) the tax office competent to conduct execution proceedings has declared absolute uncollectibility of the receivable,
   6) it is clear that the amounts collected via execution proceedings shall not exceed the costs of those proceedings.
4. The cancellation of contributions causes also cancellation of late payment penalty interest, additional fee, execution costs due to the Institute, as well as the prolongation fee.

206

Article 29.

1. For business or any other reasons worth taking into consideration, the Institute may postpone the date of payment of any contributions due, and may divide the payment due into instalments, in recognition of the payer's ability to pay, as well as of the financial condition of the social insurance. The postponement of the date of payment may relate only to dues paid by the contribution payer.

2. From the date of receipt of an application for allowance no late payment penalty interest shall be calculated on contributions which have been divided into instalments.

3. If the debtor fails to pay instalments within the deadlines set by the Institute, the remaining amount shall be payable immediately together with late payment interest calculated pursuant to the rules set out by the Tax Law.

4. In cases referred to in clause 1, the Institute shall determine a prolongation fee according to rules and in the amount stipulated by the Tax Law for taxes which comprise income from the State budget.

Article 30.

Articles 28 and 29 shall not apply to contributions financed by insured individuals who are not contribution payers.

Article 31.

The following shall apply to contribution dues: Article 26, Article 29, paragraph 1 and 2, Article 33, paragraph 1 - 4 and 6 - 7, Article 51, paragraph 1, Article 55, Article 59, paragraph 1, item 1 and 3, Article 60, paragraph 1, Article 61, paragraph 1, Article 62, Article 72, paragraph 1 item 1, Article 74, paragraph 1, item 1, Article 75, paragraph 1, Article 76, paragraph 1, item 1c, and e, and paragraph 2 and 3, Article77, paragraph 1 and 2, item 1 and 2, and paragraph 4, Article 91, Article 93, paragraph 1 - 3, Article 94, Article 97, paragraph 1, Article 98, paragraph 1, paragraph 2, item 1 - 2, 4 - 5 and paragraph 3, Article 100, paragraph 1, Article 101, paragraph 1 and 3, Article 105, paragraph 1 - 3, Article 106, paragraph 1 and 2, Article 107, paragraph 1 and 2, items 2 and 4, Article 108, paragraph 1 and 3, Article 110, paragraph 1 and 2, item 2, Article 111, paragraph 1 - 4, and paragraph 5, item 1, Article 112, paragraph 1 - 4, paragraph 5, item 2, paragraph 6 - 9, Article 113, and Article 115 - 119 of the Tax Law.

Article 32.

Regulations pertaining to social insurance contributions shall apply to collecting contributions, their execution, late payment interest calculations, additional fees, penal regulations and instituting securities on all real property, movables and transferable rights of the debtor as well as application of relief and write-offs with relation to contributions to the Labour Fund, Guaranteed Employee Benefit Fund, health insurance and State Fund for the Rehabilitation of the Handicapped.

Chapter 4.
Filing Notification of Insurance Participation and Managing Contribution Payer Accounts and Rules for Contribution and Benefit Settlement

Article 33.

1. The Institute shall be responsible for maintaining the following records:

   1) accounts of the insured, each of which shall be marked with an identification number assigned to the insured by the Government Information Centre of the General Electronic Population Evidencing System (*Rz dowe Centrum Informatyczne Powszechnego Elektronicznego Systemu Ewidencji Ludno ci - RCI PESEL*),

   2) contribution payer accounts marked with the NIP (*numer identyfikacyjny podatnika*) taxpayer identification numbers assigned by the Tax Office,

   3) Central Register of the Insured,

   4) Central Register of Contribution Payers.

   5) Central Register of Members of Open Pension Funds,

   6) Central Register of Individuals who Receive Their Pensions from the Pension Insurance Institutes,

   7) other registers necessary to execute tasks subject to separate regulations.

2. If the insured individual referred to in clause 1, item 1 has not been assigned a PESEL number, has not informed relevant authorities of the number or if there are doubts as to its correctness, the account of the insured shall be marked with the NIP number or with their passport or identity card series and number.

3. The regulations in clause 2 shall be applied to contribution payers respectively, on the stipulation that their accounts in such cases shall be marked with: the REGON (central register for identification of business entities) number, the PESEL number, or the series and number of the passport or identity card.

4. The Institute shall be entitled to use the following, free of charge:

   1) RCI PESEL Central Data Base,
   2) the data base of the National Taxpayer Evidencing System, in compliance with principles as provided in the Taxpayer Evidencing and Identification Act,

   3) business entity identification system REGON maintained by the President of the Main Statistical Office.

5. The minister responsible for social insurance matters shall determine, by virtue of a decree, the detailed scope of data to be included in registers referred to in clause 1, items 3-7, taking into account also data relating to education and the profession practised.

Article 34.

1. The Institute shall ensure the integrity and completeness of any information collected both in the accounts of the insured and the contribution payer accounts in compliance with the principles laid down in the provisions contained in this Act.

2. Information included in the insured individuals' accounts and in the accounts of the contribution payer maintained in an electronic form which have been transferred as a print-out or as an electronic file, shall constitute evidence in administrative and court proceedings in respect of social insurance.

3. Information contained in the accounts of the insured, the contribution payer accounts, and source data constituting the basis for these records shall be protected according to regulations on the protection of personal data.

4. Personal data and other information held in the accounts of the insured shall be accessible only as stipulated by the Act.

Article 35.

Both the insured and the contribution payers shall be obliged to provide the numbers assigned to them as specified by Article 33, clause 1, items 2 and 3, on each and every document form connected with social insurance, including contribution payment and settlement and granting and payment of benefits in accordance with separate regulations.

Article 36.

1. Each and every individual with mandatory pension and disability pension insurance coverage shall file notification of participation in the social insurance scheme.
2. The duty of filing name-identified social insurance participation notification of individuals specified in Article 6, clause 1, items 1-4, 6 - 9, 11-18, and clause 2, members of the clergy who are members of convents or religious orders, as well as of any individuals co-operating in business activities, referred to in Article 8, clause 11, shall remain the sole responsibility of the contribution payer.
3. The duty of filing notification of social insurance participation of individuals specified in Article 6, clause 1, items 5, 6, 10 and 19, in recognition of clause 2, shall remain their responsibility.
4. The notification as specified in clauses 2 and 3 shall be filed within a period of 7 days as of the date of commencement of the insurance liability, in recognition of provisions contained in clause 5 hereto.
5. Any individuals liable to social insurance following the principle of voluntary participation, with the exception of individuals who intend to continue pension and disability pension insurance, shall file a respective application for insurance coverage within a period defined at their discretion. The regulations in clause 2 and 3 shall be applied respectively.
6. Individuals wishing to continue their pension and disability pension insurance coverage, shall file a respective application within a term of 30 days as of the date of expiry of the social insurance liability.
7. The correctness of data included in an application for social insurance shall be confirmed by the signature of the applicant.
8. Should applications be forwarded to the Institute in the form of an electronic document, the written application with the signature of the applicant shall be kept by the payer for 5 years.
9. Any notification of social insurance participation made according to the specified format shall be filed with an organisational entity of the Institute. On the basis of the first application for social insurance participation an account as described in Article 33, clause 1, item 1, shall be opened.
10. A notification of social insurance participation shall include specifically the following data in respect of the individual to be insured: PESEL, NIP or another number referred to in Article 33 clause 2, surname, first and second names, date of birth, maiden name, citizenship and sex, and in the case of a foreigner, possession of a permanent or temporary residence card issued upon granting the status of a refugee, the insurance title, work time status, degree of relationship or relationship by marriage and sharing a common household with the employer, engager, individual engaged in non-agricultural business activities, degree of handicap, degree of inability to work, being engaged in work in special conditions or of a special character, having a predetermined right to pension or disability pension benefits, permanent residential address, temporary address if different from permanent residential address, correspondence address if different from permanent residential address and temporary address.

11. Each and every individual who has lost social insurance eligibility shall be deleted from the register of the insured. The contribution payer shall be obliged to file a notification on the deletion within 7 days of the fact taking place. The regulations in clauses 2-3, and 9 shall be applied respectively.

Article 37.

1. Should no notification be filed with the social insurance system in compliance with the provisions contained in Article 36, clauses 2-4, such notification shall be filed by the Institute.

2. Authorities responsible for issuing permits for engaging in non-agricultural business activities referred to in Article 8, clause 6, shall forward to the organisational entity of the Institute copies of the permits granted to physical entities and to organisational entities with no personality at law, as well as copies of decisions withdrawing those permits, if they do not have to be entered in the national official register of business entities REGON.

Article 38.

1. Should any dispute arise with regard to social insurance liability, the Institute shall issue its own decision both to the individual concerned and to the contribution payer.

2. The Institute shall also issue a decision about social insurance coverage in the event of the insurance coverage application having been filed by the Institute.

Article 39.

1. The insured shall be obliged to conclude an agreement with an open pension fund no later than within the period mentioned in Article 36, clause 4, in recognition of Article 11, clause 2 and Article 111.

2. If the insured does not conclude the agreement mentioned in clause 1 hereto within 14 days of the insurance liability coming into force, the Institute shall demand in writing that the insured conclude an agreement with an open pension fund no later than by the last but one working day of a given quarter. If less than 30 days remain from the date of receipt of the demand to the last but one working day of a given quarter, the relevant deadline shall expire on the last but one day of the following quarter of the calendar year. If the insured does not sign an agreement in these periods, the Institute shall determine the open pension fund by drawing lots.

3. The Institute shall perform the drawing of lots referred to in clause 2 on the last working day of each calendar quarter, and the number of insured obtaining membership in particular open funds, determined by way of the drawing of lots, should be proportional to the number of members of these funds as at the end of the quarter preceding the quarter in which the drawing of lots is held.

4. Until the date of the drawing of lots mentioned in clauses 2 and 3, the portion of the contribution referred to in Article 22, clause 3, shall be deposited in a separate account maintained by the Institute. The nominal value of the contribution shall be transferred to the insured individual's account in the allotted open pension fund.

5. The minister responsible for social insurance issues shall determine, by virtue of a decree, detailed rules for the drawing of lots held by the Institute, as described in clause 2 and 3.

Article 40.

1. Information on the amount of pension contributions paid and indexed after the transfer of contributions to an open pension fund shall be kept in the account of the insured.

2. Other data registered in the account of the insured shall comprise in particular:

1) data included in the notification of social insurance, name specific monthly report, and settlement declaration,

2) data on membership in an open pension fund and periods of transfer of contributions to the fund,

3) data on membership of a medical care society (*kasa chorych*) and on dates of transfer of contributions to this society,

4) data on amounts of pension, sick leave, workman's compensation and health insurance contributions due and paid and on the amount of contributions due and transferred to an open pension fund,

5) data on non-insurance facts influencing the social insurance eligibility and amounts,

6) information on the amount of life annuity paid by a Pension Insurance Institute,

7) information indispensable to award and pay out social insurance benefits and benefits financed from the State budget, and on any payments made,

8) data necessary to establish the initial capital,

9) data on the initial capital and indexed initial capital,

10) data necessary for the Institute to execute tasks assigned on the basis of different regulations.

3. An insured who determines within 3 months of the receipt of remuneration that the contribution payer has not paid the contributions due in respect of pension insurance may apply to supplement the contribution.

4. By application of the insured referred to in clause 3, the Institute shall supplement the pension contribution amount to the amount of contribution due plus the relevant indexation.

5. If the Institute determines that the pension insurance contribution has not been paid for 6 months, or has not been paid in full, it should immediately inform the insured of the fact.

6. Within 2 months of the notification referred to in clause 5 the insured should apply to supplement the contribution.

7. Upon an application of the insured, referred to in clause 6, the Institute shall supplement the pension contribution amount in the insured's account to the amount of contributions due from the insured, plus the relevant indexation.

8. The Institute may refuse to supplement the contribution amount referred to in clauses 4 and 7 if the insured collaborates with the contribution payer to avoid the duty to pay contributions.

9. If the pension insurance contributions were not paid due to a cancellation of debt referred to in Article 28 (in recognition of Article 30) or prescription, referred to in Article 24, the Institute shall supplement the account of the insured *ex officio*, if the account of the insured had not been supplemented earlier.

10. The regulations in clauses 3–9 shall not apply to insured who pay pension insurance contributions fully from their own funds.

Article 41.

1. A contribution payer shall submit to the Institute name-specific monthly reports after the end of each and every calendar month within the deadlines set for contribution settlements.

2. If the social insurance obligation has expired during the course of a given calendar year, the contribution payer shall provide the Institute with the report as provided for in clause 1, for the insurance period in a given month, within 7 days as of the fact arising.

3. A name specific monthly report shall include information on the contribution payer as determined by Article 43, clause 4 and 5, the month and year to which the report pertains and:

   1) the insured's identification numbers (PESEL, NIP or another number referred to in Article 33 clause 2,

   2) name and surname,

   3) work time status,

   4) a schedule of social insurance contributions due presented by pension, disability pension, sick leave, and workman's compensation insurance, including data on:

      a) the insurance title,

      b) the contribution rate basis,

      c) the amount of the contribution broken down by amount due from the insured and the amount due from the contribution payer,

      d) the amount by which the basis of pension, disability pension, sick leave and worker's compensation insurance contribution rates were decreased in respect of the Act of August 22nd 1997 on employee pension programs (*Journal of Law* No. 139, item 932, and from 1998, No. 98, item 610),

   5) the basis and amount of health insurance contribution rates,

   6) information necessary for working periods to be recognised as periods of mining work,

   7) types and periods of discontinuity in paying social insurance contributions,

   8) information on benefits paid and on compensation for periods of inability to perform work on the basis of the Labour Code, as well as on benefits financed from the State budget,

   9) declaration by the contribution payer that data included in the report is consistent with the actual situation, confirmed by the signature of the contribution payer or an authorised person.

4. A name-specific monthly report shall also include a schedule of remuneration components paid in the period necessary to determine the amount of benefits and the date of preparation of the monthly report, the signature of the contribution payer or a person authorised by the contribution payer.

5. Name-specific monthly reports may include data on the filing by the insured of a notification on exceeding the annual basis of pension and disability pension insurance contributions referred to in Article 19, clause 5.

6. A contribution payer shall be obliged to submit a name-specific monthly adjustment report in the form of a new document comprising all data defined in clauses 3-5, taking into account changes made after the name-specific monthly report has been submitted in the event that:

   1) it should prove necessary to adjust data included in the name-specific monthly report as a result of a decision being issued as referred to in Article 38,

   2) circumstances referred to in Article 42 should occur,

   3) the Institute should determine, by way of an inspection, irregularities in payment of contributions.

7. The contribution payer shall submit the name-specific monthly adjustment report in cases referred to in clause 6, items 1 and 2, within 7 days of the date of occurrence of those circumstances, or the date of receipt of the decision, respectively; in circumstances described in clauses 1-6, the contribution payer shall submit the report within 30 days of receipt of the inspection findings.

8. Information included in the reports referred to in clauses 1-6 shall be forwarded by the contribution payer to the insured in writing, for verification.

9. In recognition of clause 10, the regulations in clauses 1-8 shall apply to health insurance contributions respectively.

10. If health insurance contributions are collected from pensions and disability pensions, the contribution payer shall inform the pensioner each month of the collected contribution by a document confirming the amount of transferred pension or disability pension.

11. The insured shall provide the contribution payer, in writing or by way of an entry in the official records, with an application to amend any information contained in the name-specific monthly report within 3 months of the date of receiving the information described in clause 3, should the information in question - according to the insured - not be consistent with the actual state of affairs. The Institute shall be informed by the insured of any such occurrence. Should the contribution payer not accept the complaint within one month of the date of filing thereof, by application on the part of the insured, the Institute shall issue a respective decision following clarification proceedings.

12. Should the insured not question any of the information contained in the name-specific monthly report within the term specified in clause 11, such information shall be deemed consistent with the actual situation unless the information pertaining to the period encompassed by the report be questioned by the Institute upon making a decision.

13. Should the Institute question and subsequently alter any information submitted by the contribution payer, the Institute shall be obliged to inform both the insured and the contribution payer. Should neither the insured nor the contribution payer file an application to alter the position assumed by the Institute within the term specified in clause 11 hereto, such information as submitted by the Institute shall be deemed correct. Should such an application be filed, the Institute shall issue a respective decision following clarification proceedings.

14. Provisions contained in clauses 11-13 hereto shall apply to reports described in clause 6.

Article 42.

The contribution payer shall notify the Institute of any amendments to data contained in the notification as specified in Article 36, and in the reports specified in Article 41, within 7 days of the date of such amendments being made.

Article 43.

1. Contribution payers shall be obliged to file a contribution payer notification with the Institute within 7 days as of:

   1) the date of employing the first employee or on the coming into being of a legal relationship which justifies inclusion of the first person in the social insurance system,

   2) the date of commencement of pension and disability pension insurance liability of the insured who are exclusively obliged to pay contributions for their own insurance or contributions for the insurance of individuals who co-operate with them.

2. Individuals referred to in Article 6, clause 1, item 10 and individuals liable to voluntary pension and disability pension insurance, with the exclusion of individuals mentioned in Article 6, clause 1, item 5,

who are exclusively obliged to pay their own social insurance contributions shall file contribution payer notification together with a notification of social insurance participation.

3. Contribution payers shall file notifications of insurance participation, using a model form, with the Institute's organisational entity.

4. A contribution payer notification (for a physical entity) shall include specifically the following data: NIP, REGON, PESEL number or another number which enables correct identification, the surname, first and second names, date and place of birth, citizenship, type and number of permit on the basis of which non-agricultural business activities are engaged in, the name of the authority which issued the permit and the date of its issuance, date of commencing engagement in non-agricultural business activities, short firm name under which the business is run, date of commencement of social insurance contribution liability, listing of bank accounts, status of a special company employing the disabled or a professional activity company, address of head office, address of residence if it is different from the address of the head office, correspondence address, address from which the business is run.

5. A contribution payer notification (for a legal entity or an organisational entity with no legal personality) shall include specifically the following data: NIP, REGON, short name of payer, name conforming to the legal deed establishing the payer, the name of the establishing authority, the obligation to enter the payer into a register, name of the registration organ, date of commencement of operations giving rise to the obligation to pay social insurance contributions, date at which the obligation to pay social insurance contributions arose, a listing of bank accounts, status of a special company employing the disabled or a professional activity company, address of head office, correspondence address, address from which the business is run.

Article 44.

The contribution payer shall be obliged to notify the Institute of any changes to the data as provided for in the notification filed in compliance with the provisions of Article 43 within a term of 14 days as of the date of the respective occurrence.

Article 45.

The following shall be recorded in the contribution payer's account:

1) identification data, NIP, REGON and, optionally, also PESEL numbers, names and numbers of bank accounts, information data on the contribution payer, including the specific legal status as stated in the central register for identification of business entities (REGON), the number according to European Classification of Operations (EKD), the number according to the Polish Classification of Operations (PKD) and all other data necessary for servicing the account, specifically for the purpose of settling contribution dues and holding execution proceedings, including information on partners in partnerships, general partnerships and limited partnerships, within the scope registered by the Central Register of Taxpayers,

2) settlements of contribution dues, benefits paid by the contribution payer as well as survivorship pensions and nursing benefits included in contributions and other contributions collected by the Institute

3) data necessary for the Institute to execute tasks assigned by different regulations.

Article 46.

1. The contribution payer shall be obliged, in accordance with the provisions of the act, to calculate contributions due for each and every calendar month, subtract them from the income of the insured, settle and transfer them to account indicated at the Institute.

2. The settlement and clearance of the contributions as specified in clause 1 and of the benefits paid by the contribution payer in the same month as well as survivorship pensions and nursing benefits included in the settlement of contributions shall take place on the basis of a model settlement declaration form. Any benefits paid out by the contribution payer without justification shall not be included in the settlement declaration.

3. A settlement declaration and name-specific monthly reports shall be transferred by the contribution payer directly to the organisational entity indicated by the Institute.

4. A settlement declaration shall include:

   1) identification data of the contribution payer, and specifically NIP, REGON, PESEL or other identification numbers described in Article 33, clause 3, the short name of the firm, and in the case of contribution payers who are physical entities –the name and surname,

   2) information on the number of individuals insured,

   3) a listing of contributions in respect of specific types of social insurance, broken down by contributions financed by the insured and by the payer, as well as by the State budget and by the State Fund for the Rehabilitation of the Handicapped (PFRON),

   4) amounts of benefits paid out and benefits financed by the State budget, charged to social insurance contributions,

   5) remuneration amounts to which the payer is entitled as per Article 3, clause 2 of the Act and Article 25a of the Act of February 26th 1997 on universal health insurance (*Journal of Law* No. 75, item 468, and from 1998, No.117, item 756),

   6) a listing of contributions due in respect of:

      a) health insurance

      b) Labour Fund and Guaranteed Employees Benefit Fund,

   7) an aggregate and summary schedule of contributions due, health insurance contributions, and amounts to be paid,

   8) for individuals who pay insurance contributions from their own funds – the insurance title, basis for calculation and possible reductions resulting from Article 19, clause 1,

   9) a declaration by the contribution payer that data included in the declaration complies with the actual situation, confirmed by the signature of the contribution payer or an individual authorised by the contribution payer.

Article 47.

1. The contribution payer shall pay the contribution and submit the relevant settlement declaration form and name-specific monthly reports in the same period for a given month no later than:

   1) by the 12th day of the following month – in respect of physical entities paying the contributions entirely on their own behalf,

   2) by the 8th day of the following month – for budgetary entities, non-budgetary entities as per Articles 14-17 of the Act of January 5th 1991 – The Budget Law (*Journal of Law* of 1993, No. 72, item 344, of 1994, No. 76, item 344, No. 121, item 591, and No. 133, item 685, of 1995, No. 78,

item 390, No. 124, item 601, and No. 132, item 640, of 1996, No. 89, item 402, No. 106, item 496, No. 132, item 621, and No. 139, item 647,, of 1997, No. 54, item 348, No. 79, item 484, No. 121, item 770, No. 123, item 775 and 778, No. 133, item 883, No. 137, item 926, No. 141, item 943, and No. 158, item 1042),

3) by the 15th day of the following month – for the remainder of the payers.

2. The contribution payer who pays contributions entirely on his own behalf shall only submit the settlement declaration.

3. A contribution payer shall be obliged to submit an amended settlement declaration in which an amendment of data takes the form of a new document including new, amended data in each instance referred to in Article 41, clause 6, including an amended monthly report. If the amendment relates to data presented exclusively in the settlement declaration, the amended settlement declaration shall be submitted within 7 days of the determination of an error. No reports referred to in Article 41, clause 6, shall be submitted in such a case.

4. Contributions or payments shall be made to bank accounts indicated by the Institute, in separate payments, divided into:

   1) social security

   2) health insurance,

   3) Labour Fund and Guaranteed Employee Benefit Fund,

   4) State Fund for the Rehabilitation of the Handicapped using transfer orders described in Article 49 clause 3.

5. Information included in transfer orders shall be transferred through the interbank electronic system as a payment order for the Institute. The order should specifically include the date of charging the payer's bank account if the payment is made in the form of a transfer order, or the date of payment if the payment is made in cash.

6. A transfer order must specifically include information on the payer's NIP tax identification number and his PESEL or REGON number, or another identification number referred to in Article 33 clause 3, as well as on the payment title and the period for which the said is made.

7. The inability to identify a payment shall not be deemed to be the fault of the Institute.

8. Institutions which accept the social insurance contribution payments shall be obliged to enable their immediate transfer through the interbank electronic settlement system.

9. The contributions shall be transferred by the Institute to an open pension fund immediately, no later than within 2 working days of receipt of the contributions paid in using a transfer order as defined in Article 49, clause 3, monthly reports and declarations, in recognition of clause 11 and Article 118.

10. If the Institute is unable to transfer a contribution to an open pension fund due to errors in the data, the contributions shall be accumulated in a separate bank account until they are identified.

11. A contribution payer shall be relieved of the duty of filing a settlement declaration form and name-specific monthly reports for the following month, if no changes occurred in relation to the previous month, and all the payments were timely and in unchanged amounts, in recognition of clause 12. The relief principle shall not apply to the December declaration and reports.

12. A contribution payer shall be obliged to transfer to the insured the information referred to in Article 41, clause 8, for each calendar month in which the payer was exempt from the duty of transferring the name-specific monthly report to the Institute.

13. If the payer referred to in clause 11 does not settle and clear contributions for a given month, the Institute shall write the appropriate premiums (contributions) *ex officio* in the amount resulting from

the last declaration filed and shall inform the payer of this fact. The provisions of Article 48, clause 2 shall apply respectively.

14. The regulations in this article shall apply, respectively, to Labour Fund, Guaranteed Employee Benefit Fund and health insurance contributions, as well as payments to the State Rehabilitation Fund for the Handicapped, in recognition of clause 15.

15. The settlement declaration and contributions to the State Rehabilitation Fund for the Handicapped shall be transferred and paid in by the 20th day of the following month.

Article 48.

1. Should the contribution payer fail to file the settlement declaration in a timely manner while not having been relieved of such duty, the Institute shall impose the contribution amount *ex officio*, in an amount resulting from the last filed settlement declaration, without taking into consideration any benefits, survivorship pensions or nursing benefits paid formerly.

2. Should the contribution payer file a settlement declaration form following the imposition of contributions *ex officio*, the Institute shall amend the contribution rate to the amount as shown in the settlement declaration form, in recognition of any benefits, survivorship pensions or nursing benefits as shown therein.

Article 49.

1. The Council of Ministers shall, by virtue of a decree, define:

   1) the order of accepting payments for FUS and other liabilities which the Institute is obliged to collect, if the payer pays and transfers them in a manner not conforming to the regulations in the act,

   2) the detailed rules and procedures binding for the settlement of contribution and benefits, survivorship pensions, and nursing benefits paid, as well as the order of accepting payments to particular funds,
   prioritising the receivables of the pension fund.

2. The minister responsible for social insurance issues shall determine, by virtue of a decree, the following:

   1) model notification of social insurance participation form,
   2) model name-specific monthly reports and name-specific adjustment monthly reports
   3) model contribution payer notifications,
   4) model settlement and adjustment settlement declarations,

   5) other documents necessary to keep accounts of contribution payers and the insured.

3. The minister responsible for public finance in agreement with the minister responsible for social insurance issues shall determine, after consultation with the President of the Polish National Bank, by virtue of a decree, model forms for bank transfer orders to be used by contribution payers who order the transfer of social insurance contribution payments in writing.

4. The regulations in clauses 2 and 3 shall apply to other receivables collected by the Institute, respectively.

Article 50.

1. Until March 31st of each calendar year the Institute shall be obliged to submit to the insured information on data accumulated in the insured individual's account, and specifically on the level of recorded

indexed amounts as at December 31st of the previous calendar year, and the level of the hypothetical pension which would be received by the insured upon attaining pension age as defined by the Act on pensions and disability pensions from the Social Insurance Fund.

2. To assess the level of the hypothetical pension referred to in clause 1, the initial capital and indexed contributions recorded in the insured's account as at December 31st of the previous year shall be divided by the pensioners' average life expectancy determined by regulations on pensions and disability pensions from the Social Insurance Fund, as binding for the insured, as at December 31st of the previous year. The amount shall also be divided by the average life expectancy for the age exceeding the pension age by one, two, three and four years. If the insured has exceeded the pension age, the level of hypothetical pension shall be calculated in respect of his actual age and for the following five years.

3. Any data collected in the account of the insured, referred to in Article 40, and in the account of the contribution payer, referred to in Article 45, may be rendered available to courts, prosecutors, tax inspection authorities and Pension Fund Supervision Office, in recognition of relevant provisions relating to the protection of personal data.

4. The data referred to in clause 3 shall also be rendered available on application filed by individuals and contribution payers to whom such data pertains.

Chapter 5.

The Social Insurance Fund

Article 51.

1. The Social Insurance Fund (FUS) shall be deemed to be a state-owned target fund established for the purpose of implementing tasks within the scope of social insurance.

2. FUS shall be administered by the Institute.

Article 52.

1. FUS income shall be derived from:

   1) social insurance contributions not subject to transfer to the benefit of open pension funds,

   2) subsidies to financing contributions of individuals referred to in Article 6, clause 1, item 19,

   3) funds provided by the State budget as well as by other institutions transferred for the purpose of benefits paid by the Institute on order, with the exception of payments made by foreign institutions,

   4) interest on FUS bank account funds,

   5) interest on any late FUS receivables,

   6) reimbursement of any unrightfully collected benefits, interest included,

   7) the additional fee referred to in Article 24, clause 1, and the prolongation fee,

   8) subsidies from the State budget,

   9) FRD funds referred to in Article 59.

2. The social insurance contribution shall be included in FUS income in the month following the month in which the contribution is due.

3. FUS shall make no provisions referred to in the Accounting Act in the profit and loss account.

Article 53.

2. Within limits defined in the budget law, FUS shall be entitled to receive loans or subsidies from the State budget.
3. The subsidies referred to in item 1 may be appropriated solely to providing supplementary funds for the payment of benefits guaranteed by the state, should funds transferred to the accounts as stipulated in Article 55 items 1-4, and funds collected on reserve funds not provide full and timely payment of benefits financed from FUS income.
4. At the consent of the minister responsible for public finance, FUS may take credit and loan facilities.

Article 54.

The following shall be financed from funds accumulated in FUS:

1) benefit payments from pension, disability pension, sick leave, and workman's compensation insurance,

2) expenditure for disability pension prevention,

3) repayment of loans and bank loans, together with any interest, taken for the purpose of payment of benefits from FUS,

4) penalty interest for late benefit payment,

5) contribution payer receivables referred to in Article 3, clause 2,

6) expenses related to the execution of tasks referred to in Article 52, clause 1 item 3,

7) pension and disability pension contributions of individuals referred to in Article 6, clause 1, item 19,

8) write-offs constituting income of the Institute, as described in Article 76, clause 1, item 1.

Article 55.

The following funds can be distinguished within FUS:

1) pension fund for financing pension benefit payments,

2) disability pension fund for financing disability benefit payments, training allowances, survivorship pension, additional survivorship pension benefits for full orphans, additional nursing benefits, funeral benefits, and benefits to be paid out by the Institute, financed from the State budget, as well as costs of disability pension prevention,

3) sick leave fund for financing benefits defined in separate regulations,

4) workman's compensation fund for financing benefits defined in separate regulations,

5) reserve funds:

    a) for disability pension and sick leave insurance,

b) for workman's compensation insurance.

Article 56.

1. The reserve funds shall be set up as follows:
   1) for disability pension and sick leave insurance, of amounts remaining as of December 31st of each and every year in the accounts of funds as stipulated in Article 55, items 2-3, reduced by amounts necessary to provide the payment of benefits due for the first month of the subsequent year,
   2) for workman's compensation insurance, of funds remaining as of December 31st of each and every year in the accounts of workman's compensation fund, reduced by amounts necessary to provide the payment of benefits due for the first month of the subsequent year,
   3) from interest on any invested monies from the reserve fund.
2. The reserve fund resources may only be used for the purpose of supplementing any deficit of the disability pension, sick leave, or workman's compensation funds.

8. The reserve fund resources can be invested exclusively as bank deposits and securities issued by the State Treasury or by the National Bank of Poland, unless the Council of Ministers allows for a different investment, at an application filed by the President of the Institute.

9. The minister responsible for social insurance issues, in agreement with the minister responsible for public finance, shall determine, by virtue of a decree, detailed rules of financial management and rules for investing FUS funds.

Article 57.

The budget law shall define, on an annual basis, the amount of disability pension prevention expenditure.

Chapter 6

Demographic Reserve Fund.

Article 58.

1. The Demographic Reserve Fund shall be established for the purpose of pension insurance, from funds maintained in the pension fund account as at December 31st of each and every year, net of amounts necessary for paying out benefits relating to the first month of the following year.

2. FRD shall also receive additional funding from:
   1) the funds mentioned in Article 22, clause 4,
   2) funds obtained in the privatisation of State Treasury property, on the basis of separate regulations,
   3) income on FRD funds invested pursuant to Article 63, clause 2, and Article 65, clause 2 and 4,
   4) interest on deposit accounts maintained by the Institute which do not constitute income of the FUS or the Institute,
   5) from other sources.

Article 59.

1. The FRD funds may be used only to supplement a deficit of pension fund due to demographic reasons described in Article 55, item 1, in recognition of Article 112, clause 1.

2. The Council of Ministers at the request of the Institute shall decide on the use of FRD funds, by virtue of a decree.

Article 60.

1. The FRD shall have a legal personality.
2. The minister responsible for social insurance issues shall grant the statute of the FRD, by virtue of a decree.
3. The Institute shall constitute a body of the FRD.
4. The Institute shall administer FRD funds, in recognition of Article 68.
5. The Institute shall represent the FRD in the manner defined for the representation of the Institute in its statute.
6. The seat of the FRD shall be the seat of the Institute.
7. The name FRD shall be legally protected.

Article 61.

1. The FRD's finances shall be managed based on a multi-year rolling forecast of the income and expenses of the pension fund.
2. Assumptions with relation to the demographic and economic position of the country, and specifically assumptions as to fertility, mortality, economic growth, the remuneration level, migration, inflation, unemployment rate, employment structure in a break-down by professional groups and groups which are not employed; social insurance contribution and benefit indexation ratios shall form the basis of the forecast mentioned in clause 1 hereto.
3. The forecast may only be prepared by a licensed actuary appointed and acting on the basis of insurance regulations. The actuary shall be chosen by the Institute's Board of Directors via a competition.
4. The forecast referred to in items 1 and 3 shall be presented to the Council of Ministers each and every year by March 31st.
5. The forecast shall be published annually in the Information Bulletin. The scope of the publication shall be determined by the minister responsible for social insurance issues by virtue of a decree.

Article 62.

The FRD may not take any loans or bank loans. The State budget shall guarantee payment of pension benefits from FUS.

Article 63.

1. The FRD invests its funds to guarantee maximum protection and profitability.

2. Until December 31st 2001, the FRD shall invest its funds in Treasury bills and bonds and in other securities issued by the State Treasury.

Article 64.

1. After January 1st 2002 an external authorised entity may be entrusted with the management of FRD funds by the Institute, on principles determined by the Act and a management contract.
2. The FRD funds shall be managed by an entity selected via a two-stage tender or by negotiations held on arm's length basis. Regulations on government contracts shall be applied accordingly.

Article 65.

1. No more than 15% of FRD funds may be entrusted to be managed by a single entity or a group of related entities as set out by regulations on the organisation and financing of open pension funds.
2. In recognition of clauses 3 and 4, a managing entity shall be responsible for investing FRD funds exclusively domestically, in:
   1) Treasury bills and bonds and other securities issued by the State treasury,
   2) securities issued by communes, commune federations, and the city of Warsaw,
   3) debt securities guaranteed by the State treasury,
   4) shares admitted for public trading,
   5) fully secured bonds admitted for public trading,
   6) fully secured bonds issued by companies whose shares have been admitted for public trading.
3. The minister responsible for social insurance issues in agreement with the minister responsible for public finance shall determine, by virtue of a decree, acceptable proportions for each kind of investment, and may also determine other acceptable forms of investing FRD funds, taking into account the investment risk and the aim of establishing the FRD.
4. FRD funds may also be directly invested in participation units of investment funds selected through procedures described in Article 64, if their investment policy as defined in the statute and actually realised does not contradict the requirements as specified in clauses 2 - 3.

Chapter 7.

Social Insurance Institute

Article 66.

1. The Institute is a State organisational entity with a legal personality. The Institute is domiciled in the city of Warsaw.
2. The minister responsible for social insurance issues shall execute supervisory functions over the Institute's operations, in accordance with binding regulations.
3. The Institute shall operate on the basis of this Act and other acts regulating particular aspects of its operations.

4. Within the scope of operations which the Institute engages in, as described in Articles 68-71, the Institute shall be allowed to use the legal measures available to State administration bodies.

Article 67.

1. The Institute shall comprise the following:
   1) the head office
   2) local organisational entities.
2. The head office of the Institute shall also include the Foreign Annuities Office established to realise international social insurance contracts.

Article 68.

1. The scope of operations of the Institute shall comprise, *inter alia*:
   1) execution of social insurance regulations, specifically:
      a) identification and determination of social insurance obligations,
      b) determination of rights to social insurance benefits and the payment of those benefits, unless these obligations are executed, on the basis of separate regulations, by the contribution payers,
      c) calculation of the contribution rate and collection of social insurance, health insurance, Labour Fund, Guaranteed Employee Benefit Fund contributions, and payments to the State Fund for the Rehabilitation of the Handicapped,
      d) conducting settlements with contribution payers with relation to contributions due and benefits paid out, financed from social insurance funds or from other sources,
      e) maintaining individual accounts of the insured and accounts of contribution payers,
      f) determining total or partial inability to perform work for the purpose of ascertaining rights to social insurance benefits,
   2) realisation of international contracts and treaties with relation to social insurance,
   3) administration of social insurance funds, and the Alimony Fund funds,
   4) preparation of actuarial analyses and forecasts with relation to social insurance,
   5) control over decisions determining temporary inability to perform work,
   6) control over the performance of social insurance duties and other tasks the Institute was instructed to perform by contribution payers and the insured,
   7) publication of the Information Bulletin,
   8) dissemination of information on social insurance.

Article 69.

1. Disability pension prevention, encompassing the following duties, also lies within the scope of the Institute's operations:

1) physical rehabilitation of individuals threatened by total or partial inability to perform work or individuals receiving temporary disability benefits,

2) examination and analyses of the reasons for the inability to perform work,

3) other preventive measures.

2. As part of the preventive activities the Institute may:

1) direct individuals referred to in clause 1, item 1, to rehabilitation centres

2) administer its own rehabilitation centres,

3) order rehabilitation benefits and services in other centres,

4) financially support the development of a medical and technical network of rehabilitation centres mentioned in item 3,

5) conduct its own research and analyses of reasons for inability to work as well as order such research to be conducted by other entities,

6) finance other activities aimed at disability pension prevention.

3. The orders referred to in clause 2 item 3 shall not be subject to regulations pertaining to government orders.

4. The Council of Ministers shall determine, by virtue of a decree, detailed rules and procedures for:

1) directing individuals for physical rehabilitation,

2) financing the medical and technical network of rehabilitation centres,

3) ordering rehabilitation benefits and services.

Article 70.

1. The Institute shall prepare a projection of the financial standing of each fund mentioned in Article 55, items 1-5 for the subsequent financial year. The calculation shall be a schedule of expected liabilities and proceeds for a given year from contributions and other sources.

2. The Institute shall prepare a simplified technical insurance profit and loss account for 5 subsequent financial years. The provisions of Article 61, clause 2 shall be applied respectively.

Article 71.

1. The Institute shall also perform tasks entrusted to it on the basis of other regulations.

2. The Institute may perform other commissioned insurance or social insurance tasks.

3. Tasks referred to in clauses 1 and 2 shall be performed by the Institute against remuneration, on the basis of relevant regulations or agreements concluded with the commissioning entity.

Article 72.

The following shall comprise bodies of the Institute:

1) the President of the Institute

2) the Board of Directors, whose chairman, *ex officio*, shall be the President of the Institute,

3) the Institute's supervisory board.

Article 73.

1. The Institute's activities shall be managed by the President of the Institute who shall represent the Institute.

2. The President of the Institute shall be appointed and dismissed by the Prime Minister at a motion from the minister responsible for social issues after obtaining an opinion of the Institute's supervisory board. The Prime Minister shall also determine the level of the Institute President's remuneration.

3. The President of the Institute shall be specifically engaged in the following:

   1) managing the Board of Directors' work,

   2) co-ordination of the Institute's co-operation with government administration offices, specifically with the Pension Fund Supervisory Office, State Insurance Supervisory Office and other bodies engaged in pension issues,

   3) establishment, transformation and dissolution of local organisational entities and determination of their domicile, and their territorial and functional competencies,

   4) appointment and removal of managers of organisational entities of the Institute, their deputies and chief accountants,

   5) supervision over doctors' decisions for the purpose of social insurance,

   6) granting exceptional benefits,

   7) performing the functions of an employer as defined by the Labour Code regulations,

   8) approval of draft documents relating to administration of FRD funds.

Article 74.

1. The Board of Directors of the Institute shall comprise the President of the Institute and 2 to 4 individuals, who shall be appointed and can be dismissed by the supervisory board of the Institute by application from the President of the Institute.

2. The Board of Directors shall manage the Institute's operations outside the scope reserved for the President of the Institute.

3. The Institute's Board of Directors shall engage primarily in:

   1) current management of the funds administered by the Institute,

   2) preparation of draft documents relating to the administration of FRD funds,

   3) financial management of the Institute,

   4) preparation of the annual draft financial plans of the FUS, FRD, and submitting them according to procedures defined in regulations pertaining to the preparation of the draft State budget, after obtaining an opinion from two independent actuaries not employed by the Institute and subsequently by the Institute's supervisory board, to the minister responsible for social insurance issues,

5) preparation of the annual financial statements of the FUS and FRD and submitting them, having obtained an opinion as described in clause 4, to the minister responsible for social insurance issues,

6) presenting the supervisory board of the Institute with information on the activities of the Institute, in the form, and within the scope anddeadlines stipulated by the supervisory board,

7) presenting the supervisory board of the Institute with applications for determining and amending the remuneration system and granting bonuses to the employees of the Institute.

8) preparation of the financial plan of the Institute and reports on its execution as well as submitting them – after they have been approved by the supervisory board of the Institute – to the minister responsible for social insurance issues,

9) preparation of annual Directors' reports and submitting them – after they have been approved by the supervisory board of the Institute – to the minister responsible for social insurance issues.

4. The Board of Directors' operating procedures shall be determined by by-laws passed by the supervisory board of the Institute.

5. The minister responsible for social insurance issues, by an application from the President of the Institute, after obtaining an opinion of the Institute's supervisory board, shall, by virtue of a decree, grant a statute to the Institute, which shall describe in particular:

1) the organisational structure and the territorial and functional scope of operations of local organisational entities of the Institute,

2) operating procedures and competencies of the Institute's bodies.

6. The drafts and reports mentioned in clause 3, items 4, 5, 9, and 10, shall be forwarded by the minister responsible for social insurance issues to be published in the official journal of the Republic of Poland *Monitor Polski* in the form of an announcement, and in two nation-wide daily papers.

Article 75.

1. The Institute's supervisory board shall be appointed by the Prime Minister for a five-year term of office and shall be made up of 15 persons, of which:

1) 5 members including the chairman of the board, shall be appointed by an application from the minister responsible for social insurance issues filed in consultation with the minister responsible for public finance,

2) 5 members shall be appointed at an application by of nation-wide employers' organisations,

3) 5 members shall be appointed by an application from the nation-wide inter-union organisation and a nation-wide labour union representative for the employees of the majority of employers and the nation-wide pensioners' organisation.

2. The supervisory board shall engage primarily in:

1) setting-up the by-laws of the Board of Directors of the Institute,

2) determining the remuneration of the Institute's management, with the exclusion of the remuneration of the President of the Institute,

3) periodical evaluation - in accordance with self-imposed procedures - of the Institute's Board of Directors,

4) approval of the Institute's annual draft financial plan and report on its realisation, as well as the annual Directors' report,

5) expressing opinions on draft financial plans of the FUS and FRD, and reports on their realisation,

6) expressing opinions on drafts of legal regulations pertaining to social insurance and presenting relevant initiatives directed to the minister responsible for social insurance issues,

7) expressing opinions on rules for remunerating and granting bonuses to the Institute's employees,

8) selection of a statutory auditor to audit the Institute's annual financial statements,

9) expressing opinions on the candidate for the President of the Institute,

10) expressing opinions on the draft statute of the Institute.

3. The Prime Minister shall determine, by virtue of a decree:

1) the procedure for presenting candidates for members of the Institute's supervisory board,

2) the by-laws and rules for remunerating the Institute's supervisory board.

Article 76.

1. The Institute's income shall be derived from:

1) write-offs from funds referred to in Article 55; the amount of the write-off is determined annually in the Budget Law on the basis of the FUS financial plan, after an opinion has been obtained from an independent auditor, on the authorisation of the minister responsible for social insurance issues in agreement with the minister responsible for budget issues,

2) receivables pertaining to the costs of collection and execution of contribution dues to:

a) medical care societies,

b) Guaranteed Employee Benefit Fund,

c) the State Fund for the Rehabilitation of the Handicapped,

d) the Labour Fund,
in amounts stipulated by other regulations,

3) receivables pertaining to expenses incurred in the collection and execution of open pension fund contributions in an amount not exceeding 0.8% of the written premium (contribution) for that type of insurance, and payments to the State Fund for the Rehabilitation of the Handicapped in an amount not exceeding 0.6% of the payments due, on the stipulation that the amounts due and the payments shall be determined each year by the Budget Law,

4) income from other tasks commissioned to the Institute,

5) subsidies from the State budget,

6) receivables related to other current activity costs incurred by the Institute pertaining to:

a) operations of the Alimony Fund,

b) servicing benefits paid out from FUS which are financed from the State budget.

7) other income.

2. Receivables with relation to costs incurred, mentioned in clause 1, item 6, shall be refunded from the Alimony Fund and the State budget in proportion to the number of benefits paid out from these sources.

3. The Institute's operating costs with relation to the verification of errors made in the transfer of contributions to open pension funds shall be covered by entities responsible for the correctness of the information transferred in the amount determined on a bulk-sum basis in the fee schedule. Fee schedules shall be determined, following an application by the Institute's supervisory board, by virtue of a decree of the minister responsible for social insurance issues.

4. Costs pertaining to teletransmission, bank services, purchase of licences, and amortisation and depreciation, shall be determined on the basis of current prices and needs.

Article 77.

1. The Institute shall administer its own assets and engage in independent financial operations within the scope of funds available.

2. The following shall be covered from the income mentioned in Article 76:

1) expenses with regard to salaries and contributions calculated on the basis of salaries,

2) expenses for the purchase of goods and services,

3) expenses with regard to current operations of the supervisory board of the Institute,

4) other current expenses of the Institute,

5) investment expenditure,

6) expenses with regard to training and dissemination of information within the scope of social insurance,

7) costs of servicing benefits financed from the FUS and realised by the Individual Farmers' Social Insurance Fund,

8) costs of benefit payments including those realised on the basis of international treaties.

3. The Institute shall have at its disposal funds in foreign currencies from payments made by foreign organisations and transferred to Poland to finance the payments of foreign benefits to authorised individuals residing in Poland.

Article 78.

The Institute's financial statements shall be audited and published in compliance with regulations described in the Accounting Act.

Article 79.

Individual data obtained by the Institute from the insured and the contribution payers shall be deemed to be the Institute's professional secret. The following individuals will be obliged to keep the information confidential:

1) employees of the Institute,

2) members of the supervisory board of the Institute.

Chapter 8.

Duties of the insured and appeal procedures

Article 80.

1. The insured, in order to establish their right to benefits and to their amount, shall be obliged to:

   1) present actual information which has an impact on the rights to or amounts of benefits,

   2) inform of all changes which may have an impact on the benefit,

   3) present evidence on demand,

   4) appear in person if the circumstances so warrant,

   5) undergo medical examination, treatment or rehabilitation if it is expected that the treatment or rehabilitation will enable the individual to resume work or will not cause the ability to work to be impaired.

Article 81.

The regulation of Article 80 shall not apply if:

1) The Institute has the possibility of determining circumstances necessary to grant and pay out benefits at a lower cost than the insured.

2) Examination of the insured could lead to the detriment of health or pose a threat to the insured's life.

Article 82.

If the insured does not fulfil the duty to co-operate thus impeding the explanation of all circumstances of the case, the Institute may delay payment of a benefit or suspend investigations until co-operation is resumed.

Article 83.

1. The Institute shall issue decisions in situations stipulated by the law, with relation to particular issues pertaining, in particular, to the following:

   1) filing social insurance notification,

   2) insurance history,

   3) determining the amount and collection of social insurance contribution dues, as well as write-off of contribution receivables,

   4) determining rights to social insurance benefits,

   5) the level of benefits from social insurance.

2. The Institute's decision may be appealed in the relevant court of justice within a period and according to rules set out in the administrative procedures code.

3. The appeal shall also be allowed should the Institute not make a decision within two months from the date an application for a benefit or another claim is lodged.

4. An appeal to a court cannot be lodged against a decision granting an exceptional benefit or against a refusal decision.

5. An appeal shall be lodged in writing to the organisational entity of the Institute which made the decision, or by way of an entry in the official records prepared by the entity.

6. If the Institute deems an appeal to be justified, within a period of 14 days of the appeal being lodged, it amends or reverses the decision. In such a case the appeal shall have no further course.

7. Should the appeal not be complied with in full, the Institute shall submit the case to court immediately, however no later than within 14 days of the appeal being lodged, together with a justification.

Chapter 9.
Return of Unrightfully Collected Benefits and Interest on Delayed Benefit Payments

Article 84.

1. Any individual who has unrightfully collected any social insurance benefit shall be obliged to return it, including interest in the amount and on the basis of principles determined by civil law regulations.

2. The following shall be deemed to be amounts of unrightfully collected benefits:

   1) benefits paid irrespective of circumstances arising causing an expiry of benefit eligibility rights, or the suspension of the payment thereof in part or in whole, should the person collecting the said benefit have been duly informed of not being entitled to the said rights,
   2) any benefits granted or paid on the basis of false statements or forged documents, or in other cases of the individual collecting benefits having purposefully misinformed the authority responsible for benefit payment.

3. The Institute shall not be entitled to demand the return of any amounts of unrightfully collected social insurance benefits for a period exceeding 12 months if the individual collecting benefits had informed the authority responsible for benefit payment about any circumstances resulting in an expiry of benefit eligibility rights, or the suspension of payment thereof, whereas the benefit payment had continued; in any other cases, that period shall not exceed 3 previous years.

4. Any unrightfully collected benefits as defined by a legally valid decision shall be subject to deduction from benefits eligible for payment, and should no benefits eligible for payment exist - such amounts shall be collected according to provisions applicable to execution proceedings.

5. Provisions of clauses 2 - 4 and 8 hereto shall not apply, should any specific regulations on granting benefits and payment provide otherwise.

6. Should the collection of unrightful benefits have been caused by an employer submitting false information having an impact on the benefit eligibility rights or the actual amounts thereof, the employer concerned shall bear the sole responsibility for returning any such benefits.

7. Any receivables due to unrightful receipt of social insurance benefits shall be prescribed following a period of 5 years as of the date of legalising the relevant decision providing for the said receivable arising.

8. The Institute may withdraw the demand to recover any amounts of unrightfully received benefits in part or in whole, should specifically justified circumstances arise.

9. Provisions of clauses 1 - 8 shall apply to monetary benefits other than social insurance benefits paid on the strength of separate regulations by the Institute.

10. The provision referred to in clause 8 shall apply respectively to benefits paid out directly by the employer.

Article 85.

1. Should the Institute - within the deadlines defined by the regulations concerning the granting and payment of social insurance benefits or of benefits to be paid by virtue of separate regulations or international treaties - fail to determine the benefit eligibility rights, or to pay any such benefits, the Institute shall be obliged to pay interest on such payment, at the statutory rate as laid down by Civil Law provisions. The aforementioned shall not apply when the delay in benefit granting or payment has resulted from circumstances beyond the Institute's control.

2. The minister responsible for social insurance issues in co-operation with the minister responsible for public finance shall determine, by virtue of a decree, detailed rules on the payment of interest.

Chapter 10.
Social Insurance Task Performance Audit

Article 86.

1. Authorised employees of the Institute shall bear sole responsibility for auditing the performance of any social insurance duties by contribution payers.

2. The audit tasks may include the following, in particular:

   1) notification of social insurance participation,
   2) correctness and integrity of calculation, withholding, and payment of contributions and other contributions and payments which the Institute is obliged to collect,
   3) determination of eligibility for social insurance benefits and payment of those benefits, as well as settlements in respect thereof,
   4) accuracy and timeliness of processing applications for pension and disability pension benefits,
   5) issuing certificates or filing data for social insurance purposes.

Article 87.

1. In the course of any audit, the audit inspector of the Institute shall be entitled to do the following:

   1) examine all books, financial and accounting documents and personal files, as well as any other information carriers covered by the audit,
   2) preserve all evidence,
   3) request information from the contribution payer and the insured,
   4) verify identification documents of individuals to ascertain their identity, if necessary for audit purposes,
   5) hear witnesses' statements,
   6) hear the statements of the contribution payer and the insured who shall be a party to the case if due to a lack of or insufficient evidence some circumstances which have an impact on the audit procedures remain unexplained,

2. The audit inspector of the Institute shall use information derived from the insured individuals' accounts and contribution payer accounts for inspection purposes.

Article 88.

1. Contribution payers shall be obliged to:
   1) make available all books, documents and other information carriers related to the scope of the audit which are kept on the payer's premises and with third parties who have been entrusted with some activities on the basis of separate agreements,
   2) prepare and submit copies of documents pertaining to the subject matter of the inspection and determined by the audit inspector of the Institute,
   3) ensure proper conditions for audit procedures, including making available communications (not transport) media and other technical facilities necessary to perform audit procedures which are at the disposal of the payer,
   4) provide explanations to the inspector,
   5) submit a translation into Polish of any financial, accounting and personal information prepared in a foreign language delivered by the contribution payer.
2. The payer shall be obliged to perform the procedures described in clause 1 free of charge.
3. The contribution payer shall be obliged, within a set deadline, to provide the audit inspector of the Institute with documents requested for performance of audit procedures.

Article 89.

1. The audit inspector of the Institute shall commence to conduct the audit on the contribution payer's premises after presenting an official identity card and authorisation to perform the audit, concurrently informing of the commencement of audit procedures.
2. The audit inspector of the Institute shall be obliged to inform the contribution payer about his rights and obligations as stipulated by the act. The contribution payer shall confirm that he is acquainted with his rights and obligations by signing the notification of commencement of audit procedures.
3. Should the contribution payer be absent, audit procedures may begin after presenting documents referred to in clause 1 to an individual authorised to represent the payer or manage the payer's business. A protocol of these procedures shall be prepared and shall be immediately delivered to the contribution payer.
4. A contribution payer who is present at the time of the audit as well as an individual indicated by him shall be entitled to participate in audit procedures.
5. A contribution payer should be informed of the place and date of obtaining evidence from witnesses' testimonies in a manner enabling him to participate in obtaining the evidence, no later than immediately before the commencement of these procedures.
6. The provisions of clause 5 shall not apply if actual circumstances justify immediate commencement of the procedures in the absence of the payer. The absence of the payer shall be noted in the audit protocol.

Article 90.

1. The audit procedures shall be conducted at the seat of the contribution payer and on the premises where the payer conducts his business, as well as on the premises where third parties entrusted to perform specific operations on the basis of separate contracts conduct business operations.
2. The audit inspector of the Institute shall be authorised to enter and move on the premises of the payer and business premises in compliance with documents referred to in Article 89, clause 1, without the need to obtain a pass and without undergoing a personal search as stipulated in the by-laws of the contribution payer.
3. An audit inspector of the Institute shall be subject to the safety-at-work regulations binding on the premises where the audit procedures are being conducted.
4. Audit procedures may be conducted outside the premises described in clause 1 if the conditions referred to in Article 88, clause 1, item 3 are not ensured by the contribution payer and when the nature of the procedures so warrant.
5. In cases described in clause 4 a contribution payer shall be obliged to present documents specified by the audit inspector of the Institute on demand, as described in Article 88, clause 1, item 1, for a period necessary to conduct the audit procedures, however no longer than for 3 weeks. Such operations shall be conducted at a local organisational entity of the Institute. A protocol shall be prepared on the issuance of the documents which shall be signed also by the contribution payer.

2. The Institute shall ensure the contribution payer has access to the issued documents at his request.

Article 91.

1. The audit findings shall be described in the audit protocol which should include:
   2) the identity of the territorial organisational entity of the Institute,
   3) the identity of the audited contribution payer,
   4) the identity of the audit inspectors of the Institute who perform the audit procedures,
   5) the description of the audit scope,
   6) the date of commencement and completion of the audit,
   7) a description of the findings, quoting the legal basis,
   8) presentation of evidence,
   9) instruction on the right to express reservations,
   10) a stamp and the signature of the audit inspector of the Institute.

2. The protocol shall be prepared in two identical copies, of which one shall be delivered to the payer being audited or an individual authorised to represent him or manage his business operations.
3. A contribution payer shall have the right to submit written reservations as to the findings of the audit within 14 days of the receipt of the protocol, at the same time providing appropriate evidence.
4. An audit inspector of the Institute shall be obliged to investigate the reservations expressed by the contribution payer and, if necessary, engage in additional audit procedures, and inform of the investigation procedures in writing.

5. The audit protocol shall form the basis for issuing a decision in the scope and according to procedures described in Article 83.

Article 92.

1. 1.The audit inspector of the Institute shall be excluded from participation in the audit if circumstances occur which may affect the impartiality of his proceedings.
2. The audit inspector of the Institute shall be obliged to keep any information he obtained in the course of official proceedings confidential. The confidentiality clause shall be binding also after he ceases to be employed as the audit inspector of the Institute.

Article 93.

1. The post of audit inspector may only be occupied by an employee who:

   2) has only Polish citizenship and is entitled to full civil and civic rights,

   3) has a clean record and has never been penalised for committing an intentional crime,

   4) has university level education,

   5) has been employed in the head office or in a territorial organisational entity of the Institute for at least two years,

   6) took qualification examinations for the post of an audit inspector of the Institute and achieved positive results before a commission called by the chief audit inspector of the Institute.

2. The audit inspector shall be appointed by the President of the Institute at the request of the chief audit inspector of the Institute.
3. In special cases the President of the Institute at the request of the chief audit inspector of the Institute, may appoint an individual who does not comply with the conditions described in clause 1, items 3 and 4, an audit inspector of the Institute.
4. At the request of the chief audit inspector of the Institute the President of the Institute shall recall an audit inspector from his post if the inspector :

   1) has resigned from his post,

   2) does not comply with conditions defined in clause 1, items 1 and 2,

   3) has lost the physical or mental capabilities to perform work at the post, confirmed by a medical certificate,

   4) received a negative qualification evaluation confirmed by another negative evaluation made no earlier than after 3 months and no later than within a year of the previous evaluation,

   5) has a determined right to pension or disability pension.

5. The employees of the Institute entitled to perform audit procedures before the Act comes into force, who comply with conditions described in clause 1, items 1, 2, and 4, shall retain their rights to audit the contribution payers if they take the exam referred to in clause 1, item 5 within 18 months.

Article 94.

1. The President of the Institute shall appoint and recall the chief audit inspector of the Institute after obtaining an opinion of the Institute's supervisory board.
2. The chief audit inspector of the Institute and audit inspectors of the Institute authorised by him shall order audits of contribution payers, and the Chief inspector of the Institute shall supervise the audits on behalf of the President of the Institute.

Article 95.

Audit inspectors of the Institute shall be protected as stipulated in the Penal Code for public officials with regard to performance of audit procedures.

Article 96.

1. Tax chambers and offices shall be obliged to give information on observed instances of infringement of social insurance regulations.
2. Control, inspection and audit authorities operating in government and local government administration shall be obliged to render the results of the audit performed by these authorities accessible to the Institute upon request.

Article 97.

The Council of Ministers shall determine, by virtue of a decree, the detailed rules and procedures of auditing contribution payers.

Chapter 11.
Social Insurance Act Infringement Liability

Article 98.

1. A contribution payer or an individual obliged to act on behalf of the contribution payer who:
   1) fails to fulfil the obligation of paying social insurance contributions within the dates stipulated by appropriate regulations,
   2) fails to file statutory data as stipulated by the Act, or files false data having an impact on the contribution amounts, or provides false clarification, or refuses to provide clarification,
   3) prevents audit procedures or hinders the course thereof,

4) fails to fulfil the obligation to pay social insurance benefits or pays them unrightfully,

5) fails to maintain documentation pertaining to the calculation of contributions and payment of social insurance benefits,

6) fails to fulfil the obligation to transfer the settlement declarations and name-specific monthly reports within the stipulated period,

shall be liable to a penalty fine of up to 5000 zlotys.

2. The same penalty shall be applied to individuals who commit deeds defined in clause 1 while paying contributions or making payments by virtue of other titles, which the Institute is obliged to collect.

Chapter 12.
Amendments to Valid Regulations

Article 99.

In the Act of March 20th 1950 on the taking over of the mortmain estate by the State, guaranteeing the ownership of farms by parish priests and the establishment of the Church Fund (*Journal of Law* No. 9, item 87 and No. 10, item 111, from 1969, No. 13, item 95, and from 1975, No. 17, item 94) the following amendments shall be made to Article 9, clause 1:

1) item 3 shall be deleted,

2) item 4 shall read as follows:

> "4) payment of social insurance contributions on behalf of members of the clergy in amounts defined by the Act of October 13th 1998 on the social insurance system (*Journal of Law* No. ....item .....)."

Article 100.

In the Act of November 23rd, 1990 on telecommunications (*Journal of Law* of 1995, No 117, item 564, of 1996, No. 106, item 496, of 1997, No. 43, item 272, No. 88, item 154, No. 106, item 675, No. 121, item 770, and No. 137, item 926) in Article 60a after clause 2 clause 3 shall be added and shall read as follows:

> "3. The regulations in clauses 1 and 2 shall apply to contribution receivables in respect of social insurance, the Labour Fund, the Guaranteed Employee Benefit Fund and health insurance, and to payments to the State Fund for the Rehabilitation of the Handicapped, respectively."

Article 101.

The following amendments shall be made to the Personal Income Tax Act of July 26th 1991 (*Journal of Law* of 1993, No. 90, item 416, and No. 134, item 646; of 1994, No. 43, item 163, No. 90, item 419, No. 113, item 547, No. 123, item 602, and No. 126, item 626; of 1995, No. 5, item 25, and No. 133, item 654; of 1996, No. 25, item 113, No. 87, item 395, No. 137, item 638, No. 147, item 686, and No. 156, item 776, and of 1997, No. 28, item 153, No. 30, item 164, and No. 71, item 449, No. 85, item 538, No. 96, item 592, No. 121, item 770, No. 123, item 776, No. 137, item 926, No. 139, item 932, 933 and 934, and No. 141, item 943 and 945, and from 1998, No. 66, item 430, No. 74, item 471, No. 108, item 685 and No. 117, item 756):

1) Article 26, clause 1, item 2 shall read:

"2) pension, disability pension, and sick leave insurance contributions paid or withheld by the contribution payer and associated with sources of income, as defined in social security regulations, if they have not been included in tax-deductible costs,"

2) in Article 32, clause 2, after the words "2a" the following words shall be added: "and after subtracting pension and disability pension, as well as sick leave insurance contributions, referred to in Article 26, clause 1, item 2,"

3) in Article 33, in clause 3, in the first sentence the full stop shall be replaced by a comma, and the following words shall be added: "reduced by pension and disability pension, as well as sick leave insurance contributions withheld by the contribution payer in a given month as defined in Article 26, clause 1, item 2,"

4) in Article 35, clause 1, item 3 shall read as follows:

"3) employment institutions - on benefits paid from the Guaranteed Employees Benefit Fund, net of any contributions withheld by the payer in a given month for pension, disability pension, and sick leave insurance, as well as of benefits paid from the Labour Fund."

5) in Article 37, clause 1a, after the word "payer" the following words shall be added: "pension, disability pension and sick leave insurance contributions, referred to in Article 26, clause 1, item 2",

6) in Article 39, clause 1, after the words "income and" the following words shall be added: "pension, disability pension and sick leave insurance referred to in Article 26, clause 1, item 2".

Article 102.

In the Act on Corporate Income Tax of February 15th, 1992 (*Journal of Law* of 1993, No. 106, item 482, and No. 134, item 646, of 1994, No. 1, item 2, No. 43, item 163, No. 80 item 368, No. 87, item 406, No. 90, item 419, item 113, No. 547, No. 123, item 602, No. 127, item 627, of 1995, No. 5, item 25, No. 86, item 433, No. 96, item 478, No. 133, item 654, No. 142, item 704, of 1996, No. 25, item 113, No. 34, item 146, No. 90, item 405, No. 137, item 639, No. 147, item 686, and of 1997, No. 9, item 44, No. 28, item 153, No. 79, item 484, No. 96, item 592, No. 107, item 685, No. 118, item 754, No. 121, item 770, No. 123, item 776 and 777, and No. 137, item 926, No. 139, item 923, 933, and 934, No. 140, item 939, No. 141, item 945, and from 1998, No. 60, item 383, No. 108, item 685, and No. 117, item 756) in Article 6, clause 1, item 11 the full stop shall be replaced by a comma, and item 12 shall be added and shall read as follows:

"12) The Social Insurance Institute referred to in the Act of October 13th 1998 on the Social Insurance System (*Journal of Law* No....., item .....)".

Article 103.

In the Act of December 29th, 1993 on Protection of Employee Rights in Case of Insolvency of the Employer (*Journal of Law* from 1994, No. 1, item 1, and of 1995, No. 87, item 435, and of 1996, No. 5, item 34, and of 1997, No. 28, item 153 and No. 123, item 776 and from 1998, No. 106, item 668) the following amendments shall be made:

1) in Article 4:

a) in clause 1 after the words "remuneration not paid for work performed" the following words shall be added: "for a period no longer than 1 month, simultaneously ordering a loan to be granted to the employer in the amount equivalent to the social insurance contribution amount on remuneration payable to the employees for that period, but not paid out.",

b) in clause 1a the words "the conditions for its repayment by the employer shall be determined" shall be replaced by the words "and of granting a loan to the employer, the conditions for their repayment by the employer shall be determined",

c) in clause 2 a third sentence shall be added and shall read as follows: "Art. 6a clause 2a shall apply respectively.";

2) in Article 6:

a) in clause 2 after item 3 item 4 shall be added and shall read: "4) social insurance contributions due from employers, referred to in the Act of October 13th 1998 on the Social Insurance System (*Journal of Law* No....., item .....)".

b) in clause 4 after the words "letters a-d" the following words shall be added "and item 4".

3) in Article 6a:

a) in clause 2 after the words "Article 4, clause 2" the following words shall be added "in recognition of clause 2a.",

b) after clause 2, clause 2a shall be added and shall read as follows: "2a. If the remuneration due to the employee exceeds the amount mentioned in clause 2, in the calculation of respective receivables the amount of social insurance contributions financed from the employee's funds, on the difference between the remuneration due to the employee and the amount of average monthly remuneration referred to in Article 4, clause 2, shall be taken into account."

4) Clause 1 of Article 18 shall read as follows:
"1. Contributions to the Fund shall be determined on payments comprising the basis of pension and disability pension insurance rates without applying the limitation referred to in Article 19, clause 1 of the Social Insurance System Act.".

Article 104.

In the Act on Employment and Counteracting Unemployment of December 14th, 1994 (*Journal of Law* No. 25, item 128, No. 28, item 153, No. 41, item 255, No. 63, item 403, No. 93, item 568, No. 107, item 692, No. 121, item 770, No. 123, item 776, and of 1998, No. 66, item 431, No. 106, item 668, and No. 108, item 684) the following amendments shall be made:

1) in Article 31:

a) in clause 1, item 1 the words "and funeral" shall be deleted,

b) clause 5 shall be deleted;

2) in Article 37 m:

a) after clause 1, clause 1a shall be added and shall read:
"1a. Individuals receiving pre-pension welfare benefits or pre-pension benefits shall be entitled to funeral allowance in accordance with respective procedures stipulated for employees.",

b) in clause 2, after the words "referred to in" the words "clause 1a and" shall be added;

3) in Article 48, clause 2, item 2 shall be deleted;

4) in Article 49, clause 1, item 2 shall be deleted;

5) in Article 53:

a) in clause 1 the words "social insurance and pension benefits" shall be replaced by the words "pension and disability pension insurance without the limitations referred to in Article 19, clause 1 of Act of October 13th 1998 on the Social Insurance System (*Journal of Law* No....., item .....)",

b) in clause 3 the words "for social insurance shall be" shall be replaced by the words "determined pursuant to clause 1, shall be";

6) in Article 56, clause 1 shall read as follows:
"1. Contributions to the Labour Fund shall be paid for the period of the pension and disability pension insurance cover according to procedures and rules stipulated for social insurance contributions.".

Article 105.

In the Act of February 6th, 1997 on universal health insurance (*Journal of Law* No. 28, item 153, No. 75, item 468, and of 1998, No. 117, item 756) the following amendments shall be made:

1) in Article 7:

a) in item 21 in the first sentence after the words "as a result" the words "in recognition of item 21a" shall be added,

b) after item 21, item 21a shall be added and shall read as follows:
"21a) children authorised to receive survivorship pension shall also be deemed to be members of the family,";

2) in Article 8, item 10, after the words "or disability pension", the words "with the exception of individuals referred to in Article 7, item 21a" shall be added;

3) in Article 8a, clause 3a shall be added and it shall read:
"3a. Membership in a medical care society of an individual referred to in clause 2 shall not expire in the period when this individual receives benefits awarded on the basis of sick leave insurance or

workman's compensation insurance which are not included in the basis of health insurance contribution rates.";

4) in Article 21:

a) clauses 1 and 2 shall read as follows:
"1. Regulations defining pension and disability pension contribution rates shall be applied to set the basis of health insurance benefits of individuals referred to in Article 8, item 1a), and c)- h), in recognition of clause 2b, 2c, and 3a.
2. Regulations defining pension and disability pension contribution rates shall be applied to set the basis of health insurance benefits of individuals referred to in Article 8, items 2-7, liable to pension and disability pension insurance, in recognition of clause 2b, 2c, and 3a.",

b) after clause 2, clauses 2a-2c shall be added, and shall read as follows:
"2a. The basis of contributions for individuals referred to in Article 8, items 2-7 who are not liable to pension and disability pension insurance shall be an amount equivalent to their remuneration.
2b. In determining the basis of health insurance contributions of individuals referred to in clause 1 any remuneration exclusions due to sick leaves and the limitation referred to in Article 19, clause 1 of the Social Insurance System Act (*Journal of Law* No.....item...) shall not apply.
2c. The basis of health insurance contributions shall be decreased by the amounts of pension, disability pension and sick leave insurance contributions withheld by the payer from the funds of the insured in accordance with social insurance system regulations.",

c) in clause 3, item 1, the comma shall be deleted and the following words shall be added:
"reduced by the pension and disability pension insurance contributions withheld by the payers from the funds of the insured, in accordance with social insurance system regulations,",

5) Article 26a shall read as follows:
"Article 26a. The costs of collection and recording health insurance contributions shall be withheld by the Social Insurance Institute in the amount of 0.5% by the Individual Farmers Social Insurance Fund in the amount of 0.25% of the contributions transferred to medical care societies";

6) in Article 169c the current text shall be marked as clause 1, and clauses 2 and 3 shall be added as follows:
"2. Until June 30th 1999 the regulations in Article 26 clause 4 shall not apply. The Social Insurance Institute and the Individual Farmers Social Insurance Institute shall divide the funds from health insurance contributions collected between the medical care societies according to a financial plan prepared by the Plenipotentiary.
3. The Social Insurance Institute and the Individual Farmers Social Insurance Institute shall transfer the funds referred to in clause 2 to the appropriate medical care society no later than within 3 working days of the date of receipt of health insurance contributions.".

Article 106.

In the Occupational and Social Rehabilitation and Employment of the Handicapped Act of August 27th, 1997 (*Journal of Law* No. 123, item 776 and No. 160, item 1082, and from 1998, No. 99, item 628 and No. 106, item 668) the following amendments shall be made:

1) Article 25 shall read as follows:

"Article 25, clause 1. Contributions for social insurance of individuals who are handicapped to a large or medium degree, employed by an employer who employs less than 25 people on a full time basis, and of handicapped individuals employed in a special enterprise employing disabled individuals (*zak ad pracy chronionej*) or an occupational activity enterprise (*zak ad aktywno ci zawodowej*) shall be calculated according to rules defined by the Social Insurance System Act of October 13th 1998 (*Journal of Law* No....item....), in recognition of clauses 2 and 3.

2. In enterprises employing less than 25 people, in respect of employees handicapped to a large or medium degree:
   1) part of the remuneration equivalent to the pension insurance contribution due from the employee shall be financed by the State Fund for the Rehabilitation of the Handicapped.
   2) part of the labour costs of the employer equivalent to the pension insurance contribution due from the employer shall be financed by the State budget.

3. In special enterprises employing disabled individuals and in occupational activity enterprises, the following shall be binding in respect of the handicapped:
   1) part of the remuneration equivalent to the pension and sick leave insurance contributions due from the employee shall be financed by the State Fund for the Rehabilitation of the Handicapped,
   2) part of the employer's labour costs equivalent to the pension and disability pension insurance contribution due from the employer shall be financed by the State budget, and in the part equivalent to the workman's compensation insurance contribution shall be financed by the State Fund for the Rehabilitation of the Handicapped."

4. The Social Insurance Fund shall inform the institutions referred to in clause 2 and 3 of the transfer of a part of the employee's remuneration equivalent to the social insurance contribution due, financed by the State Fund for the Rehabilitation of the Handicapped, within 7 days of its receipt.

5. Employees referred to in clause 2 and 3 shall be deemed to be employees and individuals engaged in work-by-job.

6. Detailed rules and procedures for calculation of social insurance contributions, taking into account subsidies from the State Fund for the Rehabilitation of the Handicapped and the State budget, shall be determined by virtue of a decree, the minister responsible for social insurance issues.

7. The difference between the social insurance contribution withheld on behalf of a handicapped individual employed in the enterprises referred to in clauses 2 and 3, and the part of the social insurance contribution transferred to the Social Insurance Institute shall remain in those enterprises.";

2) In Article 31:
   a) in clause 3, item 1a after the words "in the amount of 10%", the words "in recognition of clause 3a" shall be added.
   b) clause 3a shall be added after clause 3 and shall read:
   "3a. The manager of an enterprise employing handicapped individuals may be granted an exemption from payments to the State Fund for the Rehabilitation of the Handicapped in accordance with procedures defined in Article 49, also when funds from the company fund for the rehabilitation of the handicapped do not suffice to finance the contribution referred to in Article 25, clause 3, item 2."

Chapter 13.
Transitional and Final Provisions

Article 107.

1. Contribution payers shall be obliged to submit a notification of the names of all individuals for whom they are obliged to pay social insurance contributions as at December 31st 1998 and as at January 1st 1999, no later than on January 31st 1999.
2. Contribution payers who pay social insurance contributions on their own behalf as at December 31st 1998 and as at January 1st 1999 shall also be obliged to submit the notification referred to in clause 1, by January 31st 1999.
3. Contribution payers referred to in clauses 1 and 2 shall be obliged to notify the contribution payer by January 31st 1999.

Article 108.

Social insurance or health insurance contribution payers who as at the date of the Act coming into force have not been assigned a NIP identification number or have not applied for the assignment of the same, shall be obliged to apply for an identification number within one month of this Act coming into force, according to procedures defined in a separate act on the rules for registration and identification of tax payers.

Article 109.

Contribution payers shall be obliged to settle and pay contributions on the basis of current regulations in respect of social insurance contributions and survivorship pension and nursing benefits due for the period ending on December 31st 1998.

Article 110.

1. Employers shall raise any remuneration due to their employees as of January 1st 1999, calculating such remuneration in a fashion ensuring that following the deduction of pension, disability pension and sick leave insurance contributions such remuneration be not lower than that paid in the course of the final month prior to the indexation.
2. The regulation of clause 1 shall be applied to remuneration due to members of both Houses of the Parliament and to other remuneration for service, respectively.
3. The minister responsible for social insurance issues shall, by virtue of a decree, determine the formula of restating salaries and remuneration defined in clauses 1 and 2 hereto.
4. The minister responsible for social insurance issues shall announce the level of the minimum employee remuneration upon the restatement performed in a manner defined in the decree referred to in clause 3.

Article 111.

1. The contribution transfer mentioned in Article 22, clause 3 is mandatory for the insured born after December 31st, 1968.
2. The insured mentioned in clause 1 hereto shall be obliged to conclude agreements with an open pension fund no later than by September 30th, 1999. The regulations in Article 39, clause 2, shall be applied respectively.
3. Those insured who were born after December 31st, 1948, but before January 1st, 1969, may, at their own request and upon concluding a contract, join the chosen open pension fund.

4. The insured referred to in clause 3 may conclude a contract with an open pension fund by December 31st 1999, in recognition of clause 6.

5. The access of the insured referred to in clause 3 to an open pension fund shall be deemed to be an irrevocable declaration of will in respect of the selection of pension insurance according to principles defined for individuals born after December 31st 1968.

6. The deadline referred to in clause 4 shall be deemed to be kept if the individual born in the period described in clause 3 was not liable to social insurance in 1999, but accessed an open pension fund within 6 months of the insurance liability arising, after December 31st 1999, and on the date of the liability arising was not yet 50 years old.

7. The whole amount of the contribution for pension and disability pension insurance of the insured who have not filed an application to join an open pension fund shall be transferred to FUS.

8. The contribution mentioned in Article 22, clause 3 shall be transferred to an open pension fund beginning from the nearest pension contribution payment term falling after the date of receiving by ZUS from an open pension fund the notification, however no later than by August 1999.

9. The contribution of the insured referred to in clause 1 shall be transferred to open pension funds on terms and conditions described in clause 8, however in the event of the insured individual not having concluded a contract within the deadline stipulated by clause 2, the contributions beginning with the employment related contribution from October 1999 set aside for an open pension fund shall be transferred to the open pension fund immediately after membership in the open fund has been gained. The regulations in Article 39, clause 4, shall apply accordingly.

Article 112.

1. The FRD funds may not be used before the year 2009.

2. The interest referred to in Article 22, clause 1 item 1 and clause 4, shall be decreased by 1% of the basic contribution amount beginning in the calendar year referred to in clause 1.

Article 113.

The term of office of the current supervisory boards of Social Insurance Institute, appointed on the basis of Article 20 and 21 of the act referred to in Article 122, clause 1, item 1 shall end with the date of appointment of the Institute's supervisory board, referred to in Article 75.

Article 114.

1. With the date of this act coming into force any assets managed by the Institute which are owned by the State Treasury shall become the property of the Institute.

2. By virtue of the law, the acquisition of ownership rights to property constituting a part of the assets referred to in clause 1 shall be determined on the strength of the law, by virtue of a decision by the voivode.

3. Within the scope of activities defined in the Act the Institute shall be exempt from real estate tax and from stamp duty and legal fees.

Article 115.

The Institute is the legal successor of the following institutions operating since 1950: The Social Insurance Institute, social insurers and insurance funds in respect of social insurance, and is entitled, without infringing any third party rights, to demand the return of real property constituting, in the given period, the property of those legal entities.

Article 116.

1. The Social Insurance Fund established on the basis of the act referred to in Article 122, clause 1, item 1 shall be liquidated as of January 1st 1999, and its cash, receivables and payables shall be taken over by the pension fund separated from the FUS, in accordance with Article 55.
2. Current and investment assets and liabilities of the Social Insurance Institute acting on the basis of the act referred to in clause 1 shall as of January 1st 1999 become the assets and liabilities of the Institute.
3. The pension fund shall finance the Institute's expenses on a temporary basis. The refund of those expenses to the pension fund shall take place after the funds referred to in Article 55 earn income from social insurance contributions.

Article 117.

1. The Institute shall take over the responsibilities of railway organisational entities responsible for the determination and payment of benefits, acting under the Act of April 28th 1983 on pension benefit entitlement of railway employees and their families (*Journal of Law* No. 23, item 99, from 1985, No. 20, item 85, from 1990, No. 36, item 206, from 1997, No. 43, item 272 and from 1998, No. 66, item 431).
2. The railway organisational entities referred to in item 1 shall pay out benefits in 1998 and shall transfer any documentation necessary for the Institute to pay out benefits for the period from the Act coming into force, and any documentation necessary to assign or recalculate benefits, as well as documentation necessary to perform the annual calculation of income tax for physical entities for 1998.
3. The minister responsible for transport issues shall transfer to the Institute property rights and tangible assets within the scope necessary to take over tasks referred to in clause 1.
4. Detailed rules and procedures for the take-over shall be determined by a decree of the minister responsible for transport issues in co-operation with the minister responsible for social insurance issues.

Article 118.

In 1999 the period referred to in Article 47, clause 9 shall comprise 5 working days, in the year 2000 - 4 working days, and in the year 2001 - 3 working days.

Article 119.

Banks shall be obliged to prepare and ensure access to the payment order forms described by the Act to contribution payers by December 15th 1998.

Article 120.

The tasks defined in the act which are necessary for the functioning of the Institute as of January 1st shall 1999 until that date be performed by the Social Insurance Institute referred to in Article 7 of the act referred to in Article 122, clause 1 item 1.

Article 121.

The interest rate in respect of workman's compensation insurance for the period from January 1st to December 31st 1999 shall amount to 2.03% of the basis for calculation.

Article 122.

1. The following legal regulations shall hereby become invalid:

   1) the Social Insurance Organisation and Funding Act of November 25th, 1986 (*Journal of Law* of 1989: No. 25 items 137 and No. 47 item 441, of 1990: No. 36 item 206, of 1991: No. 7 item 24, No. 104 item 450 , and No. 110 item 474, of 1994: No. 84 item 385, and of 1995: No. 4 item 17, No. 85 item 426 and of 1997, No. 121, item 770, and from 1998, No. 106, item 668, and No. 108, item 684),
   2) the Pension Benefits for Artists and their Family Members Act of September 27th, 1973 (*Journal of Law* of 1983: No. 31 item 143, of 1986: No. 42 item 202, of 1989: No. 35 item 190, of 1990: No. 36 item 206, of 1995, No. 4, item 17, of 1996, No. 100, item 461, and of 1997, No. 28, item 153),
   3) Articles 1-5 and Article 29, clauses 1 and 2, of the Social Insurance of Individuals Employed on Basis of an Agency or Short-term Job Contract Act of December 19th, 1975 (*Journal of Law* of 1995: No. 65 item 333 and No. 128 item 617, of 1996, No. 100, item 461, of 1997, No. 28, item 153),
   4) Articles 1-4, and Article 26, clauses 1 and 2, of the Social Insurance of Sole Proprietor and their Family Members Act of December 18th 1976 (*Journal of Law* of 1989, No. 46 item 250, of 1990: No. 36 item 206, and of 1991: No. 104 item 450 and No. 110 item 474, of 1995, No. 4, item 17, of 1996, No. 100, item 461, No. 124, item 585, and of 1997, No. 28, item 153, and from 1998, No. 66, item 431),
   5) Chapter 8 of the Pension Benefits of State Railway Employees and their Family Members Act of April 28th 1983 (*Journal of Law* No. 23 item 99, of 1985, No. 20, item 85, of 1990 No. 36 item 206, of 1997, No. 43, item 272, and of 1998, No. 66, item 431),
   6) the Clergy Social Security Act of May 17th 1989 (*Journal of Law* No. 29 item 156, of 1990, No. 36, item 206, of 1991, No. 104, item 450, of 1995, No. 4, item 17, and of 1996, No. 100 item 461, and of 1997, No. 28, item 153).

2. Until the date of issuing executive regulations as provided for by this Act, the provisions of executive regulations issued by virtue of the Act stipulated by clause 1 item 1 hereto shall remain applicable, unless proven as contrary to any provisions of this Act.

1. Wherever the regulations:

   1) refer to provisions relating to the organisation and financing of social insurance or to regulations on social insurance or to employees' social insurance regulations, it shall refer to the social insurance system regulations.

   2) refer to the Social Insurance Institute or the Foreign Annuities Office as to the relevant body, it shall mean the Institute's organisational entity.

Article 123.

The regulations of the Civil Code shall apply to legal procedures in cases regulated by the Act, unless the Act stipulates otherwise.

Article 124.

The regulations in Article 50, clause 1 in the part relating to informing of data collected in an account shall apply as of January 1st 2000.

Article 125.

The provisions of Article 32, Article 47, clause 4, item 4, clauses 14 and 15, Article 68, item 1c) and Article 76, clause 1, item 2c) and item 3, in the part relating to the collection of payments to the State Fund for the Rehabilitation of the Handicapped shall apply as of January 1st, 2000.

Article 126.

Provisions of Article 50, clause 1 in the part relating to hypothetical pension shall apply as of January 1st, 2004.

Article 127.

This Act shall come into force on January 1st, 1999, with the exception of:

1) Article 24-31, 33, 73 clause 2, Article 74, clauses 1 and 5, Article 75, clause 1 item 1, 2, 9, and 10, and clause 3, Article 109, 117, clause 2-4, Article 119 and 120 which shall come into force within 14 days of the Act coming into force,
2) Article 108 which shall come into force as of December 1st, 1998.
3) Article 39, clause 1-4 which shall come into force as of October 1st, 1999.
4) Article 15, clause 2, Article 22, clause 1, item 4 and clause 2 which shall come into force as of January 1st, 2000.
5) Article 22, clause 4 which shall come into force on January 1st, 2002.