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**12 JANUARY 2007**

**Royal Decree on the prudential supervision of institutions for  
occupational retirement provision**

*(Moniteur belge/Belgisch Staatsblad (Belgian Official Gazette), 23 January 2007, Err.  
20 February 2007)*

**Consolidated version July 2007**

**Amendments**

Royal Decree of 5 June 2007 on the annual accounts of the institutions for occupational retirement provision (*Moniteur belge / Belgisch Staatsblad* (Belgian Official Gazette), 27 July 2007).

Modified Articles: 9, 14 and 41 (Dutch version only).

**Legal basis**

Art. 79, par. 2, 87, par. 2, 88, par. 4, 89, par. 5, 109, par. 2, 116, par. 2, 228 and 234 of the Law on Institutions for Occupational Retirement Provision.

Chapter I  
General provisions

**Article 1**

This Decree partially transposes Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision.

**Article 2**

For the purposes of this Decree and its implementing regulations, the following definitions shall apply:

- 1° “the Law”: the Law of 27 October 2006 on the supervision of institutions for occupational retirement provision;
- 2° “the LPC/WAP”: the Law of 28 April 2003 on supplementary pensions and on tax regulations applicable to such pensions and to certain additional social security benefits;
- 3° “financing plan”: the financing plan referred to in Article 86 of the Law;
- 4° “written statement of investment policy principles”: the statement referred to in Article 95 of the Law;
- 5° “regulated market”: a regulated market within the meaning of Article 2, first paragraph, 3°, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services;
- 6° “technical provisions”: the provisions referred to in Article 89 of the Law;
- 7° “covering assets”: the assets referred to in Article 90 of the Law.

**Article 3**

This Decree shall apply to institutions for occupational retirement provision governed by Belgian law as referred to in Title II of the Law.

Chapter II  
Rules of operation and management

**Article 4**

The provisions of this chapter shall apply to institutions for occupational retirement provision in respect of their activities as referred to in Article 55, first paragraph, 1°, and, where applicable, in Article 74, § 1, 4°, of the Law.

## **Article 5**

The sponsoring undertakings and the members or their representatives must constitute a majority of the Board of Directors of an institution for occupational retirement provision.

## **Article 6**

The articles of association of an institution for occupational retirement provision or the agreement referred to in Article 79 of the Law, shall mention at least:

- 1° how the assets are managed;
- 2° where several separate funds exist, the rules of allocation to one or more of these separate funds;
- 3° the rules to be followed where the sponsoring undertaking or one of the sponsoring undertakings is unable to finance its commitments;
- 4° the rules to be followed where the sponsoring undertaking or one of the sponsoring undertakings ceases to entrust the management of all or part of its pension schemes to the institution for occupational retirement provision;
- 5° the rules to be followed in case of a conflict regarding the application or the interpretation of the rules of management and operation referred to in this Chapter:
- 6° the rules to be followed when amending or cancelling an agreement as referred to in Article 79 of the Law.

## **Article 7**

Where an institution for occupational retirement provision manages the pension scheme or schemes of several sponsoring undertakings, the articles of association or an agreement as referred to in Article 79 of the Law shall mention, in addition to the items referred to in Article 6:

- 1° the rules regarding the degree of solidarity amongst the sponsoring undertakings;
- 2° the rules making it possible to determine at any given time the share of each sponsoring undertaking in the assets, liabilities and results of the institution for occupational retirement provision;
- 3° the rules regarding the apportionment of the management and operating fees of the institution for occupational retirement provision.

The sponsoring undertakings are jointly liable with respect to the institution for occupational retirement provision for anything not otherwise regulated in accordance with this Article.

### Chapter III Solvency margin

#### Section I Solvency margin to be established by institutions for occupational retirement provision which contract obligations of means

#### **Article 8**

The solvency margin that must be established in accordance with Article 88 of the Law is the sum of the amounts calculated in application of Articles 9 to 11.

#### **Article 9**

**§ 1.** For the pension schemes referred to [in Articles 55, paragraph 1, 1°, and 135, paragraph 1, 2°, of the Law], the required solvency margin for risks linked to death, disability and incapacity for work shall be calculated as follows:

*(modified by Royal Decree of 5 June 2007)*

1° first operation:

the sum of the following elements:

- a) ten times the first tranche less than or equal to EUR 30 000 of the highest of the capital at risk, the disability capital and the capital for incapacity for work;
- b) the sum of the five highest of the capital at risk, the disability capital and the capital for incapacity for work, taking into account, in respect of each member, the highest of the capital at risk, the disability capital and the capital for incapacity for work;
- c) one per mille of the total, for all members, of the highest for each member of the capital at risk, the disability capital and the capital for incapacity;

2° second operation:

the sum, for all members, of the highest for each member of the capital at risk, the disability capital and the capital for incapacity for work;

3° third operation:

the lowest amount obtained from the first two operations shall be retained;

4° fourth operation:

the result of the third operation shall be multiplied by a fraction calculated as follows:

- a) the fraction shall be equal to the ratio, for the last financial year, between the two following amounts:
  - the capital at risk, the disability capital and the capital for incapacity for work underwritten by the institution for retirement pension provision net of insurance or reinsurance;
  - the capital at risk, the disability capital and the capital for incapacity for work gross of insurance and reinsurance;
- b) where, on account of a non proportional reinsurance, the institution cannot calculate the fraction in the manner provided for under a), it may use a different fraction that it can justify, bearing in mind the method and conditions of reinsurance;
- c) the fraction obtained by applying a) or b) may not be less than 0.5 unless the insurance or reinsurance company is authorized to carry out its activity in a Member State or, where it is established in a country outside the European Economic Area, if it meets the conditions laid down by the CBFA.

**§ 2.** The capital at risk, the disability capital and the capital for incapacity for work shall be determined by means of the technical bases used by the institution for occupational retirement provision for calculating technical provisions.

However, the capital at risk corresponding to the capital for orphan's pensions may be determined according to a flat rate method authorized by the CBFA.

### **Article 10**

The margin to be established for the pension schemes referred to in Article 55, paragraph 1, 2°, of the Law, which provide for retirement or death benefits, shall be the sum of the elements calculated in accordance with 1° and 2° below:

- 1° 4% of the technical provisions for retirement benefits of the institution for occupational retirement provision multiplied by the ratio for the last financial year between, on the one hand, the amount of these provisions for which the institution for occupational retirement provision is liable net of insurance or reinsurance and, on the other hand, the amount of these provisions gross of insurance or reinsurance; that ratio may in no case be less than 85%.

- 2° 0.3% of the positive capital at risk underwritten by the institution for occupational retirement provision multiplied by the ratio for the last financial year between, on the one hand, the amount of capital at risk underwritten by the institution for occupational retirement provision after cession to insurance or reinsurance and, on the other hand, the amount of this capital gross of insurance or reinsurance; that ratio may in no case be less than 50%.

## Article 11

**§ 1.** The margin to be established for the pension schemes referred to in Article 55, paragraph 1, 2°, of the Law, which provide benefits for incapacity for work and for disability, shall be equal to the result of the following operations:

- 1° first operation:

the higher of the following two amounts shall be retained:

- a) the amount of contributions issued, calculated as follows:

- the contributions issued during the last financial year, including ancillary charges, are added together;
- from the amount obtained in the first indent shall be deducted the total amount of contributions cancelled over the course of the last financial year, as well as the sum of the taxes and levies and other supplements collected on behalf of third parties on the basis of the contributions added up in the first indent;

- b) the amount of the contributions received;

- 2° second operation:

the result of the first operation shall be divided into two tranches, the first in the amount of EUR 53 100 000, and the second comprising the excess; 18% of the first tranche and 16% of the second shall then be added together;

- 3° third operation:

the result of the second operation shall be multiplied by the ratio, based on the last three financial years, between the amount of benefits still underwritten by the institution for occupational retirement provision after deducting the amounts recoverable through insurance and reinsurance, and the total gross benefits; that ratio may in no case be less than 50%.

**§ 2.** The amount referred to in § 1, 2°, shall be reviewed annually, starting on 1 January 2008, in order to take account of changes in the European Index of Consumer Prices comprising all Member States, as published by Eurostat.

The amount shall be adjusted automatically, according to the following procedure: the base amount in euro shall be increased by the percentage change in the aforesaid index over the period between 1 January 2007 and the review date, and rounded up to a multiple of EUR 100 000.

If the percentage change since the last adjustment is less than 5%, no adjustment shall be made.

## Section II

Solvency margin to be established by institutions for occupational retirement provision which contract obligations of result

### Article 12

The solvency margin to be established in accordance with Article 87 of the Law is the higher of the following two amounts:

- 1° the sum of the amounts calculated in the manner provided for in Articles 10 and 11;
- 2° an absolute minimum of EUR 3 200 000.

The amount referred to in paragraph 1, 2°, shall be adjusted annually in the manner provided for in Article 11, § 2.

## Section III

Establishment of the solvency margin

### Article 13

Institutions for occupational retirement provision shall hold own funds that are at least equal to the amount of the required solvency margin and that correspond to assets that are free of all foreseeable liabilities.

### Article 14

The assets referred to in Article 13 must belong to the institution for occupational retirement provision and must fulfil the conditions found in Chapter V.

For the activities referred to in Articles 55, paragraph 1, 1°, and 135, paragraph 1, 2°, of the Law, the claims of the institution against the sponsoring undertaking(s) may also be taken into account for constituting the solvency margin, provided these claims are guaranteed by a credit institution or an insurance company authorized to carry out this activity in a Member State or, if established outside the European Economic Area, fulfilling the conditions laid down by the CBFA.

*(modified by Royal Decree of 5 June 2007)*

Chapter IV  
Technical provisions

Section I  
Provision applicable to all pension schemes

**Article 15**

The method for calculating technical provisions is part of the financing plan of the institution for occupational retirement provision.

Section II  
Pension schemes that cover biometric risks or that guarantee a return on investments or a given level of benefits

**Article 16**

**§ 1.** Institutions for occupational retirement provision shall take into account, when calculating the technical provisions for pension schemes that cover biometric risks or that guarantee a return on investments or a given level of benefits, the following elements:

- 1° maximum interest rates, chosen in a prudent manner and taking into account:
  - a) the return on covering assets as well as future returns and/or
  - b) the return on bonds of a Member State or on other high-quality bonds;
- 2° biometric tables based on the principle of prudence and taking into account the major characteristics of the group of members of these pension schemes, in particular the anticipated developments in the relevant risks.

The method and the bases for calculating the technical provisions shall be constant from one financial year to the next unless there is any change in legal, demographic or economic data on which the hypotheses are based.

**§ 2.** The institution for occupational retirement provision shall justify the methods and bases it uses for calculating the technical provisions, which must be of such a nature that they guarantee the permanence of its commitments.

The CBFA may lay down the conditions which this justification must meet.



## **Article 17**

The technical provisions may under no circumstances be less than the sum of the following amounts, calculated for each member and each beneficiary:

- 1° for each member, the higher of the following two amounts:
  - a) the vested reserves determined by the pension scheme with, as a minimum, the vested reserves determined by the social and labour legislation that applies to the pension scheme;
  - b) the amount corresponding to the guarantee referred to in Article 24, § 1, of the LPC/WAP, where this provision applies to the pension scheme;
- 2° for each beneficiary, the current value of benefits in payment, in accordance with the discounting rules provided for by the pension scheme.

The discounting rules referred to in paragraph 1, 2°, shall be chosen in a prudent manner and justified in the financing plan.

## **Section III**

Pension schemes that do not cover biometric risks or provide for a return on investments or a given level of benefits

## **Article 18**

Where a pension scheme does not cover biometric risks or provide for a return on investments or a given level of benefits, the technical provisions may under no circumstances be lower than the sum, for all members, of the highest of the following amounts calculated for each member:

- 1° the vested reserve determined by the pension scheme, with the minimum being the vested reserve determined by the social and labour legislation that applies to the pension scheme;
- 2° the amount that corresponds to the guarantee referred to in Article 24, § 1, of the LPC/WAP, where this provision applies to the pension scheme.

## **Article 19**

Individual accounts must be kept separate for each member, except for the portion of the technical provisions that corresponds to the difference between 2° and 1° of Article 18.

Chapter V  
Covering assets

Section I  
General provisions

**Article 20**

An institution for occupational retirement provision shall invest its covering assets in accordance with the principle of prudence mentioned in Article 91? § 1, of the Law and with the provisions of this chapter.

Investments shall be made with care, professional expertise, prudence and due diligence.

Investments made by the institution for occupational retirement provision must be consistent with the hypotheses contained in its financing plan and in with the investment policy outlined in its written statement of investment policy principles.

**Article 21**

For the application of the principle and the provisions referred to in Article 20, the institution shall take account of the assets it holds both directly and indirectly as well as of the attendant risks to which it is exposed, directly or indirectly, through derivative instruments.

**Article 22**

Article 91, § 1, 6°, of the Law shall apply to the loans granted to and the claims against the sponsoring undertaking, with the exception of the claims referred to in Article 27, 6°, and in Article 163, paragraph 3, of the Law.

**Article 23**

The assets designated to cover commitments to third parties other than members or beneficiaries as well as assets that constitute the solvency margin cannot be designated covering assets.

Derivative instruments as well as guarantees relating to their underlying commitments may not be designated covering assets except insofar as their nature and the fulfilment of these commitments permit.

**Article 24**

An institution for occupational retirement provision and the external service provider that manages the investments shall not undertake any commitment, notably by means of derivative instruments, that may prejudice the security, quality, liquidity or profitability of the covering assets.

## Article 25

Where an institution for occupational retirement provision lacks sufficient expertise to take fully informed investment decisions, it shall secure the assistance of an outside expert. The CBFA may, if necessary, compel it to do so.

## Article 26

Where an institution for occupational retirement provision has established several separate funds, the provisions of this Chapter shall apply separately to each of these separate funds.

Where, for a pension scheme that does not cover biometric risks or provide for a return on investments or a defined level of benefits, the institution maintains several sub-funds to which it allocates the payments made, each of these sub-funds shall comply with the provisions of this Chapter.

## Section II Investment categories

## Article 27

Covering assets must belong to one of the following investment categories:

- 1° the financial instruments referred to in Article 2, 1°, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services;
- 2° reserves established by the institution with an insurance company that is authorized by the competent authority of a Member State;
- 3° loans accompanied by sufficient guarantees;
- 4° real estate, rights *in rem* on real estate, and real estate certificates;
- 5° reinsurers' share of the technical provisions, in accordance with the conditions accepted by the CBFA;
- 6° endowments that are yet to be collected, the due date of which has lapsed since a maximum of one month;
- 7° uncontested tax liabilities;
- 8° deposits in current accounts or term deposits held with the National Bank of Belgium or with a credit institution authorized by the CBFA or by the competent authority of the State in which the credit institution has its registered office;

- 9° accrued interest and rent on covering assets, provided they are not already included in the value of the corresponding assets.

### **Article 28**

Derivative instruments that imply a delivery are authorized only if at least one of the following conditions is met:

- 1° the institution for occupational retirement provision holds the underlying assets as covering assets;
- 2° the risks inherent in the highly liquid underlying assets are adequately covered by other liquid assets, provided the latter assets can at all times be allocated to the acquisition of underlying assets to be delivered, and provided the additional risk inherent in this type of operation is adequately measured and managed;
- 3° a clearing institution is involved that is able to offer an adequate guarantee of the success of the operation, the derivative positions are evaluated daily at market value, and margin calls are issued at least once a day.

### **Article 29**

Financial instruments that cannot be traded on a regulated market may not be used as covering assets unless they are realizable within a reasonable time period.

With the consent of the CBFA, the condition laid down in the first paragraph shall not apply to participations in credit institutions, insurance companies or investment firms the registered office of which is established in a Member State.

## **Section III** **Valuation rules**

### **Article 30**

The accepted value of the covering assets shall be determined taking account of the following provisions:

- 1° covering assets shall be valued after deduction of debts incurred upon their acquisition;
- 2° covering assets shall be valued with the necessary prudence, taking into account the risk of non-realization;
- 3° claims against a third party shall be evaluated after deduction of debts to the third party in question.

### **Article 31**

The accepted value of real estate is its market value. It is determined separately for each piece of real estate.

Market value is understood to mean the price which, on the date of the valuation, may be obtained if the real estate in question was sold, assuming that:

- 1° it is a voluntary sale;
- 2° the buyer can act completely independently of the seller;
- 3° the property has been advertised in the usual way;
- 4° market conditions allow for a regular sale;
- 5° the time available for negotiation concerning the property is reasonable for the type of property involved.

Where, since the last valuation, the market value of a piece of real property has decreased, the accepted value shall be corrected accordingly. The lower accepted value cannot later be increased if a new market value is determined in accordance with this article.

Where, at the date of the valuation, the intention is to sell the real estate in the short term, the market value shall be diminished by the estimated costs of the transaction.

Where the market value of a piece of real estate cannot be determined, the accepted value shall be the same as the purchase price or the resale price, gross of any potential depreciation, but net of any special depreciations or impairments.

### **Article 32**

The accepted value of financial instruments traded on a regulated market is their market value.

Market value is understood to mean the value calculated either according to the official prices on the valuation date, or if there was no trading on that day, on the last trading day prior to the valuation date, or according to the indicative prices published at least monthly by a regulated market.

Where, on the valuation date, the intention is to sell these financial instruments in the short term, the market value shall be reduced by the estimated costs of the transaction.

### **Article 33**

The accepted value of financial instruments not admitted to trading on a regulated market is their market value.

Where a market exists for these financial instruments, market value is understood to mean the average price at which a transaction in these instruments has been performed on the valuation date, or, where there was no trading on that day, on the last trading day prior to this date.

Where there is no market for these financial instruments, the market value shall be obtained based on a prudent estimate of the probable value if it were to be immediately realized.

Where on the valuation date, the intention is to sell these instruments in the short term, the market value shall be reduced by the estimated costs of the transaction.

#### **Article 34**

The accepted value of mortgage credits is the sum of their outstanding balances.

A mortgage credit shall be taken into consideration only up to a maximum of 100% of the value of the mortgaged property, with deduction, where applicable, of prior privileges and mortgages.

#### **Article 35**

The accepted value of assets that cannot be evaluated in accordance with Articles 31 to 34 shall be their value as entered among the assets on the balance sheet.

#### **Article 36**

When determining the accepted value of covering assets, the derivative instruments related to these covering assets shall be taken into account insofar as these derivative instruments are not themselves used as covering assets. Furthermore, these derivative instruments must be used to reduce investment risk or to make possible an effective management of the portfolio and must comply with the provisions of Article 28.

### **Section IV** Other investment rules

#### **Article 37**

The provisions of Articles 91, 5° and 6°, of the Law shall not apply to investments in bonds issued or guaranteed by:

- 1° the central government or central bank of a Member State;
- 2° a central government or central bank whose credit quality assessment, as defined in Table 1 of Annex VI, of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions, equals 1;

- 3° a central government or central bank whose credit assessment is associated with the minimum export insurance premium, as defined in Table 2 of Annex VI of the aforementioned Directive 2006/48/EC, which is less than or equal to 1;
- 4° a regional or local government which, in application of the aforementioned Directive 2006/48/EC, is considered by the authorities competent in this matter to be central governments;
- 5° the European Central Bank, the multilateral development banks, the European Community, the International Monetary Fund and the Bank for International Settlements.

### **Article 38**

**§ 1.** For the purposes of this article, localisation of assets shall be understood to mean the presence of movable or immovable assets within national borders. Assets in the form of claims not represented by securities shall be considered located in the country where they can be realized.

**§ 2.** Covering assets shall be located within the European Economic Area.

By way of derogation from paragraph 1, movable covering assets located outside the European Economic Area are also accepted, provided the National Bank of Belgium or a credit institution or investment firm governed by the law of a Member State and authorized to carry out the activity of a depositary attests that it holds these covering assets for the account of the institution for occupational pension provision, through an establishment within the European Economic Area, at a credit institution or investment firm established outside the European Economic Area the authorization of which the CBFA deems equivalent to its own.

Where covering assets are deposited on an account at a credit institution or investment firm established within the European Economic Area but outside Belgium, the institution shall enter into an agreement with this credit institution or investment firm stipulating that:

- 1° the credit institution or the investment firm in question undertakes to pass on to the CBFA all the information the latter needs in order to have full knowledge of the covering assets of the institution for occupational retirement provision and to honour any potential demand by the CBFA to prohibit the free disposal of the aforesaid covering assets;
- 2° the institution for occupational retirement provision shall give the credit institution or the investment firm in question a mandate to this effect.

### **Article 39**

Covering assets may be denominated in:

- 1° euro or in currency convertible without restriction into euro;

- 2° in the currency of the liabilities, to the amount of the latter.

## Section V Supervision

### Article 40

The CBFA may, in exceptional circumstances and for the duration of the latter, grant a derogation from the rules laid down in Sections II to IV of this Chapter, upon the request, supported by precise reasons, of an institution for occupational retirement provision, on condition that the principles outlined in Section I are respected.

### Article 41

The CBFA may:

- 1° object to certain investments or to keeping certain investments if it deems that they are likely to threaten compliance with the rules of this Chapter;
- 2° impose certain investment rules on an institution for occupational retirement provision in order to take into account the specific situation of this institution;
- 3° reject the proposed value of a covering asset that does not satisfy the valuation rules in Section III.

## Chapter VI Appointed actuaries

### Article 42

In order to fulfil the tasks of an appointed actuary as referred to in Article 109 of the Law, the person in question must fulfil the following conditions:

- 1° be a national of a Member State;
- 2° hold:
  - a) a Master's degree in a programme whose courses include a specialization in actuarial sciences, conferred by a university or by an institute of higher education in accordance with a decree by the French Community or by the Flemish Community;
  - b) or an equivalent degree conferred by the institutions referred to in a), before the Master's degree came into existence;
  - c) or a degree conferred by an institution of another Member State and deemed equivalent by the CBFA;



- 3° have an adequate knowledge of one of the national languages;
- 4° have carried out for at least five years a professional activity that involves acquiring the necessary experience in the actuarial field and the ability to fulfil competently and with objectivity the tasks referred to in Article 109 of the Law.

#### **Article 43**

The position of appointed actuary is incompatible with the following functions:

- 1° member of an operational body of the institution for occupational retirement provision in question;
- 2° member of the senior management of a sponsoring undertaking;
- 3° accredited auditor of the institution for occupational retirement provision;
- 4° any function likely to compromise the independence of an appointed actuary.

#### **Article 44**

The position of appointed actuary consists of the following tasks:

- 1° prior to the introduction of a pension scheme, to the modification of an existing pension scheme that is likely to influence its financing, or to the modification of a financing plan, issuing a notice concerning the technical actuarial methods used by the institution for occupational retirement provision for its financing, concerning the establishment of technical provisions and concerning insurance and reinsurance;
- 2° issuing a notice on the justification that the institution must provide in application of Article 16, §2;
- 3° each year, prior to the submission of annual accounts to the CBFA, issuing a notice concerning the security of the transactions, the technical provisions and the profitability;
- 4° prior to the signing of an insurance contract or reinsurance agreement, issuing a notice regarding this insurance or reinsurance;
- 5° drawing up a report each year concerning the technical provisions referred to in Chapter IV.

The notices referred to in paragraph 1, 1° to 4°, shall be submitted in writing to the Board of Directors and, if applicable, to the competent operational body of the institution for occupational retirement provision. The CBFA may request a copy from the institution for occupational retirement provision.

The report referred to in paragraph 1, 5°, shall be submitted to the CBFA together with the annual accounts of the institution.

#### **Article 45**

The institution for occupational retirement provision shall inform the CBFA without delay of any modification to the data referred to in Articles 42 to 44.

#### **Article 46**

Before an actuary is appointed, the institution for occupational retirement provision shall send the CBFA a dossier with the following data:

- 1° the actuary's name, address and date of birth;
- 2° the documents attesting that the actuary meets the conditions laid down in articles 42 and 43;
- 3° a description of all the functions and tasks the actuary performs.

The appointment of the appointed actuary is subject to the prior consent of the CBFA.

The CBFA may at any time revoke the consent referred to in paragraph 2 for reasons having to do with the conditions of the appointment or the exercise of the actuary's tasks.

### **Chapter VII Recovery plan**

#### **Article 47**

In the cases provided for in Article 116 of the Law, the institution for occupational retirement provision shall submit to the CBFA a concrete and realizable recovery plan in view of discharging the identified shortfall. The recovery plan shall stipulate a deadline for its implementation.

In drawing up the recovery plan, the institution shall take account of its specific situation, in particular the asset/liability structure, risk profile, liquidity plan, age profile of its members and start-up schemes.

#### **Article 48**

Where the institution for occupational retirement provision has set up several separate funds, the recovery plan may be limited to one or several of these funds.

## Chapter VIII Transitional provisions

### Article 49

Institutions for occupational retirement provision authorized or registered at the time when Article 79 of the Law enters into force are granted a period of 24 months as from that date to comply with the provisions of Articles 6 and 7.

### Article 50

By way of derogation from Article 9, § 1, 4<sup>o</sup>, c), the fraction referred to in the aforesaid provision may be less than 0.50 if the reinsurance company to which the institution for occupational retirement provision has transferred certain risks has its registered office in a Member State which, as regards authorization of reinsurance companies, has not transposed Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EC as well as Directives 98/78/EC and 2002/83/EC, and if this reinsurance company fulfils the conditions laid down by the CBFA.

### Article 51

As long as Belgium has not transposed Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC of the Council and Directive 2000/12/EC of the European Parliament and of the Council and repealing Directive 93/22/EEC, the covering assets may belong, besides the categories referred to in Article 27, to the following categories:

- 1<sup>o</sup> bonds;
- 2<sup>o</sup> shares and other participations with variable returns;
- 3<sup>o</sup> units in undertakings for collective investment which invest in securities, liquid assets or real estate;
- 4<sup>o</sup> other money market and capital instruments.
- 5<sup>o</sup> purchase options (also known as calls) or sales options (also known as puts) for securities, futures as well as other derivative instruments such as currency futures traded on a market that is liquid, open to the public and regularly operating. Calls, puts and other derivative instruments must all contribute to limiting the investment risk or permitting an efficient portfolio management. In the case of futures, the underlying commitment must be maintained in the form of short-term, liquid and secure investments.

Chapter IX  
Repealing and amending provisions

Section I  
Amendment of the Royal Decree of 22 November 1994

**Article 52**

In Article 1 of the Royal Decree of 22 November 1994 implementing Article 40*bis* of the Law of 9 July 1975 on the supervision of insurance companies, as regards laying down the conditions which actuaries must fulfil, the words “or of a private provident institution referred to in Article 2, § 3, 6°, of the same Law and referred to hereafter as pension funds” shall be deleted.

**Article 53**

In Article 2 of the same Decree, paragraph 2 shall be deleted.

**Article 54**

In Article 3 of the same Decree, the words “and the pension funds” shall be deleted.

**Article 55**

In Article 4 of the same Decree, the words “and accredited or registered pension funds” shall be deleted.

**Article 56**

In Article 5 of the same Decree, the words “or the pension fund” shall be deleted.

Section II  
Repealing provisions

**Article 57**

The following are hereby repealed:

- 1° the Royal Decree of 5 April 1995 on the activities of pension funds referred to in Article 2, § 3, 4°, of the Law of 9 July 1975 on the supervision of insurance companies;
- 2° the Royal Decree of 7 May 2000 on the activities of provident institutions;
- 3° the Royal Decree of 25 March 2004 laying down the specific rules on the management and functioning of provident institutions formed by several private companies or by several legal persons under public law, or by virtue of a sectoral collective labour agreement.

Chapter X  
Concluding provisions

**Article 58**

The Law enters into force on 1 January 2007, with the exception of:

- 1° the provisions already in force in application of Article 234 of the Law;
- 2° Articles 81, 82, 167, 193, 194 and 201 to 225.

**Article 59**

This Decree takes effect on 1 January 2007.

**Article 60**

Our Minister of Economic Affairs is charged with implementation of this Decree.