Minimum Yield Regulation

Full title

Regulation of the Financial Market Authority on the calculation of the minimum yield pursuant to Article 2 para. 4 PKG (Minimum Yield Regulation – *Mindestertragsverordnung*)
Original version: Federal Law Gazette II No. 615/2003

Preamble/Promulgation clause

Based on Article 2 para. 4 of the *Pensionskassen* Act (PKG; *Pensionskassengesetz*), Federal Law Gazette No. 281/1990, last amended by the federal act in Federal Law Gazette I No. 80/2003, the following shall be determined by regulation:

Text

Definition of terms

Article 1. (1) The monthly yield (ME_j) for the month j $(j = 1,\ldots,12)$ corresponds to the investment income for the month j minus interest income pursuant to Article 48 PKG for the month j (Annex 2 to Article 30 PKG, Form B, item A. I. minus interest income pursuant to Article 48 PKG).

(2) The assets (V_j) as at the end of the month j $(j = 1,\ldots,12)$ correspond to the assets relevant to the calculation of the minimum yield (Annex 2 to Article 30, Form A, total of assets items I. to X. and XI. no. 2 lit. a minus liability item III. no. 1) of an investment and risk sharing group.

(3) The average monthly assets (MV_j) for the month j $(j = 1,\ldots,12)$ will be computed every month from the arithmetic mean of the assets (V_{j-1}) as at the end of the previous month $j-1$ and the assets (V_j) as at the end of the month j. When computing the assets as at the end of the month j, the monthly income for the month j may be deducted.

$$MV_j = \frac{V_{j-1} + (V_j - ME_j)}{2}$$

(4) The monthly performance (M_j) for the month j $(j = 1,\ldots,12)$ results from the quotient of the monthly income (ME_j) for the month j and the average monthly assets (MV_j) for the month j:

$$M_j = \frac{ME_j}{MV_j}$$

Article 2. The assets *(VERM)* of a beneficiary (entitled or recipient) to be used for the calculation of the minimum yield, for which pursuant to Article 2 para. 2 PKG a deficit or subsequently pursuant to Article 2 para. 3 PKG a reference value is to be determined, corresponds to the individual premium reserve plus the respective volatility reserve on the balance sheet date at the beginning of the period. If, as a consequence of the benefit event or after the benefit event, the premium reserve established according to the business plan has changed, the assets *(VERM)* of a beneficiary (entitled or recipient) to be used for the calculation of the minimum yield shall be changed accordingly. In this context, the calculation of the premium reserve shall be based on those pension benefits that result from the assets *(VERM)* of a beneficiary (entitled or recipient) to be used for the calculation of the minimum yield at the time of the benefit event or on the balance sheet date at the beginning of the period, for which pursuant to Article 2 para. 2 PKG a deficit or subsequently pursuant to Article 2 para. 3 PKG a reference value shall be determined, provided it is after the benefit event.

Calculation of the TARGET value

Article 3. The TARGET value $(SOLL)$ shall be determined on the balance sheet date based on the average monthly secondary market yield on federal government bonds or an index of the past 60 months superseding it.

$$SOLL = \left\{ \frac{\left[\prod_{i=1}^{60} \left(1 + \frac{SMR_i}{100} \right) \right]^{1/60} - 1}{2} \right\} \cdot 100 - 0{,}75$$

SMR_i shall mean the monthly secondary market yield on federal government bonds or an index superseding it for the month i.

Calculation of the ACTUAL value

Article 4. (1) The ACTUAL value (IST) shall be calculated on a monthly basis from 1 January 2005 onwards.

(2) Up until 31 December 2004, the ACTUAL value (IST) may alternatively also be calculated on a quarterly basis. When performing the calculation on a quarterly basis, the quarterly performance (Q_i) for the quarter $i\,(i = 1,\ldots,4)$ results, analogously to the monthly performance, from the quotient of the quarterly income (QE_i) and the average quarterly assets (QVM_i) for the respective quarter i.

The provisions pertaining to the calculation set forth in para. 3 shall be applied correspondingly to quarterly values.

(3) When performing the calculation on a monthly basis, the ACTUAL value (IST) is in each case computed on the balance sheet date based on the average monthly performance of the last sixty months:

$$IST = \left\{ \left[\prod_{j=1}^{60} (1 + M_j) \right]^{1/5} - 1 \right\} \cdot 100$$

When performing the calculation on a quarterly basis, the ACTUAL value (IST) is in each case computed on the balance sheet date based on the average quarterly performance of the last twenty quarters:

$$IST = \left\{ \left[\prod_{i=1}^{20} (1 + Q_i) \right]^{1/5} - 1 \right\} \cdot 100$$

Calculation of the deficit

Article 5. (1) The deficit shall only have to be determined if the pension company commitment for a beneficiary (entitled or recipient) has existed without interruption for at least 60 months, with the period always starting on the balance sheet date. In the event of a transfer from old-age to survivor's pension, the beginning of the period shall remain unchanged.

(2) If the ACTUAL value (IST) is below the TARGET value $(SOLL)$, the deficit must be determined.

(3) The deficit (FB) for the last five years shall be calculated for each beneficiary (entitled) and for each beneficiary (recipient) individually as follows:

$$FB = VERM \cdot \left[\left(1 + \frac{SOLL}{100} \right)^5 - \left(1 + \frac{IST}{100} \right)^5 \right]$$

Calculation of the reference value

Article 6. (1) After the deficit (FB) has been determined for the first time, a reference value (VW) shall be computed on the respective balance sheet dates in the following years in addition to the deficit, and compared with the deficit on that balance sheet date in each case.

(2) The reference ACTUAL value $(VIST)$ and the reference TARGET value $(VSOLL)$ shall be computed analogously to the ACTUAL value (IST) and the TARGET value $(SOLL)$, with the calculation period of 60 months being extended in each case by twelve months for every following year. The reference ACTUAL value shall be calculated on a monthly basis if the ACTUAL value is calculated on a monthly basis. The reference ACTUAL value shall be calculated on a quarterly basis if the ACTUAL value is calculated on a quarterly basis.

Reference ACTUAL value for the *k-th* following year:

$$VIST_k = \left\{ \left[\prod_{j=1}^{60+12k} \left(1+M_j\right) \right]^{1/(5+k)} -1 \right\} \cdot 100$$

Reference TARGET value for the *k-th* following year:

$$VSOLL_k = \left\{ \frac{\left[\prod_{i=1}^{60+12\cdot k} \left(1+\frac{SMR_i}{100}\right) \right]^{1/(60+12\cdot k)} -1}{2} \right\} \cdot 100 - 0{,}75$$

SMR_i shall mean the monthly secondary market yield on federal government bonds or an index superseding it for the month i.

(3) The reference value (VW) shall be calculated for each beneficiary (entitled) and for each beneficiary (recipient) individually on the respective balance sheet date. This additional calculation shall be continued annually until no positive reference value results for the first time:

$$VW = VERM \cdot \max\left\{ 0; \left(1+\frac{VSOLL_k}{100}\right)^{5+k} - \left(1+\frac{VIST_k}{100}\right)^{5+k} \right\}$$

Credit

Article 7. (1) If a deficit (FB) is computed on a balance sheet date and the ACTUAL value exceeded the TARGET value as at the previous balance sheet date, the pension resulting from annuitising the deficit shall be credited to the beneficiary (recipient) in the following year, paid out of the *Pensionskasse*'s own funds.

(2) After a deficit has been determined, the deficit computed on the respective balance sheet date shall be compared with the reference value in the following years. The pension resulting from annuitising the higher of the two values shall be credited to the beneficiary (recipient) in the following year, paid out of the *Pensionskasse*'s own funds.

(3) The pensions to be paid by the *Pensionskasse* may only be settled against payment of a lump sum if, on occurrence of the benefit event, the cash value of the benefit claims including the credit pursuant to Article 2 paras. 2 and 3 PKG does not exceed the limit pursuant to Article 1 para. 2 no. 1 and para. 2a PKG for the year in which settlement by lump sum is being effected, calculated based on the deficit or reference value of the previous year.

(4) If the beneficiary (entitled) pursuant to Article 5 no. 1 PKG becomes a beneficiary (recipient) pursuant to Article 5 no. 2 PKG in the following year, the credit must be given as from that point in time. Basis for the annuitisation shall be the deficit or reference value of the last balance sheet date in each case.

(5) The credit shall be given regardless of the type of pension company commitment.

(6) If a beneficiary (recipient) withdraws from an investment and risk sharing group following termination of the pension company contract pursuant to Article 17 para. 1 PKG and changes *Pensionskasse*, the annual pension, which results from annuitising the deficit or reference value, shall be credited to the beneficiary (recipient) in the following year, paid out of the previous *Pensionskasse*'s own funds.

Article 8. (1) If an investment and risk sharing group is split, the investment income achieved by the split investment and risk sharing group in the past shall be considered as if the investment income had also been achieved by the new investment and risk sharing groups created by the split.

(2) If several investment and risk sharing groups are merged, the investment income achieved by the former investment and risk sharing group for each beneficiary (entitled or recipient) in the past shall continue to be considered individually for the purposes of calculating the deficit or reference value. In the case of a beneficiary (entitled or recipient) transferring within a *Pensionskasse* from one investment and risk sharing group to another, the transfer shall only be taken into account if the reason for it does not lie with the beneficiary (entitled or recipient).

Article 9. Credits that are paid out of the *Pensionskasse*'s assets pursuant to Article 2 paras. 2 and 3 PKG cannot be reversed.

Article 10. The auditing actuary shall verify compliance of the calculation of the deficit and reference value as well as their annuitisation with the provisions set forth in the Minimum Yield Regulation and the *Pensionskasse*'s approved business plan.

Article 11. The business plan of the *Pensionskasse* shall include a reference to the provisions of the Regulation. In addition, the business plan must state whether the calculation of the ACTUAL value pursuant to Article 4 up to the time defined in Article 4 para. 2 is being effected on a monthly or quarterly basis.