Minimum Yield Regulation

(ME-V; Mindestertragsverordnung)

Full title

Regulation of the Financial Market Authority on the calculation of the minimum yield pursuant to Article 2 para. 4 PKG (ME-V; Mindestertragsverordnung)

Original Version: Federal Law Gazette II No. 615/2003

Amendments: Federal Law Gazette II No. 196/2022

Preamble/Promulgation clause

Based on Article 2 para. 4 of the *Pensionskassen* Act (PKG; Pensionskassengesetz), published in Federal Law Gazette no. 281/1990, last amended by Federal Act published in Federal Law Gazette I no. 36/2022, the following shall be determined by means of a Regulation:

Text

Definition of Terms

Article 1 (1) The monthly yield (ME_j) for the month j (j = 1, ..., 12) corresponds to the investment income for the month j less the interest income pursuant to Article 48 PKG for the month j (Investment surplus pursuant to **Annex 2**, Section 3, Item A.I. of the FJMV 2019 [Template B of the IRG – yield calculation of an IRG; item number 400-100] less the interest income pursuant to Article 48 PKG, for which a direct commitment exists, pursuant to **Annex 2**, Section 3, Item A.I.2. of the FJMV 2019 [Template B of the IRG – yield calculation of an IRG; item number 400-120]).

(2) The assets (V_j) as at the end of the month j (j = 1, ..., 12) corresponds to the assets relevant for the calculation of the minimum yield (total of the invested assets pursuant to **Annex 2**, Section 1, Item A of the FJMV 2019 [Template A of the IRG – breakdown of assets of an IRG – assets; item number 300-800] less the liabilities from the purchasing of assets pursuant to **Annex 2**, Section 2, Item B.I.1. of the FJMV 2019 [Template A of the IRG – breakdown of assets of an IRG – liabilities; item number 350-710]) of an investment and risk-sharing group.

(3) The average monthly assets (MV_j) for the month j (j = 1, ..., 12) is computed for every month based on the arithmetic mean of of the assets (V_{j-1}) at the end of the previous month j – 1 and the assets (V_j) as at the end of month j. When computing the assets as at the end of 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, ..., 12) results from the quotient of the monthly yield (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 computed, corresponds to the individual premium reserve plus the respective volatility reserve and less any coverage gaps pursuant to Article 20 para. 3d PKG respectively, 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 yield of Austrian government bonds on the secondary market ("average government bond yields weighted by outstanding amounts" (URDB)) or an index superseding it for the past 60 months.

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

$UDRB_i$ shall mean the monthly UDRB 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

(2) The calculation of the ACTUAL value (IST) shall in each case be computed on the balance sheet date based on the average monthly performance of the last 60 months:

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

Calculation of the deficit

Article 5 (1) The deficit shall only have to be calculated 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. The beginning of the period shall remain unchanged in the event of a transfer from old-age to survivor's pension.

(2) If the ACTUAL value (*IST*) us lower than the TARGET value (*SOLL*), the deficit must be determined.

(3) The deficit (*FB*) shall be calculated individually for every beneficiary (entitled and recipient) for the last five years 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) Once 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 in an analogous manner to the ACTUAL value (IST) and the TARGET value (SOLL) subject to the proviso of the calculation period of 60 months being extended in each case by twelve months for every subsequent year.

Reference ACTUAL value for the k^{th} subsequent year:

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

Reference TARGET value for the k^{th} subsequent year:

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

$UDRB_i$ shall mean the monthly UDRB or an index superseding it for the month *i*.

(3) The reference value (*VW*) shall be individually calculated for each beneficiary (entitled and recipient) on the respective balance sheet date. This additional calculation shall be continued annually until there is a negative reference value 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 benefit resulting from annuitising the higher of the two values is to be credited to the beneficiaries (recipients) 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, when the benefit event occurs, 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. In each case, the basis for the annuitisation shall be the deficit or reference value as of the latest balance sheet date.

(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 that results from the annuitisation of the deficit or the reference value shall be credited to the beneficiary (recipient) in the following year, paid out from the previous *Pensionskasse*'s own funds.

Article 8 (1) In the event of the splitting of an investment and risk sharing group, the investment income achieved by the investment and risk sharing group in the past being split 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) In the event of several investment and risk sharing groups merging, 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 event 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, where the reason for it does not lie with the beneficiary (entitled or recipient).

Article 9 Credits that are paid out from the assets of the *Pensionskasse* pursuant to Article 2 paras. 2 and 3 PKG are not able to be reversed.

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

Article 11 The *Pensionskasse*'s business plan shall refer to the provisions of this Regulation.

References

Article 12 The following shall apply to references to legal acts in this Regulation:

1. where reference is made to provisions in the Regulation on Template and Annual Reporting 2019 (FJMV 2019; Formblatt- und Jahresmeldeverordnung 2019), published in Federal Law Gazette II no. 333/2018, the respective amended version shall apply;
2. where reference is made to provisions in the *Pensionskassen* Act (PKG; Pensionskassengesetz), published in Federal Law Gazette no. 281/1990, the version amended by Federal Act in Federal Law Gazette I No. 36/2022 shall apply.

Entry into force

Article 13 The abbreviation for the name of the Regulation, Article 1 paras. 1 and 2, Article 2, Article 3 including heading, Article 4 including heading, Article 6 para. 2, Article 12 including heading in the version of the Regulation amended in Federal Law Gazette II no. 196/2022 shall enter into force on the day following its publication.