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FMA MINIMUM STANDARDS

ON THE FORMAL REQUIREMENTS OF A BUSINESS PLAN SUBMISSION AND ON BUSINESS PLAN STRUCTURE IN ACCORDANCE WITH ARTICLE 20 PARA. 4 PKG

(MS on the Formal Requirements of a Business Plan
Submission and on Business Plan Structure)

DISCLAIMER: These minimum standards do not constitute a legal regulation. They serve as guidance and reflect the FMA's legal interpretation and the FMA's practical recommendations for conduct. No rights and obligations extending over and above the provisions of the law can be derived from them. The FMA reviews on a case-by-case basis whether legal provisions were also breached as a result of the non-observance of recommendations in minimum standards.

These FMA Minimum Standards set out the current formal requirements in relation to the submission and structure of a business plan pursuant to Article 20 para. 1 of the *Pensionskassen Act* (PKG; *Pensionskassengesetz*). The previous letter on this subject (“Formal requirements of applications for the approval of or changes to business plans” of 4 March 2005 (Reference code: 9 080 370/2-FMA-II/1/05)) is therefore no longer applicable.

These FMA Minimum Standards are aimed at all *Pensionskassen* (pension companies) as defined in Article 1 PKG. They are not a regulation but describe the FMA’s legal view on the requirements derived from Article 20 para. 1 PKG in relation to the submission and structuring of business plans. The FMA expects *Pensionskassen* to adhere to these Minimum Standards when preparing business plans and submitting them for approval. No rights or obligations beyond those defined in the statutory provisions may be deduced from these Minimum Standards.

These FMA Minimum Standards do not prevent *Pensionskassen* from setting higher standards of their own. Where specific provisions extend beyond the requirements defined in Article 20 PKG they shall constitute recommendations.

I. GENERAL REQUIREMENTS

In accordance with Article 20 para. 1 PKG, *Pensionskassen* are required to prepare a business plan. This business plan, and any changes made to it, must be reviewed and confirmed by the auditing actuary and approved by the FMA pursuant to Article 20 para. 4 PKG. Further details regarding the auditing actuary's report are set out in the relevant FMA Circular Letter.

The application for approval must be submitted taking into account the deadlines stipulated in Article 73 para. 1 of the Code of Administrative Procedure (AVG; *Allgemeines Verwaltungsverfahrensgesetz*). The FMA reminds applicants that retrospective approval from the date on which the application was submitted is not possible.

If an existing business plan includes provisions that cease to comply with applicable statutory provisions or regulations that are subsequently amended, it is sufficient for the business plan to be adjusted in line with the amendment at the next possible opportunity (i.e. when other changes are being made to the business plan). Nevertheless, the mandatory statutory rules or regulations must obviously still be applied as of the date of their entry into force (Article 49 para. 1 no. 1 PKG analogously). Where it is not appropriate for the modified statutory provision or regulation to be applied directly, however, the business plan must be adjusted accordingly with immediate effect.

1. FORMAL REQUIREMENTS

For the purposes of administrative efficiency and to simplify business plan checks, the FMA believes that the following formal requirements should be taken into account when submitting business plans or changes to business plans for approval:

- a) The application for approval should be duly signed (by a management board member or holder of general power of attorney) and should describe the scope of the application (full business plan, selected chapters, particular paragraphs of one chapter, annex, etc.). The main changes should be listed and briefly described. If the business plan or an amendment to it formed the subject of a discussion or decision by the supervisory board, the corresponding extract from the minutes of the supervisory board meeting should be submitted to the FMA together with the application for approval.
- b) If a *Pensionskasse* manages more than one investment and risk sharing group (IRG), the business plan should as a general rule be broken down into a general part and a specific part. The former applies to all IRGs. The latter should set out the specific parameters for

each IRG in separate chapters.

- c) A version number and print date should be printed on each page of the business plan. The current print date should be included on any subsequent changes (e.g. replaced pages). The pages should be numbered sequentially, with each new chapter for an IRG starting at page 1 again.
- d) Where new or changed sections of the business plan refer to existing parts of the plan, up-to-date versions of the latter should be included in the submission.
- e) In terms of content and form, the business plan should be based on the attached specimen business plan.

2. ELECTRONIC TRANSMISSION

The application to have a business plan approved and all of the related documentation should, even if being sent by post, also be made available to the FMA in electronic form. With regard to applications for the approval of changes, all relevant sections of the business plan should be submitted in electronic form, with the submission including the new version, the old version and a tracked version showing the proposed changes.

3. IRGs MANAGED BY A SYNDICATE

The following should also be noted in the case of IRGs that are managed by a syndicate:

- a) The *Pensionskassen* involved should each prepare an identically worded chapter of the business plan. The corresponding applications should be submitted by the *Pensionskassen* as far as possible at the same time,
- b) Reference should be made to the existence of the syndicate in the introduction (point 0. in the specimen business plan) of the respective chapter of the business plan. The names of the syndicate partners and their respective proportional shares should be listed. A separate general section may be provided for IRGs managed by a syndicate (cf. Chapter I.1.b of these Minimum Standards).

II. CONTENT AND STRUCTURE OF THE BUSINESS PLAN

- a) In the absence of any special rules, the business plan's minimum content is based on Article 20 para 2 PKG. The content must always be specific enough to enable a review of the approval conditions pursuant to Article 20 para. 4 PKG or more specific provisions (such as Article 24f PKG et seq.)
- b) Each of the general and specific sections in the business plan should have a dated coversheet. The different parts of the business plan (general and specific) should also be clearly labelled. An updated coversheet should also be provided when submitting any replaced pages. The coversheet should also include the following information: company name of *Pensionskasse*, name of IRG and any sub-investment groups, number of IRG and any sub-IGs, as well as full name of responsible actuary and deputy actuary.
- c) The coversheet should be followed by a table of contents, structured according to the specimen business plan and complete with page numbers.
- d) The structure of the business plan should match the structure of the specimen plan. Specifications on these items can be found in the definitions. Where the type of pension company business planned means that there is no required minimum content for one of the items (see point a) above), the item may be left out or replaced with a note to this effect.

SPECIMEN BUSINESS PLAN

1. Introduction

Pension commitments

2. Types of benefit offered

- 2.1. Types of benefit offered (old-age, survivors' and invalidity pension)
- 2.2. Conditions of entitlement
- 2.3. Amount and duration of benefit
- 2.4. Restriction and exclusion of entitlement to increased risk protection
- 2.5. Type of possible pension company contributions (one-off contribution, regular contributions in the same amount, etc.) for the above type of benefit
- 2.6. Conditions for the occurrence of a benefit claim and waiting periods
- 2.7. Information on all types of rate offered by the *Pensionskasse* including description

3. Principles for calculating contributions and benefits

- 3.1. Age determination
- 3.2. Minimum age, maximum age for those in work
- 3.3. Payment dates for contributions and benefits
- 3.4. Consideration of pension company contributions and benefits paid during the year
- 3.5. Calculation method for widow's or widower's pension
- 3.6. Calculation method for orphan's pension
- 3.7. Date and type of adjustment of pension company contributions or benefits
- 3.8. Procedure for change of benefit
- 3.9. Description of allocation between employer and employee shares
- 3.10. Stipulated rate of penalty interest
- 3.11. Rounding procedure

4. Insurance (reinsurance of risks)

- 4.1. Information on the risks to be insured pursuant to Article 20 para. 1 PKG that cannot be covered by the *Pensionskasse* itself on the basis of the business plan
- 4.2. Reinsurance plan

5. Employer reserve/employer's credit balances**Investment****6. HTM valuation pursuant to Article 23 para 1 no. 3a PKG****Bases of calculation****7. Bases of calculation (probability table)**

- 7.1. Probability table
- 7.2. Safety premiums
- 7.3. Risk review
- 7.4. Risk premiums
- 7.5. Change to bases of calculation

8. Assumed interest rate**9. Technical surplus****10. Administrative expenses** (where applicable; Article 49 para. 1 no. 16 PKG)**11. Description of key circumstances for long-term fulfilment of pension company commitments**

Other**12. Volatility reserve**

- 12.1. Management of the volatility reserve
- 12.2. Target value of the volatility reserve
- 12.3. Buying into the global volatility reserve
- 12.4. Calculation of proportion of a global volatility reserve

13. Vested amount

- 13.1. Calculation of vested amount
- 13.2. Calculation method for HTM

14. Calculation of minimum yield**15. Transfers****Distribution of results****16. Technical account balance**

- 16.1. Mortality rate of beneficiaries (entitled)
- 16.2. Mortality rate of beneficiaries (recipients)
- 16.3. Disability rate
- 16.4. Result from premature death of beneficiaries (entitled)
- 16.5. Result from premature death of beneficiaries (recipients)
- 16.6. Result from insurance of risks
- 16.7. Unisex: allocation and calculation of technical account balance

17. Distribution of income

- 17.1. Distribution of the investment surplus
- 17.2. Distribution of the technical account balance
- 17.3. Distribution of the remaining result of the IRGs

18. Average assets

Actuarial practice

19. Formulae for calculating contributions and benefits

- 19.1. Descriptions
- 19.2. Probabilities, decrement tables, commutation figures
- 19.3. Cash values
- 19.4. Entitlement to
 - 19.4.1. Old-age pension
 - 19.4.2. Invalidity pension
 - 19.4.3. Widow's/widower's pension
 - 19.4.4. Orphan's pension
- 19.5. Contribution calculation
 - 19.5.1. One-off contributions net
 - 19.5.2. Annual contributions net
 - 19.5.3. One-off contributions gross
 - 19.5.4. Annual contributions gross
- 18.6. Benefit calculation
 - 18.6.1. Benefits financed by one-off contributions
 - 18.6.2. Benefits financed by regular contributions
- 18.7. Change in benefits
- 18.8. Sample calculations

20. Formulae for calculating the premium reserve

20.1. Premium reserve

20.1.1. Contributory claims

20.1.2. Current pensions

20.1.3. Deferred pensions

20.1.4. Non-contributory claims

19.2. Savings and risk amounts

19.2.1. Contributory claims

19.2.2. Current pensions

19.2.3. Deferred pensions

19.2.4. Non-contributory claims

19.3. Balance-sheet premium reserve

19.4. Sample calculations

Provision for administrative expenses**21. Provision for administrative expenses**

21.1. Calculation principles

21.2. Description, assumptions and parameters

21.3. Explanation of unit costs

III. ADDITIONAL NOTES ON THE SPECIMEN BUSINESS PLAN

The following specifications on these items as included in the specimen business plan are deemed to be key:

0) Introduction:

A description of the respective IRGs should be included in the specific parts. The table below should be completed with regard to the design of the pension company commitment (selecting the appropriate answer in each case). For IRGs with sub-IGs, any differences between the individual sub-IGs with regard to the disclosures and parameters required in the business plan should be stated. If there are no differences, a note should be entered to this effect.

Minimum yield guarantee (Article 2 paras. 2 to 4 PKG)	with / without / with and without
Minimum yield guarantee assumed by employer	
Type of pension commitment	DC / DB / hybrid
Security-oriented IRG	YES / NO
Sub-IG	YES / NO
Number of sub-IGs	
Options to switch to other IRG(s) pursuant to Article 12 PKG	YES / NO
Syndicate business	YES / NO
Syndicate partner	
Name of syndicate IRG	
Number of syndicate IRG	
(Own) rate	

With regard to the required disclosures, the FMA assumes the following definitions:

- DB (commitments with unlimited obligation on part of employer to make additional contributions pursuant to Article 5 no. 3 PKG)
- DC (commitments without any obligation on part of employer to make additional contributions)
- Hybrid (mixed commitments with no unlimited obligation to make additional contributions pursuant to Article 5 no. 3 PKG but partial commitments to make additional contributions)

- 1) The essential benefit parameters should be stated here.
 - 1.1) Any guaranteed pension amount should be described appropriately. If no invalidity pension is granted, this should be expressly stated.
 - 2.7) The timing and type of adjustments to pension company contributions or benefits, and the timing of the valorisation of the guaranteed pension should be stated (cf. Article 12a para. 1 no. 3 PKG).
 - 4) Information on the earmarking of the employer reserve/credit balances and on the movement of funds into and out of these should be described here.
 - 5) Information on whether HTM valuations are used; if yes, the assets that would need to be transferred upon termination of pension company contracts should be described in more detail.
 - 6.1.) The biometric basis (probability table) used for the actuarial calculations should be specified using the exact name. If unisex tables are used, the precise derivation and combined ratio should be stated and justified. The tables used should be attached as annexes with cash value examples.
 - 6.4) Profession-specific supplements for individual risks must be based on company-independent criteria.
 - 6.5) The approach used to adjust the bases of calculation and/or shortfalls should be described here.
 - 7) All assumed interest rates used in the IRG should be listed.
 - 8) All technical surpluses used in the IRG should be listed.
 - 9) Since 23 September 2005, expenses have no longer been shown in the business plan (cf. Article 16a in conjunction with Article 49 para. 1 no. 16 PKG).
 - 10) The *Pensionskasse* must justify the biometric basis chosen, particularly if modifications have been made to the tables recommended by the Actuarial Association of Austria (AVÖ). Any modifications should also be detailed.
 - 11.3) In accordance with Article 12a para. 4 PKG, the procedure applied when buying into the volatility reserve and/or changing back to the previous IRG should be stated.
 - 14) The procedure used for asset transfers should be detailed here.

- 15) Details regarding settlement as well as a description of the risk groups should be given here.
- 16) The allocation of income or losses to the IRGs and/or sub-IG should be detailed and explained.
 - 16.1) If pension commitments with and without guarantees are managed within one IRG, any distinction made in the charging of administrative expenses should be described.

The timing and allocation scheme for allocations of the technical surplus to the premium reserves for beneficiaries (entitled and recipients) should also be detailed.
- 17) The calculation of the average assets for the IRG and/or sub-IG should be described here.
- 18.7) The procedure used to adjust the pension should be described here (e.g. pursuant to Article 12a para. 1 no. 3 PKG).