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FMA CIRCULAR

CONVERSION OF BASES OF CALCULATION IN PENSIONSKASSEN

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I. OBJECTIVE AND NOTES

This circular is addressed to all supervised *Pensionskassen* supervised by the Austrian Financial Market Authority (FMA) pursuant to Article 1 of the Pensionskassen Act (PKG; Pensionskassengesetz). The new actuarial bases issued by the Austrian Actuaries Association (AVÖ, Aktuarvereinigung Österreichs) for the valuation of social capital and for Pensionskassen (“AVÖ 2018-P - Rechnungsgrundlagen für die Pensionsversicherung”) are the reason for this circular.

This circular does not constitute a legal regulation. It is intended to serve as guidance and reflects the FMA's legal interpretation. No rights and obligations extending over and above the provisions of the law can be derived from circulars. Where designations used refer to natural persons, the formulation used applies to both genders.

II. BUSINESS PLAN

A. APPROVAL

Business plans required to be submitted to the FMA pursuant to Article 20 para. 4 PKG must conform to the established actuarial rules as well as also ensuring that the rights of beneficiaries (entitled and recipients) are adequately addressed and that the obligations arising from *Pensionskasse* contracts are continuously met.

This also in particular means that the bases of calculation contained in the business plans may only be approved based on principles and values from past experience that reflect the current state of knowledge, and which are assumed to be correct for the corresponding point in time.

In order to take the interests of the beneficiaries (entitled and recipients) into account pursuant to Article 20 para. 4 PKG in the case of an amendment to the base of calculation and to ensure that necessary changes in the interest of the beneficiaries (entitled and recipients) - such as the conversion to new bases of calculation are also actually undertaken, in such cases the *Pensionskassen* themselves make the corresponding amendment to the business plan at their own initiative.

B. SPREADING OF A SHORTFALL IN COVERAGE

Any shortfall in coverage arising due to a conversion of the base of calculation shall be required pursuant to Article 20 para. 3D PKG to have been closed at latest within ten years (and at least one-tenth of the shortfall to be made good each year). In this context, the FMA advises that the current conversion of the base of calculation shall be viewed independently of any preceding conversions of base of calculation and that the provisions contained in Article 20 para. 3d PKG are therefore to be considered separately for every individual conversion of the base of calculation. This means that any previously existing coverage shortfalls shall not be spread across the new timeframe for the spreading the shortfall resulting from the current conversion of the base of calculations. The spreading of the shortfall in coverage arising from the actual conversion of the base of calculation shall accordingly occur in such a way, that it has been closed at the latest by 31 December 2028.

Within the balance sheet as at 31 December 2018, the FMA shall consider the formation of a fixed provision for the conversion of the base of calculation as acceptable, with the exact coverage shortfall then being determined as of 1 January 2019 on a case-by-case basis.

C. INFORMATION ABOUT THE CONVERSION

In the case of *Pensionskasse* contracts that have not yet been concluded (e.g. Such as ones currently still be negotiated) the *Pensionskassen* shall refer employers - as part of their pre-contractual obligations to provide adequate explanations - to the publication of the new bases of calculation and the resulting amendments to the business plans that arise. Such information shall also contain a statement about the extent of any pension reduction, at least on a collective basis. Employers that have only recently concluded a *Pensionskasse* contract with the *Pensionskasse* shall be informed about the impending conversion of the base of calculation in accordance with Article 15 PKG. In addition, the *Pensionskassen* shall support the employer in relation to the information about this circumstance for the potential beneficiaries (entitled and recipients).

III. PROBABILITY OF BEING MARRIED

In conjunction of the probability of being married in the case of commitments that are calculated using the collective method, the FMA advises that this constitutes the probability of being married at the time of death under framework conditions under social insurance law.

In such cases, where a survivor's pension is granted with diverging entitlement conditions, especially in the case of commitments with entitlements for partners, then the probability of being married must be altered accordingly.