



**THE CENTRAL BANK
OF THE RUSSIAN FEDERATION
(Bank of Russia)**

To: Non-government pension funds

FIRST DEPUTY GOVERNOR

12 Neglinnaya St., Moscow 107016

No. 06-52/7617, dated 25 September 2014

to No. _____ dated _____

On specific issues relating to the reorganisation of non-government pension funds

In addition to Bank of Russia Information Letter No. 50-02/7024, dated 28 February 2014, 'On the Reorganisation of Non-Government Pension Funds that are Non-Profit Organisations' and in view of questions arising with regard to documents submitted for reorganising non-government pension funds that are non-profit organisations (hereinafter non-profit funds) through a transformation to joint-stock pension funds (hereinafter joint-stock funds) and through spinning off non-profit funds and simultaneously transforming them into joint-stock funds, the Bank of Russia provides the following explanations.

1. The authorised capital of a newly established joint-stock fund shall not be less than 120 million rubles or more than the value of the property used to secure the statutory activities of the non-profit fund under reorganisation and **calculated based on its accounting data as of the last calendar day of the month preceding the date of the resolution on reorganising** the non-profit fund through a transformation to a joint-stock fund (Part 12 of Article 12 of Federal Law No. 410-FZ of 28 December 2013, 'On Amending the Federal Law on Non-government Pension Funds and Some Russian Laws' (hereinafter Federal Law No. 410-FZ)).

To confirm compliance with the above requirement for the approval of the

reorganisation of a non-profit fund by transforming it into a joint-stock fund, it is advisable to provide the Bank of Russia (the Financial Market Access Department) with a copy of the non-profit fund's accounting (financial) statement compiled as of the last calendar day of the month preceding the date of the resolution on reorganising the non-profit fund through its transformation into a joint-stock fund.

2. In order for the Bank of Russia and the authorised registration authority (the Federal Tax Service) to make a resolution on the state registration of a joint-stock fund being established through the reorganisation of a non-profit fund and to make registration files, the Bank of Russia (the Financial Market Access Department) is to be provided with the documents specified by sub-points a) to g) of Point 1 of Article 14 of Federal Law No. 129-FZ of 8 August 2001, 'On the State Registration of Legal Entities and Individual Entrepreneurs' in two copies.

3. Stakeholders may send a request to a non-profit fund that shares of a joint-stock fund being reorganised from the non-profit fund be distributed to them. The board of the non-profit fund is obliged to consider the requests and, along with the resolution on reorganising the non-profit fund by transforming it into a joint-stock fund, make a decision to satisfy or reject the requests. If a decision is made to satisfy the stakeholders' requests for distribution of the shares, the persons in question are to be included in the list of those entitled to shares of the joint-stock fund to be placed upon its establishment through the transformation from a non-profit fund (Parts 2, 3, and 4 of Article 12 of Federal Law No. 410-FZ).

Similar rules apply where a non-profit fund reorganised through spinning off another non-profit fund from it and simultaneously transforming it into a joint-stock fund (hereinafter non-profit fund reorganisation through spinning-off and transformation), if the shares of the joint-stock fund being established are placed by distributing them among entities specified by Part 9 of Article 12 of Federal Law No. 410-FZ (hereinafter the distribution of shares) (Part 2 of Article 13 of Federal Law No. 410-FZ).

In view of the foregoing, in the absence of the above information in the minutes of the meeting held by the non-profit fund board at which a resolution on its

reorganisation was made, for the state registration of the issue of shares to be placed upon the reorganisation of the non-profit fund by transforming into a joint-stock fund, and upon reorganisation of the non-profit fund through a spin-off and transformation, if the shares of the joint-stock fund being established are placed through distribution, it is advisable to provide the Bank of Russia (the Financial Market Access Department) with additional documents confirming that the stakeholders' requests for share distribution were considered by the non-profit fund board and were either satisfied or rejected; or pertinent explanations on the submission or absence of such requests.

4. The stakeholders' requests for distributing the joint-stock funds' shares available after the non-profit fund board made a resolution on its reorganisation are to be addressed by the joint-stock fund board of directors (supervisory board) after its establishment (Parts 19 and 20 of Article 12 of Federal Law No. 410-FZ). In this case, the persons whose claims are met are entitled to the joint-stock fund's shares that remained unplaced as of the date on which an entry on the state registration of the joint-stock fund was made in the Uniform State Register of Legal Entities (Part 23 of Article 12 of Federal Law No. 410-FZ).

Similar rules apply when a non-profit fund is reorganised through a spin-off and transformation if the shares of the joint-stock fund are placed by way of their distribution (Part 2 of Article 13 of Federal Law No. 410-FZ).

In view of the foregoing, in the absence of the above information in the minutes of the meeting held by the joint-stock fund board of directors (supervisory board) at which a resolution was made on the procedure and terms for distributing the shares of the joint-stock fund that remained unplaced as of the date on which an entry on the state registration of the joint-stock fund was made in the Uniform State Register of Legal Entities, for the state registration of the report on the issue of shares placed upon the reorganisation of the non-profit fund by transforming it into a joint-stock fund or upon reorganisation of the non-profit fund through a spin-off and transformation, if the shares of the joint-stock fund established are placed through distribution, it is advisable to provide the Bank of Russia (the Financial Market

Access Department) with additional documents confirming that the stakeholders' requests for share distribution were considered by the joint-stock fund board of directors (supervisory board) and were either satisfied or rejected, or with pertinent explanations on the submission or absence of such requests.

5. Under Point 3 of Part 8 of Article 12 and Point 4 of Part 5 of Article 13 of Federal Law No. 410-FZ, if the shares of a joint-stock fund being established are placed through distribution, the resolution on the reorganisation of the non-profit fund is to contain information about its founders and other persons who shared in the aggregate contribution of the founders of the non-profit fund being reorganised, specifying the amount of each person's share in rubles and as a percentage of the founders' aggregate contribution. Such information should include data on persons who shared in the aggregate contribution of the founders of the non-profit fund being reorganised before its board resolved to reorganise it.

If the activities of legal entities that are founders of a non-profit fund being reorganised or other entities that shared in the aggregate contribution of the founders of a non-profit fund being reorganised are terminated due to their liquidation or reorganisation, this should be mentioned in the information about the said entities. In this case, the successors of the legal entities that are founders of the non-profit fund being reorganised are considered entities entitled to shares of the joint-stock pension fund that are to be placed upon its establishment only if the said legal entities are reorganised by way of their transformation (Point 1 of Part 9 of Article 12 of Federal Law No. 410-FZ).

6. The shares of the joint-stock fund that are to be placed upon its establishment may be placed among the legal entities mentioned in Part 9 of Article 12 of Federal Law No. 410-FZ provided that such legal entities disclose or provide information to the non-profit fund about individuals who exercise direct or indirect control over these legal entities. The shares of a joint-stock fund being established may not be placed among legal entities registered in countries or territories that do not require disclosure or provision of information when conducting specific financial operations, a list of which is approved by the Ministry of Finance

of the Russian Federation, or that are directly or indirectly controlled by such persons (Part 10 of Article 12 of Federal Law No. 410-FZ).

For the state registration of the issue of shares to be placed upon the establishment of a joint-stock fund, in addition to the documents prescribed by Russian securities legislation, it is necessary to provide documents that contain information about individuals who exercise direct or indirect control over the legal entities included in the list of entities among whom the joint-stock fund's shares are to be distributed as of the date on which an entry on the state registration of the joint-stock fund being established is made in the Uniform State Register of Legal Entities (Point 3 of Part 2 of Article 14 of Federal Law No. 410-FZ).

For the state registration of a report on the issue of shares placed upon the establishment of a joint-stock fund, in addition to the documents prescribed by Russian securities legislation, it is necessary to provide documents that contain information about individuals who exercise direct or indirect control over the legal entities included in the list of entities among whom the shares of the joint-stock pension fund that remained unplaced as of the date on which an entry on the state registration of the joint-stock fund being established was made in the Uniform State Register of Legal Entities were to be distributed (Point 3 of Part 3 of Article 14 of Federal Law No. 410-FZ).

It is recommended that information about individuals who exercise a direct or indirect control over the legal entities included in the above lists contains not only the method of control (direct or indirect), but also the grounds for such control, and in the event of indirect control, data on legal entities through which such indirect control is exerted, with a confirmation that they are not registered in countries or territories that do not require disclosure or provision of information when conducting specific financial operations, a list of which is approved by the Ministry of Finance of the Russian Federation.

If there are no individuals who exercise direct or indirect control over the legal entities included in the list of entities among which the joint-stock fund's shares are to be distributed, it is recommended that the reasons and circumstances for the

absence of such control be specified and that documents explaining the above reasons and circumstances (explanatory notes, certificates, extracts, etc.) be appended.

7. When indicating the sources of capital from which the joint-stock fund's authorised capital is to be formed in the resolution on the reorganisation of a non-profit fund or in the resolution on the issue of shares to be placed upon the reorganisation of a non-profit fund, or when compiling a spin-off balance sheet of a non-profit fund to be reorganised, the following should be taken into account.

The authorised capital of a joint-stock fund may only be formed at the expense of the property intended for the statutory activities of the non-profit fund to be reorganised. No additional contributions or other payments for the shares of the joint-stock fund being established that are placed upon reorganising the non-profit fund or related to such placement are allowed (Point 9.4.6 of the Standards for the Issue of Securities and for Registration of Securities Prospectuses approved by FFMS Order No. 13-55/pz-n, dated 4 July 2013 (hereinafter the Standards)).

8. The procedure for issuing securities includes, inter alia, the stages of passing a resolution on the placement of issue-grade securities and approving the resolution on their issue (additional issue) (Article 19 of Federal Law No. 39-FZ of 22 April 1996, 'On the Securities Market'); the resolution on the issue (additional issue) of issue-grade securities is to be approved based on and in accordance with the resolution on their placement (Point 2.3.1 of the Standards).

Since the resolution on reorganising a non-profit fund by way of its transformation into a joint-stock fund or through a spin-off and transformation is a resolution on placing the established joint-stock fund's shares (Part 13 of Article 12 and Part 8 of Article 13 of Federal Law No. 410-FZ), the resolution on issuing such joint-stock fund's shares is to be approved by the non-profit fund's board after making a resolution on its reorganisation, including the issues mentioned in Part 8 of Article 12 and Part 5 of Article 13 of Federal Law No. 410-FZ. In this case, the resolution on reorganising the non-profit fund and the resolution to approve the issue of the established joint-stock fund's shares may be adopted at one meeting of the

non-profit fund's board.

It should be also noted that if the non-profit fund's board resolves to make amendments to the resolution on reorganising the fund that affect the terms of placing the established joint-stock fund's shares, the resolution on making such amendments is also a resolution on placing the established joint-stock fund's shares to comply with the established securities issue procedure, which is also to be indicated in the application for the state registration of the securities issue and the title page of the resolution on the issue of securities (Annexes 1 (2) and 4 (6) to the Standards).

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In case of any translation ambiguity, the Russian version shall prevail.