Kyiv National University of Trade and Economics

Banking department

FINAL QUALIFYING PAPER

on the topic:

Regulation of activities of non-state pension funds in the context of international requirements

Student of the 2nd year, group 5am,
specialty 072 «Finance, banking and insurance»
specialization «Financial intermediation»

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Kyiv, 2020

Kyiv National University of Trade and Economics

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Approved by
Head of the Department of Banking
Nataliia P. Shulha,
Doctor of Sciences in Economics, Professor
on _______________, __ __, 20___

Task
for a final qualifying paper

Shpak Diana
(student's last name, first name)

1. Topic of a final qualifying paper
Regulation ot activities of non-state pension funds in the context of international requirements
Approved by the Rector's order from November 15 2019, No. 3893.
2. Term of submitting by a student his/her terminated paper (project) to 20.11.2020
3. Initial data of the final qualifying paper (project)
Purpose of the paper (project) is the disclosure of theoretical principles, analysis of the experience of regulating the activities of private pension funds, development of methodological and practical recommendations for improving the regulation of non-state pension funds

Object of the research there are economic relations that arise in the process of functioning of non-state pension funds in Ukraine.
Subject of the research is regulation of activities of non-state pension funds.

4. Consultants of the research and titles of subsections which were consulted:

Section	Consultant (last name and initials)	Date and signature	
		The task given	The task fulfilled

5. Contents of a final qualifying paper (list of all the sections and subsections)

6. Time schedule of the paper

No.	Stages of a final qualifying paper	Terms of a final qualifying paper	
		de jure	de facto
1	2	3	4
1.	Approval of the Task of the FQP (Ukrainian)	23.12.2019	
	Approval of the Task of the FQP (English)	03.02.3020	
2.	Submission of an **article** to the Banking department (English), paper and electronic versions	30.03.2020	
3.	Part I. List of sources used (references)	27.04.2020	
4.	Production (diploma) practice, **review** (Ukraine)	11.05.-19.06.2020	
5.	Part II. List of sources used (references)	22.06.2020	
6.	Part III, Introduction, Conclusions, References	05.10.2020	
7.	Submission of the FQP to the Banking department (all Parts, appendices), **resume** of a scientific adviser	26.10.2020	
8.	Preliminary FQP' protection at the Banking department, **review** (KNUTE, Ukraine), **review** (KNUTE, English)	09.11.2020	
9.	Submission of completed (intertwined) the FQP to the Banking department, supporting documents (summary, supporting data, three reviews)	23.11.2020	
10.	Public FQP' protection in the examination commission		

7. Date of receiving the task ______________, ____, 20___.

8. Scientific adviser of the final qualifying paper

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(last name, initials, signature)

9. Head of the project team
(Manager of the educational program) Iryna A.Avanesova, PhD in Economics,
Associate Professor of the Department of Banking

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(last name, initials, signature)

10. The task received by the student _________________________

(last name, initials, signature)

11. Resume of a scientific adviser of a final qualifying paper

The final qualifying work is devoted to the study of theoretical, practical and methodological aspects of development and improvement of regulation of non-state pension funds, taking into account domestic and foreign experience.

The final qualifying work reveals the economic essence of the concept of private pension funds and their direct place in the system of private pension provision. Evaluation methods according to different criteria are given.

The study was carried out taking into account the experience of regulating the activities of private pension funds abroad, on the basis of which the bank was proposed to improve certain elements of this methodology and the introduction of international experience in regulating the activities of private pension funds.

The work identifies ways to improve the process of assessing the minimum return on private pension funds and relevant tools, approach to regulating the legal status and activities of private pension funds. A separate legislative enshrinement of the status of non-state pension funds was proposed.

The conclusions presented in the paper are substantiated by conducting appropriate generalizations and illustrated with tables and figures.

The shortcomings of the work include insufficient disclosure of the provisions of the final qualification work on the practical recommendations for the implementation of international experience. However, this does not reduce the overall value of the study.

In general, Shpak Diana's final qualification work on the topic “Regulation of activities of non-state pension funds in the context of international requirements” meets the requirements for writing qualification works, is based on conducting her own research using public reporting and other materials, can be admitted to defense and deserves high positive evaluation.

Scientific adviser of a final qualifying paper ________________________
(last name, initials, signature)

Note about preliminary paper defence ________________________
(last name, initials, signature)

12. Resume about a final qualifying paper

A final qualifying paper of the student ____________________________
(last name, initials)

can be admitted to defence in the Examination Board.

Head of the project team
(Manager of the educational program) Iryna A.Avanesova _____________________
(last name, initials, signature)

Head of the Department Nataliia P. Shulha ____________________
(last name, initials, signature)

_______________. _____. 2020.

PLAN

INTRODUCTION

The relevance of the theme: Private pension funds are both an integral part of the country's pension system and are among the main players in the institutional investor market. For a number of years, private pension funds have been showing steady growth in most indicators of their development. Not only the largest corporations, but also enterprises of various branches of economy, banks and other financial organizations show interest in their activity. Simultaneously with the development of private pension funds was the development and improvement of the system of state regulation of activities in the field of private pension provision, supervision and control over these activities, which leads to increasing attention to this problem in scientific circles. Studying the general principles and identifying problems of regulating the activities of private pension funds is an important practical aspect in the development of these entities in the market of private pension provision in Ukraine.

The issue of regulating the functioning of private pension funds is covered in the works of domestic and foreign authors, including Y.Vitka [2], O. Gorbacheva [6], K. Gutgartz [7], A.Nechay [9], N. Tsikanovskaya [11], R.Maydanik [12], R.Holtzman [17], Reisen H. [20] and others. Despite systematic research, there are no thorough approaches in the scientific works to a comprehensive study of the problems of regulating the activities of private pension funds.

The purpose of the work is disclosure of theoretical principles, development of methodological approaches and practical recommendations on regulation of the activity of non-state pension funds. To achieve this goal, the following tasks are solved:

1. Determination of functioning of non-state pension funds;
2. Research of theoretical and legal bases of functioning of non-state pension funds;
3. Research of the process of regulation of non-state pension funds in foreign countries;
4. Analysis of regulation of non-state pension funds in Ukraine;

5. Investigation of implementation of foreign experience in regulating the activities of private pension funds;

6. Formation of directions of development of activity of non-state pension funds;

7. Disclosure of regulation of protection of consumer rights of private pension funds.

The object of research is the functioning of non-state pension funds in Ukraine.

The subject of research is government regulation of private pension funds development in Ukraine.

The following methods of research are used in the course work: generalization and systematization of scientific developments of domestic and foreign scientists-economists and normative-legal base.

The information base of the study is legislative and regulatory acts on regulation of non-state pension funds activities; monographic research and scientific publications on the problem under study.

The scientific novelty of the obtained results is the following: improved scientific and methodological principles of building a system of state supervision over the activities of entities providing services in the field of private pension provision by transferring control functions over their activities to the National Commission for Financial Supervision, which will eliminate shortcomings of the existing regulatory system and eliminate the problem of "supervision gap" on the activities of financial market entities

The practical significance of the results. The obtained results can be used by state bodies to improve and develop strategies for regulation of non-state pension funds in Ukraine.

Master's personal contribution. Graduation is a self-completed study by the author.

Publications. Some results of the study were reflected in a scientific article: Shpak D. Impact of government regulation of private pension funds development in

Ukraine// Financial and credit systems: problems of theory and practice: All–Ukrainian. stud. conf. of science / resp. ed. N.P. Shulga. - K.: Kyiv. Nat. Trad. - Econom. Univ., 2020. - 462 p.

Structure of work. The work consists of 3 sections, introductions, conclusions and recommendations, a list of used sources and applications. The volume of work is 50 pages. The paper presents 6 tables, 5 pictures, 5 appendices and used 51 scientific sources.

PART 1

THEORETICAL AND LEGAL BASES OF FUNCTIONING OF NON-STATE PENSION FUNDS IN UKRAINE

In Ukraine as a whole, all preconditions for the development of the private pension system have been created. Adoption of the Laws of Ukraine "On Compulsory State Pension Insurance" and "On Non-State Pension Provision" became one of the most important stages of pension reform in Ukraine, as it ensured the creation of legal bases for non-state pension funds and state regulation of the financial services market pension provision.

To date, a whole set of different levels of regulations is aimed at regulating the activities of private pension funds in Ukraine. Legal relations that arise during the creation of non-state pension funds, their activities and liquidation of these funds, primarily regulated by the Law of Ukraine "On private pension provision" [1].

Consider the approaches of scientists to the interpretation of the essence of NPF more in detail (Table 1.1). One group of scientists, including Y. Vitka [2], O. Goreva [46], considers NPF as a non-profit institution of social security. It is worth noting that non-profit institutions in their activities pursue charitable, cultural, educational or other social goals. Typically, such institutions operate without profit, which is intended for further distribution among the founders.

The second group of researchers, which include A.Golovchenko [47], S.Khmelevska [48], O. Novikov [49], considers the definition of the essence of NPF through a prism theory of institutionalism. At the same time, the authors interpret the essence differently NPF. In this context, S. Khmelevskaya presents NPF as a socially oriented institution [48], O.Novikov - as a financial institution of the social sphere [49], K. Chursina - as social, intermediary, savings, investment and insurance institute [50]. Individual researchers within this approach also propose the definition of NPF as an institutional unit of the sphere finance and as a specific institutional financial instrument implementation of relations between the subjective composition of the market economy (employees, firms, the state).

We must not overlook the fact that the activities of NPFs are significant affects the welfare of citizens not only through the payment of pensions, but also for account of investing in the country's economy.

Therefore, the third group of scientists, including N. Tsikanovskaya [11], A. Talykova [127], N. Istomina [51], disclose the essence of NPF as a specialized financial institution. With this approach N. Tsikanovska [11] characterize NPF as financial institution, A.Talykova - as financially independent and self-sustaining specialized non-bank financial institution [24], and N.Istomina [51] - as a financial institution with status collective institutional investor.

Table 1.1

Approaches of scientists to the interpretation of the essence of NPF [2,11,24,50,51]

Scientist	Scientists' approaches to interpretation the concept
Y. Vitka	considers NPF as a non-profit social security institution
E. Sukhanov	notes that "the activities of such funds are related exclusively to the commercial use of citizens' funds and the distribution of income received between them"
N. Istomina	characterizes NPF as a financial institution with status collective institutional investor.
K. Chursina	submits NPF as social, intermediary, savings, investment and insurance institute
A. Talykova	characterizes NPF as financially independent and self-sustaining specialized non-bank financial and credit institution

As Y. Vitka rightly notes [2], the emergence and functioning of private pension funds did not begin immediately after the adoption of this law. These funds were formed in the form of business associations in accordance with the Law of Ukraine "On Business Associations" of 19.09.1999 and the Civil Code of the USSR of 18.07.1963. Prior to the adoption of the Law of Ukraine "On Non-State Pension Provision" [1] non-state pension funds functioned without proper legislative support.

At the legislative level, there are two approaches to defining the essence of private pension funds. According to the first approach, in accordance with the provisions of Art. 1 of the Law of Ukraine "On Non - State Pension Provision" [1], non-state pension funds are legal entities established in accordance with the law, which have the status of non-profit organizations (non-profit companies), operate only for the purpose of accumulating pension contributions , with appropriate processes of management of the involved assets, carries out implementation of pension payments in favor of participants of fund according to requirements of the legislation.

The presented definition, on my opinion, does not highlight the role of persons who make pension contributions in favor of participants of funds - depositors, although it is provided by law. In view of this, the legislative definition of non-state pension in terms of their activities should be expanded to include persons who make pension contributions for the benefit of fund participants (depositors). This will allow for regulatory provision and clear regulation of all persons who are subjects of private pension provision in Ukraine.

According to the second approach, according to Art. 1 of the Law of Ukraine "On Non-State Pension Provision" [1], non-state pension funds are subjects of the second level pension system, which are formed and operate in accordance with legal requirements for non-state pension provision, meet the legislation on licensing activities in the accumulative pension provision .

This approach, on my opinion, describes the essence of the studied funds as socially significant institutions focused on the implementation of social security of participants. At the same time, the presented definition does not single out persons to whom pension benefits (participants) are assigned and those who pay the relevant contributions (depositors).

On my opinion, it is possible to propose to change this legal interpretation by expanding it at the expense of two important subjects of non-state pension provision in Ukraine - participants and depositors. The proposed change is necessary in order for the legally defined essence of non-state pension funds to regulate the range of participants in legal relations in the field of non-state pension provision.

You can support scientists [2; 3], who argue that the granting of dual status to non-state pension funds is due to the lack of organizational and legal form in civil and commercial law as a fund. In view of this, private pension funds in accordance with the provisions of Art. 85 of the Civil Code of Ukraine [4] are considered business associations that are not aimed at making a profit for its further distribution among the participants. And, in accordance with the norms of the Commercial Code of Ukraine [5], the activities of private pension funds are considered "non-commercial management" and non-commercial economic activities, ie independent systematic economic activities carried out by economic entities aimed at achieving economic, social and other results without profit purposes. Thus, it can be stated that both codes use different doctrinal approaches to the interpretation of private pension funds. Namely, for this purpose, the Law of Ukraine "On Private Pension Provision" [1] uses the dual status of funds. On my opinion, given the important institutional and social role of private pension funds in the development of the financial, economic and social system of Ukraine, it is possible to propose a separate allocation and legislative consolidation of their status as funds. This proposal can be implemented by introducing in civil and commercial law a separate form of entities - non-profit funds.

The Law of Ukraine “On Non-State Pension Provision” [1] defines the list of subjects of non-state pension provision in Ukraine. As the activity of non-state pension funds is regulated by both the Law of Ukraine “On Non-State Pension Provision” [1] and the Civil Code of Ukraine [4], attention should be paid to legislative conflicts related to the interpretation of such a subject of non-state pension provision in Ukraine as "Participants". Namely, according to the Law of Ukraine “On pension provision are individuals in whose favor pension contributions to pension funds or pension deposit accounts in banks are paid and who are entitled for non-state pension provision on the terms and in the manner specified by pension contracts, agreements on opening pension deposit accounts or life insurance pension agreements and legislation or who receive pension payments from pension funds. Also by this law [1], participants of pension funds are individuals in whose favor pension contributions are paid (paid) to pension funds and who are entitled to receive pension benefits or receive such payments from pension funds in accordance with the law.

As rightly noted by O. Gorbacheva [6], the presentation of the interpretation of such an entity as a participant in private pension is considered appropriate and reasonable, and the approach set out by the legislator to interpret its essence is consistent with its role and legal status. Thus, the separate allocation of participants in non-state pension provision and fund participants is not sufficiently thorough, as the implementation of non-state pension insurance is regulated by the Law of Ukraine "On Non-State Pension Provision" [1] and takes into account the legal protection of rights and interests of non-state pension fund participants deposit accounts in banking institutions, and members of insurance companies, with certain exceptions specific to the banking and insurance sectors.

It should be emphasized that since the functioning and legal status of private pension funds is regulated not only by the Law of Ukraine "On Private Pension Provision" [1] but also by the Civil Code of Ukraine [4], the status of a participant in both legislative documents should be the same. However, the analysis of the legislation shows a difference in the interpretation of this concept by the studied law and the code. Namely, the Civil Code of Ukraine [4] stipulates that the participants of companies (including non-business ones, which according to the civil law are non-state pension funds) are persons who unite to create them. At the same time, the legislation [1] stipulates that participants in non-state pension funds are individuals in whose favor contributions to these funds are paid. It can be stated that in the civil legislation of Ukraine the participants of non-state pension funds are equated to the legal status of the founders. That is, the two studied legislative acts do not have a single approach, there is not even a similar understanding of these subjects of legal relations. And, on mt opinion, such a legislative conflict needs to be corrected, as it calls into question the legal provision of participants in private pension funds in Ukraine. Therefore, in addition to the above proposal for a separate allocation of the status of funds, it is necessary to distinguish their types, including indicating non-state pension funds, with appropriate indication and disclosure of the civil nature of their activities, topic, subjects, objects, etc.

According to the analysis of the legislation [1], the possibility is provided that the participants of non-state pension funds can be their depositors at the same time. This, as rightly noted by researchers of the functioning of private pension funds [6; 7; 8], allows to expand the opportunities and rights of participants-depositors in terms of choosing convenient mechanisms for pension benefits, which are in direct proportion to the timing of contributions, amounts, procedures for such contributions and more.

The Law of Ukraine "On Non-State Pension Provision" [1] defines the classification of non-state pension funds that may operate in Ukraine, which includes:

- open pension funds, which are non-state pension funds, the participants of which can be any natural persons, regardless of the place and nature of their work;

- corporate pension funds, which are represented by non-state pension funds, the founders of each of which may be a legal entity-employer or several legal entities-employers and to which employers-payers may be attached;

- occupational pension funds, which are pension funds, the founders (founders) of which may be associations and organizations of employers, associations of citizens, trade unions, their associations or individuals who are related to the direction of their professional activities (classes) provided for in the charter of the funds. Participants in such funds include only individuals who are related to their professional activities (occupations) provided for in the charter of the funds, as well as individuals who are employees of employers' organizations, their associations, members or employees of trade unions, their associations that founded such funds. On my opinion, the legislator's approach to the interpretation of this type of pension funds is unclear, according to which there is no indication that such funds have the status of "non-state".

As according to the norms of the legislation of Ukraine, the only pension fund is the Pension Fund of Ukraine with its corresponding structural subdivisions. Therefore, it is possible to propose changes to the definition of the concept of the studied category of pension funds and consider them and give them the status of non-state.

At the legislative level, it is determined that open non-state pension funds in Ukraine are the most universal in terms of the main subject composition. According to A. Nechay [9], corporate non-state pension funds can be considered the most attractive from the point of view of the interests of enterprises, as participation in such funds secures employees for their jobs. And, as provided by the Law of Ukraine "On Non-State Pension Provision" [1], in the case of dismissal from the company that founded the corporate pension fund, employees leave the pension funds themselves. The law stipulates that in the case of participation of individuals in professional non-state pension funds, the change of place of work does not affect the right to be members of these funds. Although, it is assumed that the employee should be engaged only in the type of activity that is established by the charter of the selected fund. On my opinion, given the existing legal restrictions, the possibility of bankruptcy of the founding enterprises of private pension funds in a crisis in the economy, the most acceptable for all subjects of the legal relationship in the field of private pension provision can be considered open private pension funds of Ukraine. And for the most private pension funds, the status of "open" gives more advantages due to the lack of certain prohibitions.

It is necessary to note the current problems of legislative support in terms of control and regulation of non-state pension funds in Ukraine. As stated in the Law of Ukraine "On Financial Services and State Regulation of Financial Services Markets" [10], the National Bank of Ukraine carries out state regulation of the banking services market, the National Commission on Securities and Stock Market - financial institutions, securities market and derivative securities, the National Commission for State Regulation of Financial Services Markets - other financial services markets. According to the fair statement of N. Tsikanovska [11], the legislative distribution of competencies of regulators greatly affects the complexity of state regulation of the market of private pension services. Namely, according to the author [11], the National Commission for State Regulation of Financial Services Markets is responsible for regulating the activities of private pension funds, but this body does not have the necessary capabilities and powers to influence asset management companies, who actually dispose of pension funds. Namely, the National Commission for State Regulation of Financial Services Markets does not have the authority to monitor compliance with investment declarations of private pension funds, to obtain operational information on the value of pension assets. The National Commission for State Regulation of Financial Services Markets may not conduct inspections of asset management companies and take timely measures to stop dubious transactions with pension assets that may affect the loss of pension funds, etc. As rightly noted by N. Tsikanovska [11], in order to ensure effective exchange of information between regulatory and regulatory bodies, to develop joint measures to regulate the functioning of private pension funds, it is necessary to legislate the optimization of coordination of activities and develop communication between existing supervisory and regulatory bodies.

According to the analysis of Art. 47 of the Law of Ukraine "On private pension provision" [1], the assets of non-state pension funds consist of: assets in cash; assets in securities; other assets in accordance with the law. Domestic legislation provides for regulatory requirements to restrict and prohibit investment in assets of private pension funds of Ukraine, which are necessary to maintain the proper financial condition of these institutions, protect them from bankruptcy and preserve the contributions required for private pension provision of participants. Prohibitions on investing the assets of non-state pension funds of Ukraine are defined in terms of the following financial instruments, namely: borrowed (credit) funds; guarantees, credits (loans); purchase and sale agreements, mines; securities, certain categories of issuers, custodians, persons managing the assets of funds, administrators, audit firms, auditors, other persons (including related parties), who provide the funds with agency, consulting and advertising services on a contractual basis; pension funds (including related parties), any debt securities and derivative securities.

The legislation of Ukraine [1] regulates the main areas of use of assets of private pension funds, their research is carried out by scientists and researchers [2; 3]. The most thorough list of the main areas of use of assets of private pension funds in accordance with the provisions of the legislation of Ukraine is presented by S.V. Naumenkova . According to the author [3], among the main areas of use of assets of private pension funds are those that: 1) have an investment purpose; 2) aimed at fulfilling the obligations of the funds to their participants; 3) intended for payment of organizational expenses of professional activity on pension provision.

PART 2
ANALYSIS OF REGULATION OF NON-STATE PENSION FUNDS

2.1. Analysis of regulation of non-state pension funds in foreign countries

Since private pension funds (hereinafter NPFs) in Ukraine are only in their infancy, it would be interesting for Ukraine to study approaches to determining the legal status of NPFs in other countries where NPFs have been operating for a longer period. The generalization of this experience will allow to outline at the theoretical level the legal forms of functioning of NPFs, to understand the role of NPFs in this process and to form the classification structure of NPFs in terms of their legal status. Analysis of the legislation of other countries, the positive and negative consequences of the legal regulation of NPF activities can be taken into account in the further development of relevant legislation of Ukraine.

If we characterize the approaches to determining the legal status of NPFs in foreign practice, then in the literature there is a point of view on the division of pension funds on the principle of work on insurance and non-insurance. Pension insurance funds are usually managed by life insurance companies, which use the contributions of employers and employees to acquire the right to receive group or individual insurance annuities (payments). Non-insurance pension funds are a financial institution separated from the founding legal entity, the members of which are employees of this legal entity. Non-insurance funds form their assets both at the expense of employers 'contributions and at the expense of employees' contributions, as well as at the expense of investment income received from investing accumulated funds in diversified financial instruments [12].

In fact, the criterion for dividing NPFs into insurance and non-insurance is the nature of the benefits that a participant will receive upon retirement. The participant of the insurance fund will have the right to receive insurance benefits, the exercise of this right depends on the occurrence of the insured event and is regulated by the legislation on insurance. A member of a non-insurance fund will be entitled to receive pension benefits, which depend only on the retirement age of the participant, and the amount of which is determined by the amount of contributions made in favor of the participant, investment income and duration of pension benefits.

The most common classification of NPFs that exist in different countries of the world is their division into non-autonomous and autonomous in legal form. Non-autonomous pension funds consist of reserves and other assets that are not legally separated from the depositor or administrator, and the ownership of which belongs to the depositor. It should be noted that in accordance with Principle 5 of the Fifteen Principles for the Regulation of Private Occupational Schemes of 25 April 2001, formulated by the International Association of Pension Regulators and Supervisors, the pension fund must be legally separate from the depositor (sponsor) or at least such a distinction must be unconditionally guaranteed through appropriate mechanisms [13]. Obviously, this refers to the legal consolidation of the depositor's liability for non-performance of obligations to the members of the pension fund.

To develop the above provision, paragraph 2.3 of the Recommendations of the Organization for Economic Cooperation and Development on the basic principles of regulation of occupational pensions of July 21, 2004 recommended legal separation of pension assets from the assets of the depositor (sponsor) of the pension fund and states that the Recommendations do not apply to non-autonomous pension funds [14]. Although these international acts are not of a normative nature, but only of a recommendatory nature, one can trace the global tendency to reduce the number of non-autonomous pension funds and legal autonomy of NPFs. Indeed, non-autonomous pension funds among the Organization for Economic Co-operation and Development exist in only a few countries, including Germany and Sweden.

Autonomous NPFs are defined as pension funds that are legally separate from the depositor (sponsor) and are independent legal entities, or are a separate set of assets without the status of a legal entity, intended primarily for pension provision and appropriate payments. In almost all countries, the Organization for Economic Cooperation and Development NPFs are autonomous. Under foreign law, there are two types of autonomous pension funds:

a) contractual (contractual), in which the pension fund consists of a legally separate set of assets without legal personality, placed in an account intended for pensions and pension payments, and managed by financial institutions in the interests of fund participants;

b) institutional, in which the fund is an independent legal entity created for a special purpose, with legal capacity and capacity.

Under the legal regime of pension funds (if the pension fund members have rights over pension funds), non-autonomous pension funds are funds whose participants do not have any rights to pension funds, the owner of pension funds is the depositor (sponsor). Autonomous pension funds of the contractual type according to this criterion are created in the following forms:

a) individual, under which pension funds belong to participants in a certain legal title. Closed and open pension funds of Portugal, Spain and open pension funds of Italy are established in this form;

b) collective, in which participants have only the binding right to receive income from the investment of pension funds and non-state pension. Separate pension funds of this type exist in Korea and Japan.

Depending on whether the pension funds belong to the participants of the pension fund, autonomous pension funds of the institutional type are created in the following forms:

a) corporate - pension funds belong to the participants in a certain legal title. Examples of such pension funds are the funds of Hungary, the closed-end pension funds of Belgium and Italy, the pension funds of Switzerland, the open-end funds of Mexico, the pension funds of Austria and the pension funds of the Czech Republic;

b) founding - participants do not have rights to pension funds, except, perhaps, in cases of bankruptcy of the depositor. Participants have only a binding right to receive a return on investment of pension funds. Such funds include some closed-end pension funds in Belgium, Italy and Switzerland, as well as closed-end pension funds in Denmark, Finland, the Netherlands, Norway and Sweden;

c) trust - pension funds are transferred on the right of trust ownership to the trust owners who manage the fund. The basic principle in the organization of funds of such types is that the funds transferred to the trustee by one principal must be separated from the funds transferred by other trustees and from the property of the trustee. All countries of the Anglo-American legal family (Australia, Canada, Ireland, New Zealand, Great Britain, USA) provide for trusts as the only possible legal form of existence of pension funds.

From the point of view of realization of legal personality, NPF can be divided into:

a) pension funds which realization of legal personality is carried out by body of pension fund (internal management);

b) pension funds, the realization of the legal personality of which is carried out by a person separate from the pension fund (external management);

c) pension funds, the implementation of the legal personality of which is carried out both by the body of the pension fund and by an individual (mixed management) [12].

Internal management presupposes the existence of a body through which the NPF acquires and exercises its civil rights and responsibilities. Thus, it is the governing body that implements the civil capacity of the NPF. The governing body may consist of one or more individuals. Such a body has the right to perform operational tasks independently or delegate their performance to other persons, including such persons as: consultants, actuaries, asset managers.

Internal governing bodies are typical of institutional funds. These are corporate institutional NPFs in Hungary, Belgium, Italy, Switzerland, Mexico, Austria and the Czech Republic, the founding institutional foundations of Belgium, Italy, Switzerland, as well as Denmark, Finland, the Netherlands and Sweden, where the civil rights and responsibilities of the fund are exercised by the governing body, usually the board of directors.

Uneven development of non-state pensions in different countries can explained by different conditions of access for employees to private pension funds as well differences in the set of incentives and alternatives that they are offered. Given the small scale NPF development in many countries, including Ukraine, the world practice has developed the following mechanisms for enhancing private participation of citizens in pension provision: automatic inclusion, providing financial incentives, financial and educational programs, simplification of the service delivery system, the possibility of withdrawing pension savings.

One of the obstacles to the development of NPF is the problem of inertia and procrastination of people formation of savings for the future. World practice to solve this problem the approach of automatic inclusion is offered employees to accumulative pension programs, but only on a voluntary basis (there is the ability to exit the program at any time).

As experience shows, even when saved in workers freedom of choice automation inclusion in the pension program is critical important to encourage their participation in private pension provision.

The main tool to stimulate participation citizens in the private pension system today there are tax benefits. However, for people with medium and low income its advantages are almost imperceptible. Hence for financial purposes incentives for citizens in some countries individual subsidies are used pension accounts at the expense of employer's contributions or state. Relevant contributions may cover both all participants in the pension system (New Zealand), yes and certain categories, such as low-level individuals income (Australia) [15].

Involvement of citizens in private pensions systems are also facilitated by financial education programs, whose purpose is to motivate employees to participate in pension programs, as well as assistance in making appropriate decisions and making choices.

In countries with voluntary pension systems creation of pension funds within small limits companies are often hampered by related administrative costs and administrative burden regulation. To solve this problem in the United States simplified retirement plans are in place, and in Canada so-called joint pension plans. In both cases they are administered by financial institutions and designed to stimulate retirement savings among small entrepreneurs and small workers enterprises [15].

The main disadvantage for participants when investing funds in private pension funds is their impossibility withdrawal until retirement. Not at all less, different options can be offered participants' access to their own savings, for example, to cover the cost of medical expenses services or education of children. The above measures allow to increase attractiveness of NPF for both employees and employers, and therefore can find application in domestic practice.

2.2. Analysis of regulation of non-state pension funds in Ukraine

State regulation of non-state pension funds, in the most general sense, through a set of measures of administrative and regulatory influence of the state is aimed at various sectors of the economy and society to achieve socially important goals, ensuring security, justice, protection of rights and freedoms. In addition, state regulation of non-state pension provision regulates the activities of all its participants by establishing state requirements and rules of operation to maintain the balance of mutual interests. From a practical point of view, such regulation is represented by a set of both administrative and regulatory instruments of public policy, which, in particular, include accounting and registration of various rights, licensing and accreditation of institutions, establishment of norms, quotas and other restrictions, control and supervision, as well as the application of material sanctions and measures of administrative coercion.

The bodies of state regulation of NPF activities and institutions that manage funds include:

- National Commission for State Regulation of Financial Services Markets, regulates the activities of NPFs and NPF administrators(up to July 2020);
- National Securities and Stock Market Commission controls the activities

of management companies NPF assets and depository activities of custodian banks;

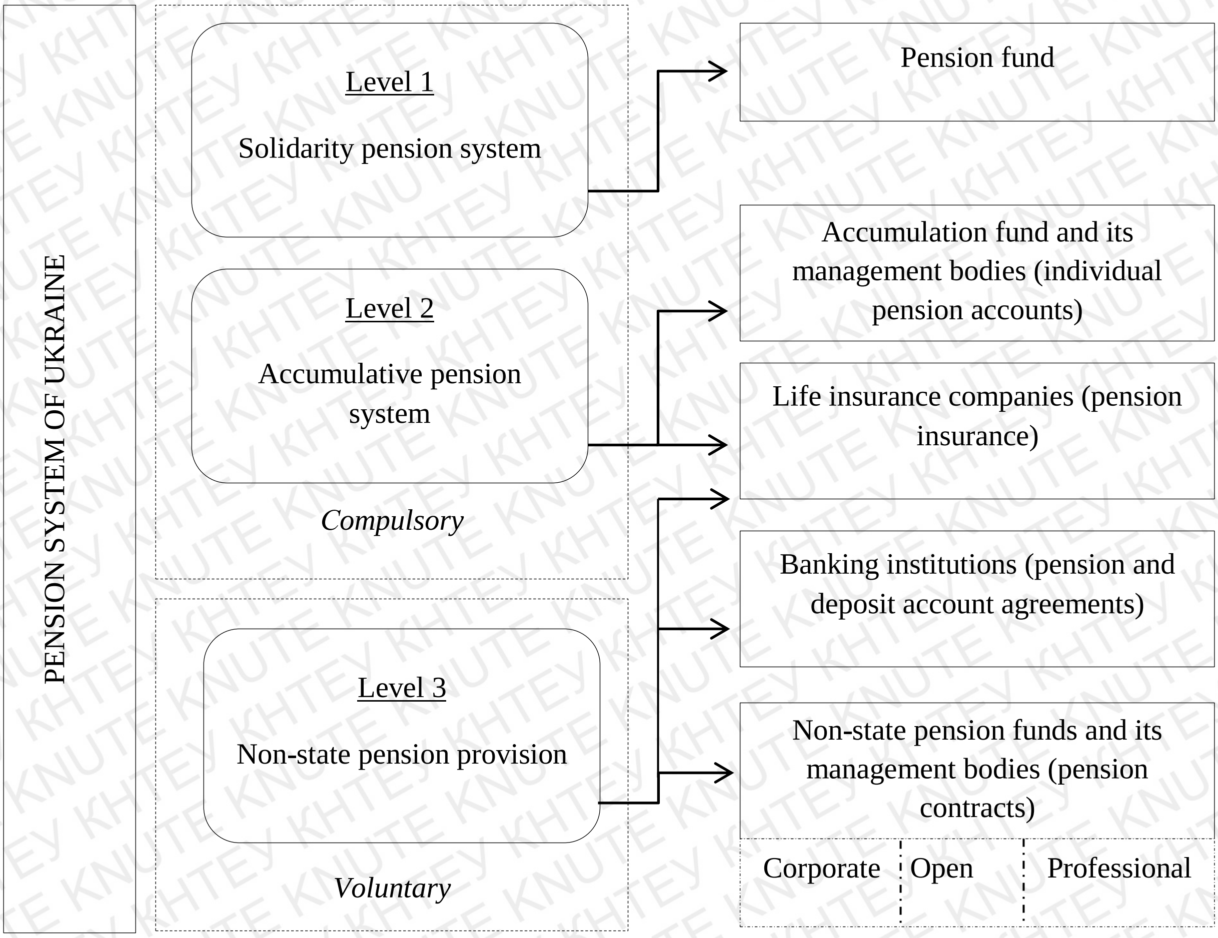
— National Bank of Ukraine supervises custodians' banking activities

— The Antimonopoly Committee of Ukraine monitors compliance with the legislation on protection of economic competition in the field of private pension provision State Financial Monitoring Service the process of conducting activities in the field of private pension provision [16].

Consider the features of the structure of the private pension system in Ukraine. According to the legislation of Ukraine, the domestic pension system has three levels (pic. 1): the solidarity system of the obligatory state pension insurance, the accumulative system of the general state pension insurance and the system of the non-state pension provision [18].

The first level is characterized by the existence of a solidarity system of compulsory state pension insurance. This system is based on monthly mandatory deductions from wages, through which the funds go to the Pension Fund of Ukraine, then redistribute financial resources and pay to today's retirees.

At the second level, there is an accumulative system of compulsory state pension insurance, under which monthly mandatory deductions from wages to the Accumulative Fund are made. Such funds are accumulated in the personal accounts of citizens, where they are accounted for, invested and generate investment income, leading to an increase in future pension benefits. If it concerns the actual functioning of the second level, it has not yet been put into operation. It is assumed that its filling will be due to the redistribution of funds from the first level of the pension system. At the same time, it should be noted that participation in the second level will be possible only for those citizens who still have the necessary time before retirement.



Pic. 1. Infrastructure of the pension system of Ukraine

Source: built by the author on the basis of [1].

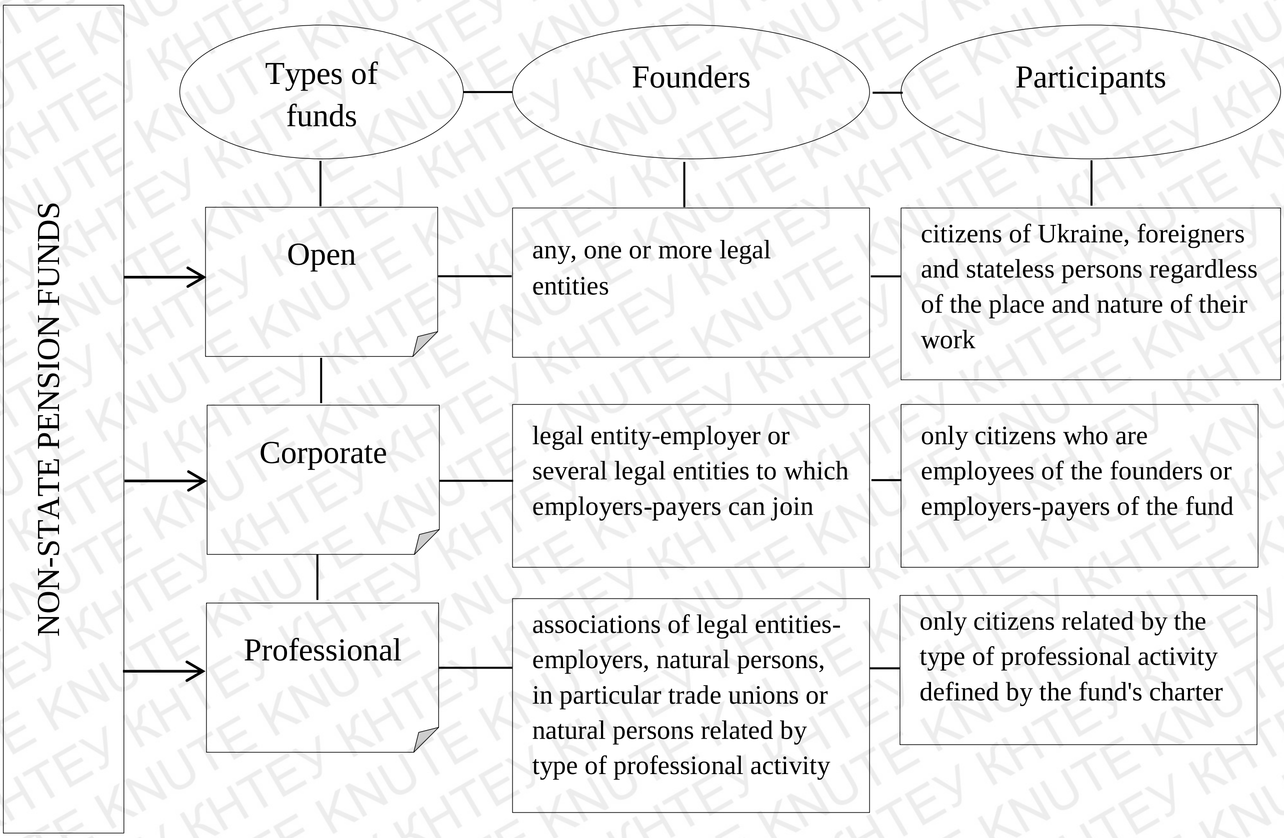
Speaking about the third level of the pension system, it is necessary to emphasize the representation of its system of non-state pension provision, the actual formation of which began in 2004 after the entry into force of the Law of Ukraine "On Non-State Pension Provision". At the same time, such a system is based on private pension funds.

In accordance with current legislation and in accordance with Art. 1 of the Law of Ukraine "On Non-State Pension Provision" [1], NPF - a legal entity that has the status of a non-profit organization of non-profit companies, operates and operates only to accumulate pension contributions for the benefit of pension fund participants with further management of pension assets, and also makes pension payments to the participants of the specified fund in the order determined by the laws of Ukraine. In other words, the procedural mechanism of NPF activity is based on the implementation by the depositor on a voluntary basis of pension contributions to

NPFs, which are accounted for in an individual pension account and on which investment income is accrued. As a result, the fund participant receives a certain additional non-state pension upon reaching retirement age.

In Ukraine, NPFs are divided into three types depending on the characteristics of their depositors and participants. (Pic. 2).

Any natural person can be a participant of an open NPF, regardless of the place and type of work. The founders of such a fund may be one or more legal entities, subject to the restrictions imposed on budget organizations. Due to their functional orientation, open non-state pension funds meet the needs for additional pension provision for those individuals and legal entities who are not able to be served by corporate and professional funds. Such funds in their activities are generally focused on working with future retirees, individuals, and working with legal entities employers.



Pic. 2. Systematization of types of private pension funds

Source: built by the author on the basis of [1].

It should be noted that the participants of the corporate NPF can be only individuals who have been in employment with the founders of the fund, and the fund

- only a legal entity or several that are the employer. It should be emphasized that the paying employer is not the founder of the corporate pension fund, at the same time enjoys the privileges of serving its employees in the NPF. Such an employer enters into an agreement on participation in a corporate pension fund with its Board. Examples of this type of funds are the corporate NPF of the NBU, Ukrposhta, Ukreximbank.

Finally, a professional NPF is a fund that can be founded by associations of legal entities - employers and individuals, including trade unions, or individuals. It should be noted that the participants of such a fund can only be individuals related to the type of professional activity defined in the charter of the NPF.

The functioning of the NPF involves the interconnected activities of individual jointly structured structures. First of all, it is the Board of the Fund, the functionality of which includes control over the current activities of NPFs. At the same time, the Chairman and members of the NPF Council undergo mandatory special training and receive certificates of specialists in non-state pension provision and must periodically update their qualifications.

In addition, according to the Law [1], the following must be involved in the activities of NPFs:

- administrator of the fund, which is responsible for pension contracts, pension accounts and contributions, pension income and pension payments to participants, preparation and publication of reports;

- asset management company, which organizes the placement of temporarily free assets of the fund in accordance with the statutory requirements and forms the asset profitability profile;

- custodian bank, the functions of which include the implementation of settlement and cash, depository services, servicing of securities transactions).

The corresponding scheme of functioning of NPF is presented in appendix C.

The administrator, the asset management company and the custodian bank may provide NPF services only in case of compliance relevant requirements, which should include: licensing requirements for the activities of NPF management entities, requirements for the authorized capital of the asset management company and NPF administrator, qualification requirements for employees of NPF management entities, requirements for software and hardware for personalized pension accounting savings of NPF participants, the maximum amount of payment for the services of institutions that serve the activities of NPFs, etc. (Table 2.1).

Table 2.1

Elements of legal regulation of professional administrators and NPF asset management companies in Ukraine [1]

Regulatory elements	Legal bases
Statutory capital of a professional administrator	The size of the authorized capital - is not less than 2.5 million UAH
Equity of a professional administrator	The amount of equity - not less than 2.5 million UAH
Statutory capital of the NPF's asset management company	The size of the authorized capital is not less than 7 million UAH
Equity of the NPF's asset management company	The amount of equity is not less than the amount of registered authorized capital
Reserve fund of a professional administrator, NPF's asset management company	Maintained in the amount of not less than 25% of the authorized capital. The amount of annual accruals to the reserve fund may not be less than 5% of the amount of net profit
The maximum amount of costs associated with the implementation of private pension provision	The annual maximum amount of expenses reimbursed from pension assets is set as a percentage of the net asset value of the pension fund and is 7%

The established requirements indicate that the state policy pursued in the field of private pension provision is focused not only on strengthening the funds, but also on the transition from quantitative to qualitative characteristics of their activities. Thus, each NPF participant has the opportunity to transfer their own pension assets to another fund once a year. This right was introduced as a safeguard against dishonest funds and the management company, but it significantly complicates the process of investing pension savings funds. This situation is explained by the presence of a short-term planning horizon, which does not allow to invest funds in high-yield long-term projects. In turn, extending the period of transfer of pension savings between funds will increase the planning horizon and, as a consequence, will increase the profitability of funds.

One of the incentives for the development of NPFs are tax benefits for the payment of personal income tax (App. B). The taxation scheme depends on the type of pension payment. In particular, due to pension savings on an individual pension account, fund members may receive the following types of payments:

- first, a fixed-term pension, which provides for the payment of pension savings

in installments for 10 or more years at the onset for a participant of retirement age specified in the pension contract;

- secondly, the payment of the entire amount of pension savings at once (the so-called "one-time pension payment"), which is carried out in exceptional cases, when the grounds specified by law;

- thirdly, a lifetime pension paid by an insurance company selected by a member of the NPF.

Pension payment for a specified period or a one-time payment of the entire amount of savings is made by the administrator of the NPF, to which contributions were paid by the depositor, and lifelong payment - by the insurance company selected by the participant. Early receipt of pension benefits is prohibited. This requirement is set so that the participant has the opportunity to use the accumulated funds solely to meet the needs that will arise after retirement. In today's world, employers have some interest in participating in such private pension schemes, due to the possibility of allocating the amount of insurance premiums to the cost of up to 15% of wages accrued to employees, but not more than 2.5 the amount of the minimum wage established by the law on the State Budget Of Ukraine for the corresponding year [19].

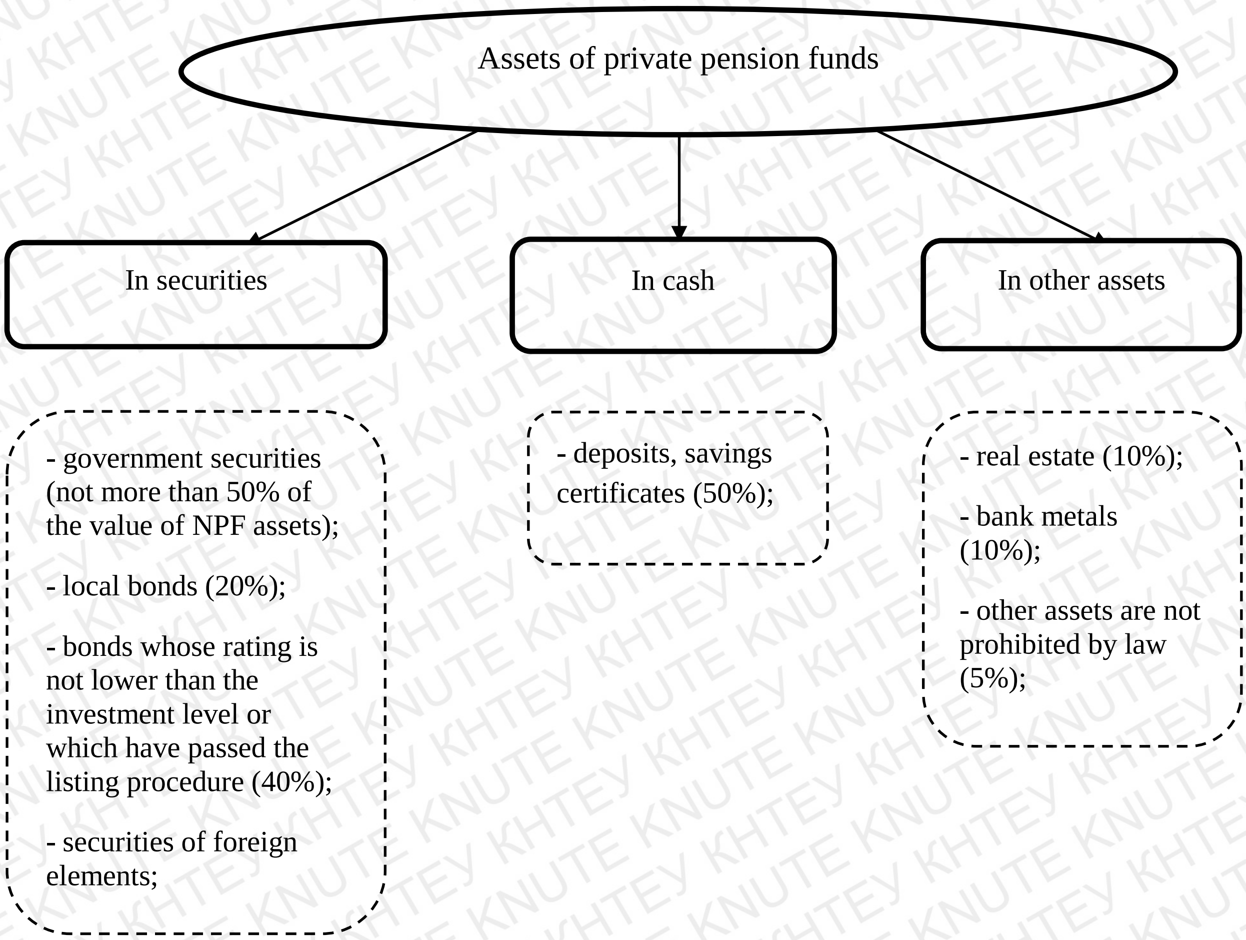
Consideration of state issues regulation of the activities and development of NPF will be incomplete, if we ignore the peculiarities of the formation of the structure of the investment portfolio of NPFs. It should be noted that the following restrictions apply to such a portfolio:

- on the concentration of ownership, ie the maximum percentage share in the share capital of the issuer;

- the share of one financial instrument in the investment portfolio of the fund; the share of securities of one issuer in the investment portfolio of the fund;
- the level of risk associated with a particular asset, characterized by the issuer's rating; list of issuers to which it is assigned rating not lower than the established one; list of securities with available quotations of trading platforms [20].

If we group the main categories of securities in which NPFs can invest, according to the degree of risk, we can distinguish the following three groups:

- risk-free assets, which include bank deposits, government bonds and debt obligations of state-owned companies, which the government supports. guarantor;
- risky assets - liquid corporate, local bonds with a high investment rating;
- high-risk assets - shares and corporate debt, including not included in the stock exchange listing, derivative instruments, etc.



Pic. 3. General restrictions on investment activities with NPF pension assets

Source: built by the author on the basis of [1].

Often the regulator determines the maximum percentage of the value of high-risk assets in the total value assets, as well as the minimum share of risk-free instruments. And the rest of the money can be invested in low-risk market instruments. General restrictions on investment activities with pension assets of NPFs, established by the Law of Ukraine [1], are presented in Pic.3.

An important issue is the feasibility of setting limits on investment in foreign assets. It should be noted that foreign investment contributes to the diversification of country risk, which arises in the case of dominance of assets and liabilities of the fund in the same currency. The differentiation of the fund's assets among the set of instruments of different countries causes a decrease in the volatility of the return on the total investment portfolio. The validity of investing in foreign assets also arises in the absence of the possibility of efficient allocation of financial resources within the country, when the domestic capital market is underdeveloped.

However, the imposition of restrictions on investment in foreign assets against the background of favorable forecasts of economic development may contribute to the development domestic capital market. At the same time, it should be borne in mind that investing funds abroad leads to an intensification of currency risk, so fixing such restrictions is aimed primarily at avoiding this risk. In addition to regulating the structure of the investment portfolio, the state may set real or nominal, absolute or relative minimum target returns of the portfolio. As a reference level, it is legitimate to use the return on the market portfolio or the average return on the portfolios of all pension funds.

Thus, the Law of Ukraine [1] stipulates the obligation of the asset management company to ensure the minimum return on pension assets at the level of the official inflation index in the event of such a requirement by the NPF Board. The Law also provides for the right to change the asset management company in the event of a decrease in the net asset value of NPF pension assets during the year by more than 20%.

To compensate for losses caused to NPF participants in the implementation of operational and credit risks, the Law of Ukraine [1] provides for property liability of administrators and asset management companies, namely, payment of compensation from the reserve fund, and in case of insufficiency - from other property. The Custodian is also liable for damages caused to NPF participants as a result of non-compliance or improper performance of the terms of the fund maintenance agreement by the Custodian, and reimburses them in accordance with the terms of the agreement and in the manner prescribed by law. The law provides for property liability of council members, but the grounds and mechanism for bringing such liability are not regulated.

The Law of Ukraine [1] restricts the types of pension schemes that are allowed to be used by NPFs, in particular, there are no schemes with defined benefits. This prevents non-fulfillment of NPF obligations in case of insufficient pension savings to pay such pensions to fund members. It is clear that the investment risks are transferred directly to the fund participants.

Typically, legal restrictions on the structure of the NPF's investment portfolio are somewhat relaxed in the process of developing the pension system and improving the efficiency of the financial market, as such restrictions lead to a loss of investment income due to lost profits, which reduces future pension savings provided to funds.

In countries with developed capital markets and a culture of investment decision-making, the state supports only fundamental prudential restrictions and applies the "smart investor rule", according to which the manager must act as a smart and prudent professional who clearly understands financial matters, has sufficient experience and has appropriate level of education "[21]. On my opinion, the behavior of economic agents in such cases should be controlled by self-regulatory associations.

In Ukraine, there are the following self-regulatory organizations that control the activities of NPFs and institutions that manage funds: the National Association of Non-State Pension Funds of Ukraine and Administrators of non-state pension funds, Ukrainian Association of Pension Fund Administrators, Ukrainian Association of Investment Business, Professional Association of Capital Markets and Derivatives, etc.

The essential content of self-regulation is characterized by the development and definition of standards and rules for the services offered, as well as control over their observance, which is carried out to protect the interests of both members of self-regulatory organizations (SROs) and service consumers.

What caused the need for self-regulation? The answer to this question, on my opinion, is revealed through the identification of the main advantages of this process. These include:

- the elasticity of SRO norms in contrast to the state, and rapid adaptation to changes in geopolitical, socio-economic and political situations in the market;

- the possibility of influencing public authorities in order to position the professional interests of society by establishing a dialogue between government and business. Such influence is conditioned by participation in the development of bills, promotion of their representatives to elected bodies of state power, etc .;

- formation of a mechanism for pre-trial consideration of certain situations that arise between consumers of various financial services and financial institutions. According to a study of foreign experience, the implementation of such measures is more economical and efficient than the court procedure;

- introduction of best practices of professional regulation of the pension provision.

Thus, we can conclude that the functioning of self-regulatory organizations determines, including openness and social responsibility of NPF.

An important task is also the introduction of the institute of prudential regulation and prudential supervision of NPF activities, which is provided by the Concept of introduction of prudential supervision of non-bank financial institutions [22] and the Concept of prudential supervision of professional stock market participants [23]. At the same time, the key purpose of prudential supervision, first of all, is to prevent violations, not to apply administrative measures in the form of fines, suspension or revocation of licenses, etc. Given this, the regulatory system should be more flexible due to a set of measures, such as: increasing the requirements for large

NPFs; change of license conditions; transfer of part of functions from regulator to SRO; increasing the confidence of consumers of financial services, which are presented below (table 2.2).

Table 2.2

Generalization of measures, aimed at achieving flexibility of the regulatory system of the NPF [23]

№	The name of measure	Brief description
1.	Increased requirements for large NPFs	Formation of the basis of financial security for large players, which are more characterized by systemic risks, compared to the activities of large companies, which must comply with the minimum requirements. Due to this, the requirements for the amount of own funds of financial market participants will be differentiated depending on the chosen criterion.
2.	Change of license conditions	The regulator has the ability to control the quantitative and qualitative composition of participants, the level of competition in the market, as well as to establish criteria for entering the market of new players through the weakening or strengthening of licensing requirements. Note that given the current dynamics of consolidation of financial market players, we can predict a further trend of increasing licensing requirements and, consequently, reducing the number of participants by merging existing or terminating the activities of individual economic agents.
3.	Transfer of some functions from the regulator to the SRO	According to the analysis of foreign experience, it is positive to perform certain functions of the regulator is the SRO (for example, support of licensing procedures, certification of specialists, inspections of members of such self-regulatory organizations.
4.	Increasing the confidence of consumers of financial services	Activation of measures to increase the financial literacy of the population, change the taxation system in view of the growing attractiveness of investments in financial market instruments, identification and prevention of financial pyramids.

Summing up the above, it should be noted that in Ukraine, along with the development of NPFs, the system of state regulation of activities in the field of private pension provision, supervision and control over the activities of funds has been gradually improved. According to the results of scientific analysis, it is proved that the regulatory system should be more flexible due to carrying out a set of measures, such as: increasing the requirements for large NPFs; change of license conditions; transfer of part of functions from the regulator to SRO; increasing the confidence of consumers of financial services.

Areas of further research are to identify the benefits and risks of non-state pension funds in view of the globalization of the financial environment.

As of September 30, 2019, the State Register of Financial Institutions contained information on 64 private pension funds (hereinafter - NPFs) and 22 NPF administrators (for reference: as of September 30, 2018, there were 62 NPFs and 22 administrators in the State Register). [40]

The analysis of the activity of the private pension provision market was conducted on the basis of the submitted reporting data as of September 30, 2019.

The main indicators of NPF activity, according to the submitted reporting data, and their growth rates are given in table 2.3.

Table 2.3

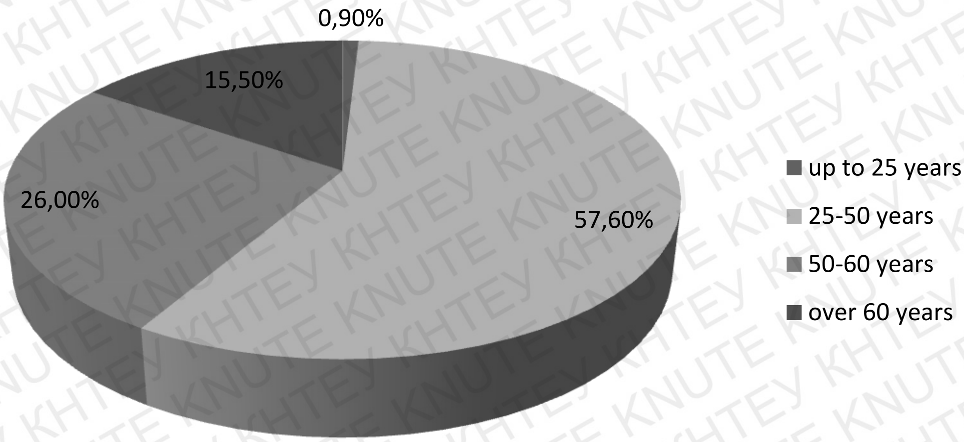
Dynamics of the main indicators of non-state pension funds [40]

Indexes	As of 30.09.2017	As of 30.09.2018	As of 30.09.2019	Growth rates,%	
				2017/2018	2018/2019
Number of concluded pension contracts, th. units	68,4	66,3	74,7	-3,1	12,7
The total number of NPF participants, th. people	840,1	848,8	868,7	1,0	2,3
Total value of NPF assets, UAH mln.	2 326,8	2 651,3	2 977,9	13,9	12,3
Pension contributions, total, UAH mln.	1 972,7	1 964,2	2 112,6	-0,4	7,6
including:					
- *from individuals*	122,3	153,1	208,7	25,2	36,3
- *from persons-entrepreneurs*	0,2	0,2	0,2	0,0	0,0
- *from legal entities*	1 849,5	1 810,4	1 903,1	-2,1	5,1
Pension payments, UAH mln.	711,5	781,5	912,9	9,8	16,8
Number of participants who received / receive pension payments, th. people	84,0	80,8	83,8	-3,8	3,1
Amount of investment income, UAH mln	1 318,3	1 667,2	2 038,7	26,5	22,3
Income from investing the assets of a private pension fund, UAH mln.	1 037,5	1 355,3	1 665,7	31,0	22,9
Amount of expenses reimbursed from pension assets, UAH mln.	283,8	311,9	373,0	9,9	19,6

As of September 30, 2019, administrators of non-state pension funds have invested 74.7 thousand units. pension contracts, which is 12.7% (8.4 thousand) more than as of September 30, 2018.

The total number of depositors for the period from 09/30/2018 to 09/30/2019 increased due to an increase in the number of depositors of individuals by 15.5%.

As of September 30, 2019, the vast majority of NPF participants were persons aged 25 to 50, namely 57.6%, and persons aged 50 to 60, which amounted to 26.0%. The share of NPF participants in the age group over 60 years was 15.5%, in the age group up to 25 years - 0.9% (Pic 4)



Pic. 4. Distribution of NPF participants by age groups

Source: built by the author on the basis of [40].

As can be seen from Table 2.4, in each age group the majority are men, namely 57.8% of the total number of NPF participants. Moreover, in the age group older than 60 years, their number exceeds the number of women by 1.9 times.

Table 2.4

The number of participants in the NPF by gender in terms of age groups [40]

Age group	Units of measurement	Women	Men	Total	Specific weight from age category,%	
					W	M
up to 25 years	Th.people	3,2	4,4	7,6	42,1	57,9
25-50 years	Th.people	214,6	586,2	500,8	42,9	57,1
50-60 years	Th.people	102,9	123,2	226,1	45,5	54,5
over 60 years	Th.people	46,1	88,1	134,2	34,4	64,5
Total	**Th.people**	**366,9**	**501,8**	**868,7**	**42,2**	**57,8**

Thus, government regulation on the one hand, comprehensively covers almost all essential aspects, and on the other hand - provides almost none guarantees [37]. Among the issues that should be further monitored state, there is a level of participation of the population in the third level of pension provision. Exploring the world experience of the refinery, it was found that for the effective functioning of the system refineries are private savings schemes must cover at least a third economically active population. This level will provide sufficient revenue funds in the system for effective investment and opportunities to diversify the investment portfolio.

At the end of 2019, the working age population was about 25 million people, of whom about 17 million were economically active. The number of participants in the private pension system at the end of 2019 is only about 868.7 thousand people, ie only about 3%. [38, 39, 40]

The practical implementation of this issue must be implemented by legislative consolidation of the participation of employees of enterprises large and medium business in pension schemes from enterprises where part of the pension contribution will be paid by the enterprise - employer, the other is actually the employee himself. Also to participate in the non-governmental system pension workers should also be involved in the budget sphere, which make up a significant part of the economically active population countries.

Another important aspect of state regulation of the system non-state pension provision should be a restriction on investing assets in government debt securities, which today day serve as a source of covering the budget deficit of Ukraine, and vice versa, it is necessary to expand opportunities for investment in income securities foreign enterprises.

The next indicator that characterizes the activity of the private pension system is the level of profitability of invested pension assets. There are different approaches to scientists guaranteeing the minimum return on assets. According to the first approach: guarantee of profitability not lower than 0%, according to the second approach, the yield should be not less than the inflation rate in the country to protect pension funds from depreciation. According to the third approach, there should be a guarantee of profitability not less than at the level growth of economic welfare of the population (at the level of growth of gross domestic product).

Of course, to legislate the level of pension profitability assets is impossible, as impossible and predicted such an indicator.

On my opinion, it would be more appropriate to set requirements for return on investment at least at the level of the NBU discount rate, adjusted using the "Taylor rule", which takes into account the level of inflation, and the rate of change of gross domestic product. Examining trends in the economy, it was concluded that the discount rate is rising 1.5% with an increase in inflation by 1% and decreases by 0.5% when reducing the growth rate of gross domestic product by 1%.

Thus, the minimum profitability must be calculated according to formula 1:

$$K_{min} = DR_c = DR_b + 1{,}5P_i - 0{,}5T$$

where K_{min} - minimum return on pension assets;

DR_c– NBU discount rate calculated in accordance with the Taylor's rule;

DR_b– average annual discount rate of the NBU;

P_i– inflation rate, %;

T – the rate of change in GDP for the year.

The real profitability calculated in this way will allow:

- to investigate the effectiveness of the functioning of the private pension system;
- determine the effectiveness of investing pension assets in the past periods, comparing it with statistics;
- monitor the efficiency of investing pension assets in the current and future periods;
- on the basis of the received results of activity on separate NPF to make the corresponding administrative decisions.

Of course, to legislate the level of pension profitability assets is impossible, as impossible and predicted such an indicator.

It is worth evaluating the effectiveness of investing for each NPF, which will identify troubled assets or pension funds in in general. But it should signal a review of investment policy for the AMC, the administrator and the Board of the Fund. If such a trend will be maintained during the next year, the issue should be considered on liquidation of the fund with subsequent transfer of pension assets to another NPF or AMC change.

Of course, to ensure compliance with the requirements of the minimum need, the fund may create a reserve or insure pension assets in case the actual income from its investment activities is lower than the minimum rate of return, but it is in will eventually become a burden to the members of the foundation themselves in the form large commission payments, which will reduce the balance on pension accounts [41]. Therefore, this indicator should primarily be used as an indicator that responds to crisis situations in the development of NPF.

Let's analyze the refinery system, using the minimum yield (Table 2.5). Given that the discount rate of the National Bank of Ukraine changed in 2012-2020 during the year, it is more appropriate to use the average annual discount rate of the NBU as a basis for calculating the minimum yield of NPFs.

Table 2.5

Analysis of the development of the private pension system taking into account the indicator of the minimum return on assets [42,43,44]

Index	Year								
	2012	2013	2014	2015	2016	2017	2018	2019	2020
Average annual discount rate of the NBU,%	7,56	7	12	22,5	15,7	13,16	17,12	16,3	9,7
GDP change rate,%	0,2	3,16	7,13	20,8	-11	40,2	16,18	10,04	-15,4
Inflation rate,%	-0,2	0,5	24,9	43,3	12,4	13,7	9,8	4,1	2,7
Minimum return on invested assets,%	7,16	6,17	45,78	77,05	28,8	13,61	23,73	17,43	6,05

Having studied the refinery system taking into account the minimum profitability indicator and thus determining the real profitability adjusted on the growth rate of gross domestic product and inflation, we can conclude that in general since the beginning of the return on assets was high (except for the crisis years 2014-2016), much higher than the minimum necessary to cover the inflation gap and ensure profitability at the level of economic increasing the welfare of the country. Thus, the system of private pension provision today provides profitability, which covers the depreciation of funds.

Regarding the application of this indicator for an individual NPF, then it should be noted that the comparison of the return on assets of each individual fund in dynamics will allow to estimate its efficiency and reliability, which has a significant impact on the choice of a fund to invest funds.

PART 3. WAYS TO IMPROVE THE REGULATION OF PRIVATE PENSION FUNDS

3.1. Implementation of foreign experience in regulating the activities of private pension funds

In the architecture of pension systems in developed countries, NPFs act as institutions of their three main components: systems of compulsory accumulative, professional and private pension provision. Most OECD countries operate separate forms of compulsory or quasi-compulsory private pension systems to ensure high coverage. Thus, professional pension systems cover almost 70% of the working age population in Finland, Iceland, Norway, Switzerland, and more than 60% in Denmark, the Netherlands and Sweden. [24]

Mandatory savings systems are also common in Latin America and Central and Eastern Europe, where they have partially replaced social benefits. Such systems operate in Estonia, Chile, Mexico, Poland, the Slovak Republic, as well as in OECD countries such as Denmark, Israel and Sweden. The development of voluntary pension funds varies from country to country. Thus, more than 50% of citizens aged 15-64 are participants in the NPF of the Czech Republic, New Zealand and the USA. On the other hand, the coverage of NPFs is very low (less than 5%) in countries such as Greece, Luxembourg, Portugal and Turkey. To some extent, this situation can be explained by the adequacy of the state pension insurance system. Voluntary participation of the population in NPF is quite low in Mexico (1.9%) and Poland (1.3%), however, the mandatory funded pension system is successfully operating in these countries. The experience of Italy, New Zealand and the United Kingdom, which use the approach of automatic inclusion of employees in private pension funds at the national level, is interesting. As a result of this practice, the "KiwiSaver" system covers 64% of the working population of New Zealand [24].

Thus, the funded pension system (both mandatory and voluntary) today provides a significant share of pension income of citizens of many countries. This is confirmed by the fact that private spending on old-age benefits in some OECD countries is 4-6% of GDP [25]. NPFs of foreign countries are characterized by various forms of functioning, which determines their rich species structure (App. AF).

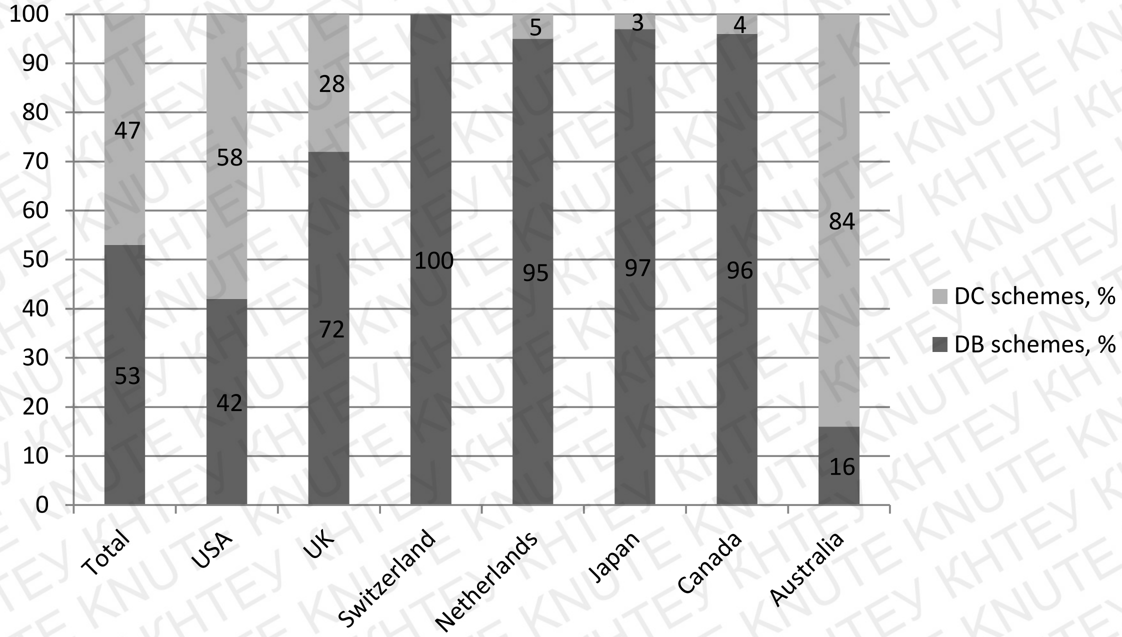
On the basis of legal status, NPFs are classified according to the following criteria: legal form, legal regime of pension funds, features of the implementation of legal personality, the nature of participation in pension funds, types of pension schemes. According to the legal title that determines the ownership of pension assets to participants, institutional-type pension funds are created in the following forms:

1) corporate - pension assets belong to participants with a certain title (Hungary, Italy, Switzerland, Mexico, Austria, Czech Republic);

2) founding - participants receive the right to income from investing pension assets, the legal title of which they do not have, and the income of the pension fund (Denmark, Finland, the Netherlands, Sweden);

3) trust - the assets of the pension fund belong to the trustees who manage it, on the rights of trust property (Australia, Canada, Ireland, New Zealand, Great Britain, USA) [3].

Contractual pension funds can be created individually, when participants are entitled to pension assets (Poland, Portugal, Spain, Italy), and collective, in which they receive a return on investment of the fund's assets (Korea, Japan). Characterizing NPFs by types of pension schemes, it should be noted that currently pension schemes with defined contributions (DC) account for 47% of pension assets, with defined benefits (DB) - 53% [26]. The ratio of DC and DB circuits differs significantly in different countries. For example, in Chile, the Czech Republic, Hungary, Poland, and Slovakia, all pension funds are classified as funds with DC schemes, while DB schemes dominate in Canada, Finland, Germany, Korea, Japan, and Norway. In recent years, the trend of transition to pension schemes with fixed contributions has accelerated, as evidenced by the excess of growth rates of assets of such funds over the indicators of funds with fixed benefits - 8.8% and 5% per annum, respectively. The ratio of pension funds by types of pension schemes for the seven largest pension markets in the world shows Pic. 5.



Pic. 5. Distribution of NPFs by types of pension schemes in 2018

Source: built by the author on the basis of [26].

Analyzing the private pension provision by type of financial intermediary, it should be noted that autonomous pension funds are the main subjects of private pension financing in Israel and account for more than 90% of total assets in countries such as Australia, Austria, Finland, Iceland, Mexico and Portugal. . On the other hand, in Denmark, France, Korea and Sweden, the largest share of total pension assets is accounted for by pension insurance contracts [25]. As of the end of 2013, the pension assets of the 13 largest pension markets amounted to 31.980 billion. dollars (78.8% of GDP), which is 9.5% higher than the previous year. Such markets include the pension systems of thirteen countries, including Australia, Brazil, Britain, Hong Kong, Ireland, Canada, the Netherlands, Germany, South Africa, USA, France, Switzerland, Japan [26]. As shown in Fig. 3, the volume of pension assets in relation to GDP differs significantly between countries, the leader among which is the Netherlands (170%). On average in 2013, the total amount of pension assets increased by 7.8% and amounted to 83.4% of total GDP.

From the point of view of the geographical distribution of pension fund assets, the undisputed leader remains the United States, whose pension assets account for 53.4% of their total. The United States is followed by Great Britain - 10.7% and

Japan - 6.7% [26]. The investment structure of pension funds at the end of 2013 was as follows: shares - 52%, bonds - 28%, cash - 1%, other assets - 18%. The scheme of distribution of assets for the period since 1995

Until 2013, it underwent some changes: the share of assets invested in stocks, bonds and cash showed a declining trend, while the share of assets invested in other financial instruments increased from 5% to 18%. The reasons for this situation lie in the greater riskiness of stocks and bonds in conditions of uncertainty and significant market volatility.

Areas of investment of pension assets are also differentiated by country. Thus, pension funds in the Netherlands, Japan and Switzerland prefer conservative investment strategies, investing a significant share of assets in bonds, cash and other assets. The opposite strategy is demonstrated by the funds of the United States, Great Britain, Australia and Canada, the lion's share in the structure of assets of which belongs to shares. Thus, 57% of pension assets in the United States are invested in stocks.

Rational use of the investment potential of NPFs requires the construction of an effective system of regulation of their investment activities. In the practice of countries with developed pension systems as the main methods of portfolio regulation, as a rule, qualitative portfolio restrictions (rule of reasonable behavior), quantitative portfolio restrictions and their combination are used [27].

The uneven development of private pension provision in different countries can be explained by different conditions of access of employees to private pension funds, as well as differences in the set of incentives and alternatives offered to them. Given the small scale of NPF development in many countries, including Ukraine, the world practice has developed the following mechanisms to increase private participation in pensions: automatic inclusion, financial incentives, financial and educational programs, simplification of services, the possibility of withdrawing pension savings.

One of the obstacles to the development of NPFs is the problem of inertia and procrastination of people in the formation of savings for the future. The world practice for solving this problem is the approach of automatic inclusion of employees in the accumulative pension programs, but only on a voluntary basis (there is a possibility to withdraw from the program at any time). Experience has shown that even if employees retain their freedom of choice, the automatic inclusion in the pension program is critical important for stimulating their participation in private pension provision.

Today, tax benefits are the main tool for stimulating citizen participation in the private pension system. However, for middle- and low-income people, its benefits are almost imperceptible. Therefore, in order to financially stimulate citizens in some countries, subsidies to individual pension accounts are used at the expense of employer or state contributions. Relevant contributions can cover all participants in the pension system (New Zealand) and some of their categories, such as low-income people (Australia) [25].

Involvement of citizens in private pension systems is also facilitated by financial education programs, which aim to motivate employees to participate in pension programs, as well as to assist in making appropriate decisions and making choices.

In countries with voluntary pension systems, the creation of pension funds within small companies is often hampered by the associated administrative costs and the burden of administrative regulation. To solve this problem, the United States has simplified pension plans, and in Canada - the so-called joint pension plans. In both cases, they are managed by financial institutions and are designed to stimulate retirement savings among small businesses and employees of small businesses [25].

The main disadvantage for participants when investing in private pension funds is the impossibility of withdrawing them until retirement. However, different options for participants' access to their own savings may be offered, for example, to cover the cost of medical care or children's education.

The above measures can increase the attractiveness of NPFs for both employees and employers, and therefore can be used in domestic practice.

Thus, private pension provision is now an integral part of the national pension systems of different countries. Based on world experience, in order to stabilize the domestic pension system and stimulate economic development, the use of the potential of NPFs is essential.

In foreign practice, the structure of supervisory bodies often has the following form (Appendix E): the sectoral structure of supervisory bodies, the concentration of all functions within one body, a mixed model.

The sectoral model of supervision is more inherent in countries that developing, natives of the former Soviet Union. This is usually countries with underdeveloped financial services market, securities market papers. Supervision in this model is carried out by two or more bodies activities of various financial institutions. An example of such a model today is and Ukraine. The disadvantage of the sector model is the scattering of functions and responsibility, which leads to a number of problems with management, supervision, responsibility and control in the system.

Another option for regulating financial services markets is mixed model (Twin Peaks). This model is typical of Austria, Estonia, Romania, Moldova, Great Britain. With this model, the function of prudential supervision in the financial sector is entrusted to one body, with another body provides protection of the rights of consumers of these financial services. Actually control in these countries is transferred to the Central Bank, at the same time other governing bodies deal with issues of fair competition.

The last option for creating a mega-regulator is to concentrate everyone functions and their transfer to one body. An example of countries that apply this model is Canada, Finland, Japan, Singapore, South Africa, Denmark, Sweden.

After analyzing foreign experience in reforming the supervision system market of financial services, on my opinion, is the most appropriate for Ukraine the last option. Consider the advantages and disadvantages of implementation megaregulator in Ukraine.

The main expected advantages of the introduction of a megaregulator of the financial services market is as follows:

- avoidance of fragmentation in the legislation governing the activity financial institutions, inconsistencies in its provisions;

- increasing the effectiveness of state supervision over the activities of various financial institutions;

- reducing the level of competition between different financial institutions.

For example, between a private pension fund, an insurance company and the bank may compete for the same aspiring customer to accumulate funds for future pensions. Control by various entities regulations for each of them lead to competition benefits for everyone. And the introduction of a single supervisory body will allow put all market participants in similar operating conditions and reduce competitive tension;

- reduction of the expenditure part of budget funds, at the expense of combining the functions of several organs in one;

- increasing the level of competence of employees and reducing the cost of their retraining;

- reduction of reporting volumes and redirection to one body, the use of common approaches to the implementation of supervisory activities;

- strengthening the responsibility of the mega-regulator for the decisions made, implementation of activities on the basis of a single information, organizational, technical and regulatory support, the impossibility of avoiding responsibility by transferring it from one regulator to another;

- the ability to redirect financial flows to priority areas;

- more effective risk management, due to comprehensive monitoring of such financial products, which in principle do not are different and do not depend on who provides them.

However, there are also negative aspects to implementation megaregulator of the financial services market:

- the cost component will increase due to development funding appropriate regulatory framework, as well as the reorganization of existing ones state supervision bodies;

- during the transition phase, there may be risks of weakening state control over the activities of financial institutions, that, in its own in turn, may lead to destabilization of the financial services market as a whole;

- taking into account the peculiarities of domestic economic development at introduction of a megaregulator, centralization of all control functions and management in one body can provoke corruption component.

Thus, analyzing foreign experience, all positive and negative moments of creation of a megaregulator, it is possible to tell that association of all management functions has much more positive aspects than vice versa. Concentration of regulatory functions within one body will solve most of the problems of the market financial services and the private pension market.

Given the foreign practice, the existing trends of the domestic market financial services, existing bills, all functions are most appropriate to transfer to the body which is planned to be created in the near future - National Commission for Financial Supervision.

In the framework of the above, it is necessary to highlight the issues that need to be addressed pay attention when creating a megaregulator. First of all at transition principles of activity, organizational and legal form should be developed, personnel structure, powers and their scope, financing, management and subordination.

One of the important issues in the functioning of the mega-regulator in the market financial services of Ukraine is transparency and trust in the regulator that especially relevant today. In addition to the basic management functions, supervision and control should include the following: work towards support confidence in the financial system; understanding the advantages and disadvantages of investment activities of various institutes; ensuring the appropriate level of protection of rights consumers, control over the number of financial crimes and counteract them.

Particular attention should be paid to its personnel structure. One of tasks of the supervisory body should be effective management financial resources of financial markets, timely response to change market conditions, by redistributing financial resources from one sphere to another. In the development of personnel policy, as well as in recruitment the staff needs to focus on highly skilled employees with experience in this field and provide funding for the increase qualifications.

With regard to funding, given the situation in the country, the first stages of activities should be funded from the budget, with a gradual transition to self-sufficiency. A similar solution to the issue of accountability. If in the initial stages the megaregulator can obey The Verkhovna Rada, the President or the NBU, there should be a gradual transition to its independent functioning, in order to avoid pressure from the outside government agencies.

Thus transferring the functions of the regulator to the National Commission on financial supervision, it is possible to improve the situation in the financial market, c in the country's financial system as a whole, reduce the financial burden on budget and increase the confidence of the country's financial system.

Given that NPFs are relatively new entrants to the market, questions about certain aspects of their functioning remain today problematic and require regulation and monitoring by the state and regulatory authorities.

According to international experience, the reliability of private pensions funds is provided not only by constant and strict control by state, but also property liability, diversification of assets and their liquidity; a ban on investing pension funds in risk tools; delimitation of responsibilities of the fund, companies by asset management and bank (custodian); responsibility of the founders; annual independent audit and actuarial valuation of the fund; annual audit of the enterprises of NPF investors.

3.2. Directions of development of activity of non-state pension funds

The purpose of a private retirement savings system is to complement the compulsory state solidarity Pillar 1, and thereby contribute to a comfortable standard of living for the elderly. In Ukraine, the Pillar 1 net replacement rate of net insured average wage after taxes was an inadequate 42% in 2018 — up from 40% in 2017 — and it is likely to decline over the next 10–15 years due to demographic changes already well underway. Therefore, the Government should promote well-designed incentives for people to save for retirement while simultaneously taking steps to eliminate existing deficiencies and provide macroeconomic stability and growth.

Individual retirement savings have specific sector prerequisites. First, there needs to be adequate public understanding of, and trust in, private financial institution and instruments. Second, there have to be financial assets and financial markets to stimulate domestic investment and employment. Third, private sector administrative capacity is essential, given the considerable administrative requirements of funded pensions.

Currently, the private, voluntary Pillar 3 pension system in Ukraine is an impediment to saving for retirement. It is too costly and fails to deliver real rates of return. Its coverage of the population is miniscule and its acceptance by most Ukrainians minimal.

In the short term, given the time required to develop capital markets and suitable financial instruments for pension investment, the government should consider taxdeductible, voluntary, self-directed individual retirement savings accounts. These could be modeled on the simple IRA system of the United States. Legislation could be adopted to provide reasonable and limited financial incentives or tax advantages for IRA-type savings in bank deposits and sovereign bonds. Banks should be allowed to offer these financial products to small investors/savers at low fees. Withdrawals from voluntary pension savings such as IRAs should be allowed either after a certain age is reached, or a certain life event occurs, such as health problems or buying a home.

The Cabinet of Ministers could also establish new government inflation-protected financial instruments (GIPFI), with the principal adjusted according to the Consumer Price Index (CPI). GIPS could be issued in electronic form for terms of 5, 10 and 20 years, and offered in multiples of ₴1,000.

Over the longer term, the government should consider a quasi-mandatory Pillar 2 system with auto-enrollment, once it reforms the capital market. International experience suggests five elements that should drive the design of retirement savings systems:

1. Soft compulsion in the form of automatic enrollment and automatic

escalation of contributions can make funded DC pension systems more inclusive and help participants reach an adequate contribution level. They harness the power of inertia to keep people saving for retirement.

2. Well-designed default options help people who are unable or unwilling to choose a contribution rate, a pension provider, an investment strategy, or a post-retirement product.

3. Financial incentives are widely used to promote private pension arrangements as they exploit individuals' tendency to respond to immediate gratification. Autoenrollment should be combined with individual incentives such as employer and/or government contributions (see experience of UK, New Zealand, Georgia, Poland, and other countries in Appendix D).

4. Focus on costs that erode real returns of pension investments. Retirement plans for quasi-voluntary and mandatory systems should focus on controlling fees, meaning investment in various international index funds that track prominent indexes like the S&P 500, the Dow Jones Industrial Average, or other stock market indexes for developed countries (hence the name – index funds). The Government should pay more attention to the critical need to empower citizens through appropriate financial information and education, to ensure that people are adequately informed about their retirement savings and the options they have to improve their financial well-being after retirement. This education should begin in secondary school and aim at modifying attitudes and behavior regarding savings.

5. Simplified information and choice can help people make better choices. Easy-to-use web applications, a smaller set of options, better disclosure of information, and ease of comparison of options can achieve this.

Now in Ukraine, the legal mechanisms for protecting the rights of consumers of financial services are quite low. In addition, most such consumers are unaware of their legal rights. Accordingly, the low level of financial literacy of consumers provokes financial service providers to resort to unfair activities.

For the last eight years, none of the government agencies has taken care of the protection of the rights of consumers of financial services in Ukraine. As a result, in

2018 alone, the National Bank alone received more than 13,000 complaints from consumers outraged by the quality of financial services. At the same time, due to the lack of a relevant mandate, the NBU was unable to prevent abuse or take action against violators. [31]

The adopted Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning the Protection of the Rights of Consumers of Financial Services” (previously - Bill № 1085-1) [29] should change this. The document imposes obligations on the National Bank to protect the rights of consumers of financial services and provides it with tools to regulate the behavior of financial market participants in relation to customers. Thus, Ukraine will become the 120th country where the state will protect the rights of consumers of financial services. And the National Bank will become the 98th central bank in the world, which will implement this function.

One of the main innovations of the law is the mandatory disclosure of information about the real value of financial products and services. Also, the adopted Law will eliminate the imposition of unnecessary services by financial institutions, change of essential terms of contracts without notice or unilaterally, as well as the transfer of personal data to third parties.

The National Bank has already established a specialized unit - the Office for Consumer Protection of Financial Services, which will respond to consumer complaints, develop a regulatory framework, set requirements for transparency and accuracy of information disclosed by banks and non-banking institutions, conduct inspections of institutions.

The National Bank has also published a draft Concept for the Protection of Consumers' Rights in Financial Services, which proposes that banks be required to disclose accurate and complete product information on their websites and in advertising, and to develop convenient "calculators" to compare the cost of services. Within three months after the adoption of the Law, the NBU will issue regulations that will contain new rules for non-bank financial institutions that will reduce the frequency of violations.

Also The National Bank of Ukraine welcomes the decision of the Verkhovna Rada of Ukraine to support in the first reading and in general the draft Law of Ukraine "On Amendments to Certain Legislative Acts to Improve the Functions of State Regulation of Financial Services Markets" (previously Bill 1069-2). [30]

The adopted Law provides for the so-called "split" - the liquidation of the National Commission for Regulation of Financial Services Markets and the division of powers to regulate the financial market between the National Bank and the National Commission on Securities and Stock Market.

In particular, the National Bank will regulate insurance, leasing, financial companies, credit unions, pawnshops and credit bureaus, and the National Commission on Securities and Stock Market will regulate private pension funds and construction financing funds.

The law on "split" will help the country get a financial system that meets international standards. In particular, the adoption of this Law was one of the key requirements of Ukraine's international partners.

From July 1, 2020, the function of regulation and supervision in the funded pension system began to be performed by the National Commission on Securities and Stock Market (NSSMC).

In modern conditions, the most powerful lever for the development of private pension funds may be the introduction of a mandatory funded pension system (Accumulative Fund) and an occupational pension system, involving NPFs in the maintenance of mandatory pension savings on an economically sound basis. The experience gained by the participants of the mandatory components of the funded pension provision will contribute to their further involvement in the implementation of voluntary pension savings at the third (non-state) level of the pension system, in particular in the NPF.

At the same time, the state should provide an example of “social responsibility” for employers by introducing additional non-state pension provision programs for their employees in public sector enterprises and joint-stock companies in which the state is the controlling owner. As a result, we can expect accelerated deshadowing of household incomes, in particular, wages, an increase in sources of pensions and an increase in the level of employment income in old age, as well as the formation of a powerful source of investment resources to finance national economic development.

CONCLUSIONS AND RECOMMENDATIONS

The study showed that today in Ukraine a solid basis for regulating the functioning of private pension funds has been formed.

1. Non-state pension fund is defined as a financial institution established in the form of a legal entity with the status of a non-profit organization, the main purpose of which is to accumulate depositors' funds in individual pension accounts, increase them through investment income from effective investment activities and implementation of account of the accumulated funds of additional pension payments to participants who have reached retirement age.
2. According to the results of the study of non-state pension funds, positive trends in their development were identified: an increase in the number of participants and an increase in the value of assets. At the same time, the analysis of the net asset value of NPFs showed low growth rates (in some NPFs - a decrease), which indicates the low efficiency of investment activities.
3. The activity of non-state pension funds and the level of distribution of accumulative pension programs among the population are influenced by a large number of factors. In particular, the negative factors hindering the development of refineries in Ukraine are low incomes, high inflation and inflation expectations, GDP dynamics, hryvnia devaluation, unstable political situation and high distrust of financial institutions.
4. The development of a strategy for state regulation of the refinery system requires improving the structure of supervisory bodies by introducing a mega-regulator in the person of the National Financial Supervision Commission, which will strengthen the responsibility of the supervisory body and avoid "breaking the

supervision" of entities providing such services.

5. A scientific and methodological approach to assessing the activities of NPFs by calculating the real weighted average rate of return on assets is proposed. This indicator is an indicative indicator for assessing the effectiveness of funds.

Thus, domestic legislation provides a set of measures aimed at ensuring the protection of financial interests of NPF participants, which include:

- State regulation, which provides for the implementation of authorized public authorities measures to streamline the activities of NPF to protect the interests of fund participants. First of all, state regulation consists in the formation of the legislative and regulatory framework governing the activities of NPFs and the implementation of state supervision over its observance by the funds.

- Establishment of provisions of the domestic legislation directed on protection of financial interests of participants of funds: the status of NPF as the nonprofit organization; impossibility of declaring bankruptcy and liquidation under bankruptcy legislation; delegation of authority for asset management, administration and safekeeping of assets to other institutions; prohibition of pension schemes with established amounts of payments and with lifelong payment of pensions; acquisition of pension contributions immediately from the moment of their crediting to the individual pension account of the participant; limited use of pension savings; establishment of marginal tariffs for services for servicing the activities of NPFs.

- Formation in Ukraine of a full-fledged system of prudential supervision over the functioning of NPFs. Provisions of domestic legislation already contain some rules of prudential regulation of funds: the status of NPF as a non-profit organization; impossibility of declaring bankruptcy and liquidation under bankruptcy legislation; delegation of authority for asset management, administration and safekeeping of assets to other financial institutions; prohibition of pension schemes with established amounts of payments and with lifelong payment of pensions; acquisition of pension contributions immediately from the moment of their crediting to the individual pension account of the participant; limited use of pension savings; establishment of marginal tariffs for services for servicing the activities of NPFs.

However, the considered legal bases of functioning of non-state pension funds testify that at the present stage of development there are certain legislative conflicts and problems, in particular in the context of definition of categorical and subjective structure. There is also a need to use a single approach in regulating the legal status and activities of private pension funds according to the norms of various regulations. It was suggested:

1. In the legislative definition of the essence of non-state pension funds to provide for the role of the two main subjects of non-state pension provision in Ukraine - participants and depositors. The proposed proposal is necessary in order for the essence of non-state pension funds defined at the legislative level to clearly regulate the range of participants in legal relations in the field of non-state pension provision;

2. Separate legislative consolidation of the status of non-state pension funds, which would be unified and uniform in accordance with civil and commercial legislation. This can be done through the introduction in civil and commercial law of a separate form of entities - non-profit funds. This innovation will make it possible to lead to uniform rules of the current legislation to avoid conflicts and different approaches in the interpretation of the legal status of private pension funds;

3. Make changes to the definition of the category of "professional pension funds" and give them the status of non-state. This is necessary for clear regulation of their status as non-state, as only the Pension Fund of Ukraine has the status of state, and others are non-state.

An imperfect level of legislative support for the regulation and control of the activities of non-state pension funds in Ukraine was identified, and problems with communication and exchange of information between various state regulatory bodies involved in this area were noted. On my opinion, it is necessary to regulate the system of clear interaction (communications) between various state regulatory bodies in this area for effective control of the activities of the studied subjects. It is also possible to offer a check on the division of functions and tasks of these controlling bodies to identify duplication of powers.

Given the foreign experience, it should be noted that since Ukraine is a country with an unstable economy, the lack of an effective legal framework, high political risks, the introduction of scientific and practical justification and an effective system of restrictions on the investment of pension assets, which can be flexible in accordance with changes and dynamics of the financial market, becomes especially important. As the established legal system of investment restrictions may not correspond to the trends of the financial market and may affect the loss of solvency and profitability of the private pension fund, it should be revised in the light of changes in the financial market.

As prospects for further exploration (research) in this area, it should be emphasized the need to justify and create a full legal framework for institutions operating in the field of private pension provision; elimination of the so-called "legal vacuum" in this area; bringing the activities of existing non-state pension funds in line with the law, and thus reducing the risks of non-fulfillment of their obligations to citizens.

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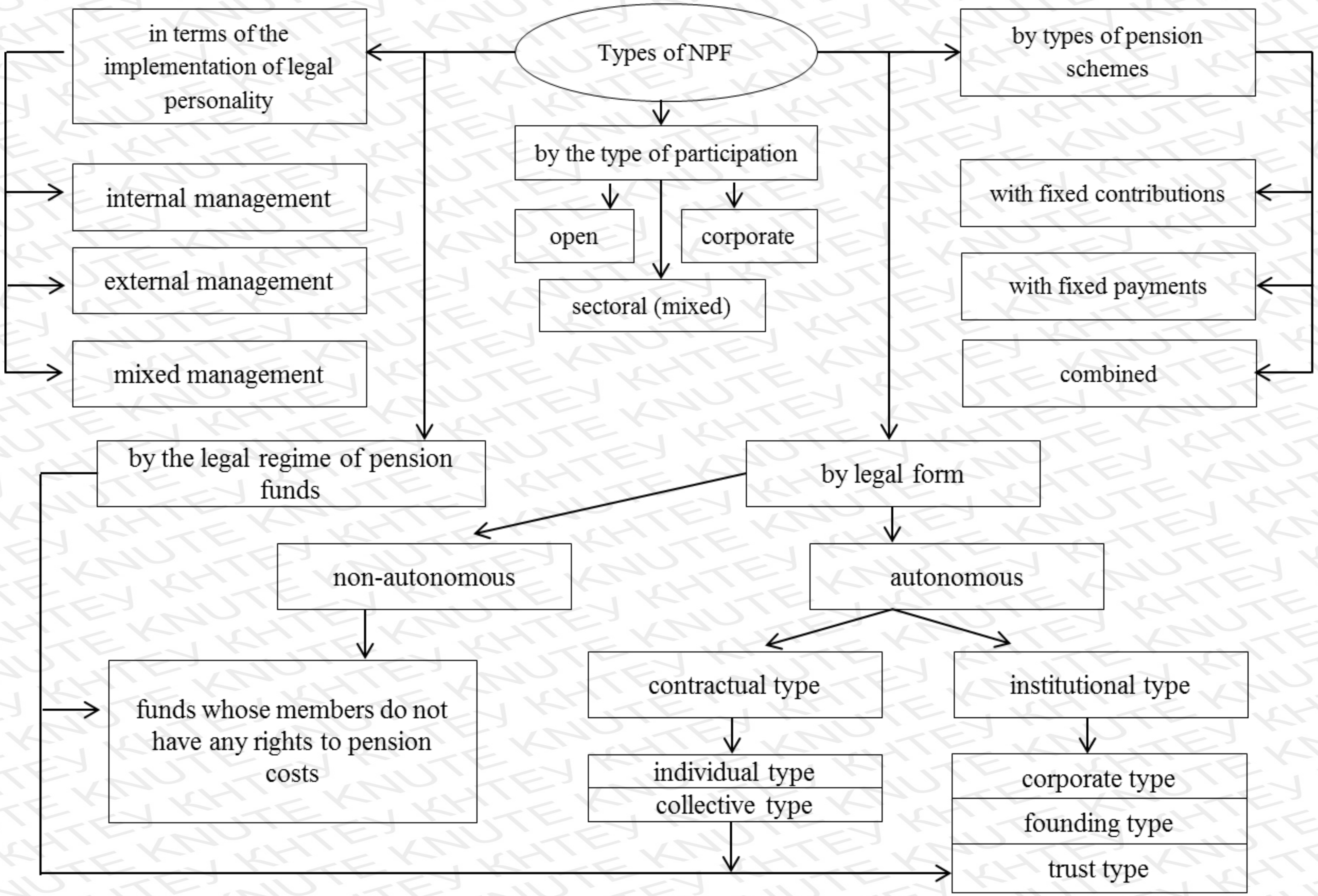
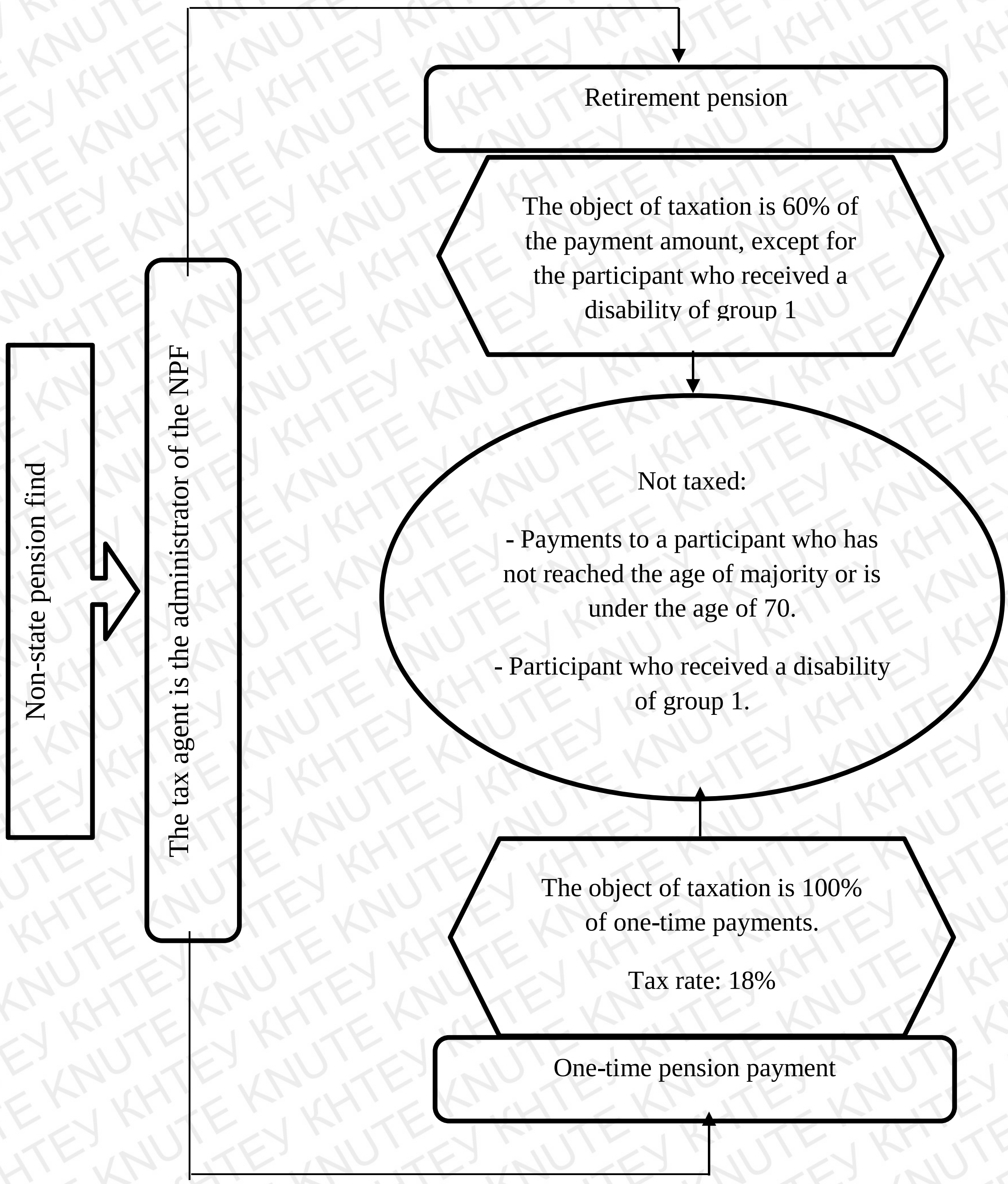
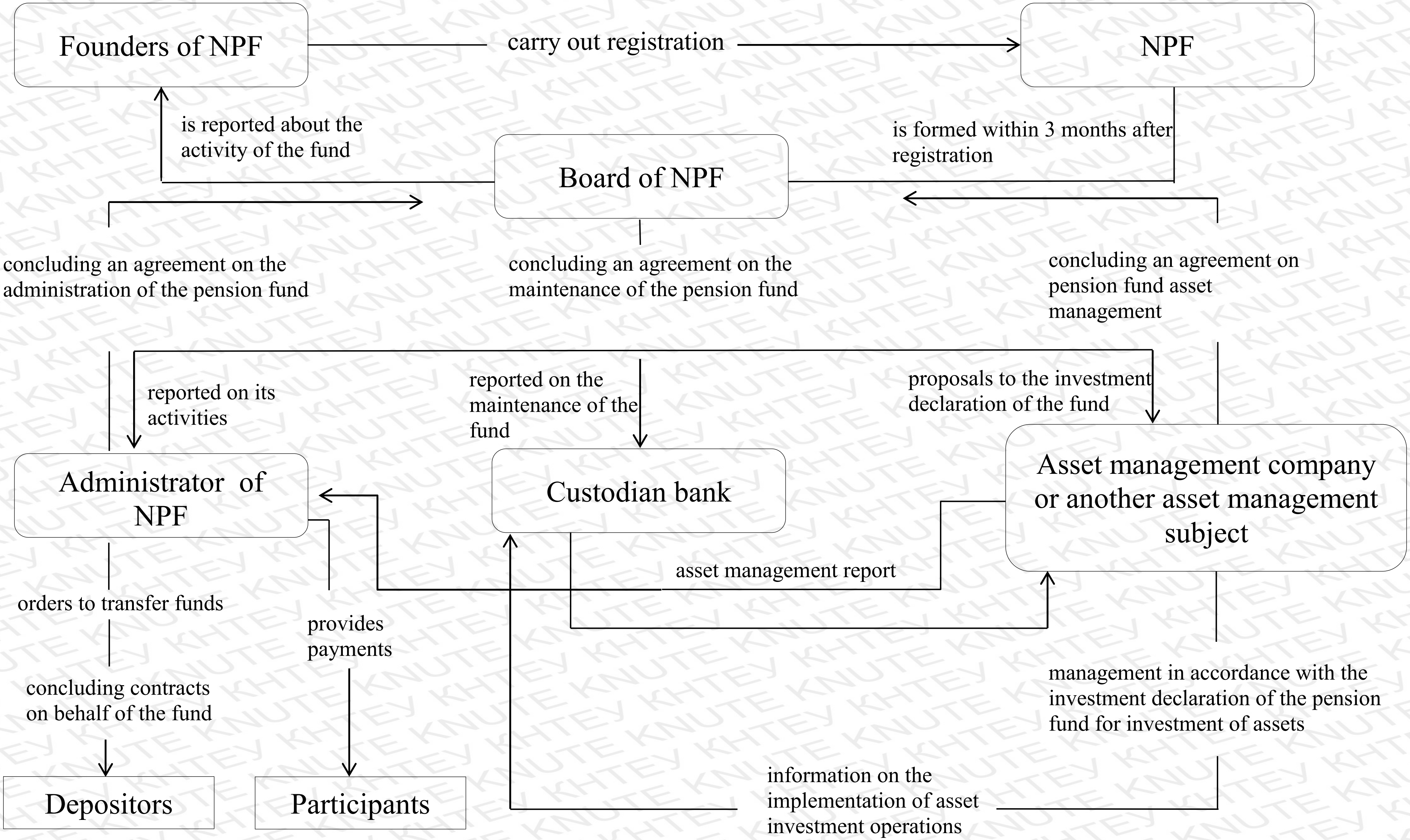


Appendix A. Classification of NPF types in foreign practice[3]



Appendix B. Features of taxation of payments of NPF participants

Source: built by the author on the basis of [19]



Appendix C. Scheme of functioning of the Non-state pension fund [1]

Appendix D. Countries with Automatic Enrollment Retirement Individual or Corporate Plans and Those Planning Auto-Enrollment Over Next Few Years [33,34,35]

Country	Auto-enrollment launch date	Overview
Already introduced auto-enrollment		
Australia[33]	1992	When it was first implemented in 1992, all employers had to contribute a minimum of 3% of annual salary to their employees' superannuation accounts. Under legislation passed in 2012, this is set to rise to 12% by 2025. In 2019, employers should be paying at least 9.5% of an employee's earnings towards their superannuation accounts. There is no required employee contribution. If a participant is a low or middle-income earner (earns less than $52,697 in the fiscal year of 2018/19) and makes a personal (after-tax) contribution to his Superannuation fund, the Government will also make a contribution (called a co-contribution) from a minimum of $20 up to a maximum of $500. The amount of the Government cocontribution a person will receive depends on his income and personal, rather than the employer's, contribution.
United States	2006	The Pension Protection Act (PPA) of 2006 introduced fiduciary and tax incentives to encourage broader adoption of automatic enrollment in individual retirement plans, automatic savings increases, and balanced investment approaches. PPA brings about the most significant changes that have been made for pension plans since the Employee Retirement Income Security Act of 1974 (ERISA).
Italy	2007	All workers employed in the private sector in the first half of 2007 must be enrolled, subsequently, all new employees. Opting out is possible within a window of 6 months. Employer contribution: 6.91% of gross salary to be paid into the pension funds, replacing the obligation to pay the same amount at the end of the employment relationship as severance pay.

New Zealand[35]	2007	Employees aged 18–64 are auto-enrolled into their employer's "KiwiSaver" pension scheme, with the option to opt out within four weeks. Membership is not compulsory but, where employees contribute, employers have to make compulsory contributions of 3%. Employees can choose to contribute either 3%, 4% or 8% of pre-tax pay. If they don't choose an amount, the default is 3%. After the first 12 months of membership, automatically enrolled workers can stop contributing for a minimum of 3 months, up to 5 years at a time for any reason.
United Kingdom[35]	2012	Under the National Employment Savings Trust (NEST), the workplace default pension plan is set up by government. The minimum contribution was introduced in 2012 at 2% of a worker's pay, raised to 5% in 2018 with employee contributions of 2.5%, employer contributions of 2%, and state tax relief of 0.5%. As of April 2019, the total contribution was increased to 8%: employee 4%, employer 3% and 1% limited tax relief.
Turkey	2017	All employees, but not the self-employed, up to age 45 are automatically enrolled by their employers and required to contribute a minimum 3% of their gross salaries. Employers are not obliged to make an additional contribution on behalf of workers. Despite a stated two-month opt-out period in the system, participants can cancel their membership at any time without any penalties on their contributions.
Lithuania	January 2019	Auto-enrollment for employees under 40, with the right to opt-out until June 30, 2019; afterwards, with the right to opt-out once every three years until the person reaches the age of 40. Participants over 40 can contribute to Pillar 2 system voluntarily. Future new participants under 40 will have the right to opt-out before June 30 during the year of the auto-enrollment. If a person does not optout within the deadline, then he becomes a participant in the accumulation system. Contributions: employees - 4% of earnings, plus 2% of the average wage from the Government (state budget). In the future, if nominal earnings increase, the contribution rates may

		be changed to: 3% from participant + 1.5% from the Government (budget).
Countries that announced auto-enrollment over next few years [34]		
Georgia	January 2019	The auto-enrollment system is mandatory for all employees up to the age of 40 as of August 2018, and voluntary for men over 60 and women over 55. Those who reached the age of 40 before the accumulation law took effect can opt out within five months of enrollment as a participant (receiving the first salary after the law takes effect), but no earlier than three months. Participation is also voluntary for the self-employed, more than half of Georgia's workforce, who pay in 4% of their earnings. Employees and employers each pay a contribution of 2% of pre-tax wages. The state adds a further 2% for those earning less than GEL24,000 (€8,130) a year, and 1% for those on GEL24,000-60,000, leading to a combined rate of 6%.
Ireland	2020	Final design still under consultation. Under current proposals, employees would start by contributing 1%, increasing to 6% by 2028; employers would match these contributions. The state will add €1 for every €3 put into the pension by employees.
Thailand	Originally scheduled for 2018 but delayed	Contributions start at 3% for both the employer and employee. Expected to increase gradually over a 10year period to 10% for both employer and employee.

Appendix E. The system and regulatory bodies of the financial market functions in foreign practice [45]

Supervision model	Country	Supervisors
Sectoral	Slovenia	National Bank of Slovenia Insurance Supervision Agency Securities Market Agency
	Uzbekistan	Central Bank of the Republic of Uzbekistan Center for Coordination and Development of the Securities Market at State Committee of the Republic of Uzbekistan for Privatization, demonopolization and development of competition State Inspectorate for Insurance Supervision at the Ministry Finance of the Republic of Uzbekistan
	Kyrgyzstan	National Bank of the Kyrgyz Republic State Service for Financial Regulation and Supervision market of the Kyrgyz Republic
Mixes	Australia	Australian Prudential Authority Australian Investment and Securities Commission
	Moldova	National Bank of Moldova National Financial Market Commission
	Romania	National Bank of Romania Financial Supervision Authority
	Estonia	Bank of Estonia Financial Supervision Authority
	UK	Central Bank Office of Financial Regulation and Supervision (Financial Services Authority)
Megaregulator	Canada	Inspectorate for Supervision of Financial Institutions (Office of the Superintendent of Financial Institutions)
	Singapore	Monetary Authority of Singapore (Monetary Authority of Singapore)

	Denmark	Federal Service for Financial and Budgetary Supervision (Financial Supervisory Authority (Denmark))
	Japan	Financial Services Agency

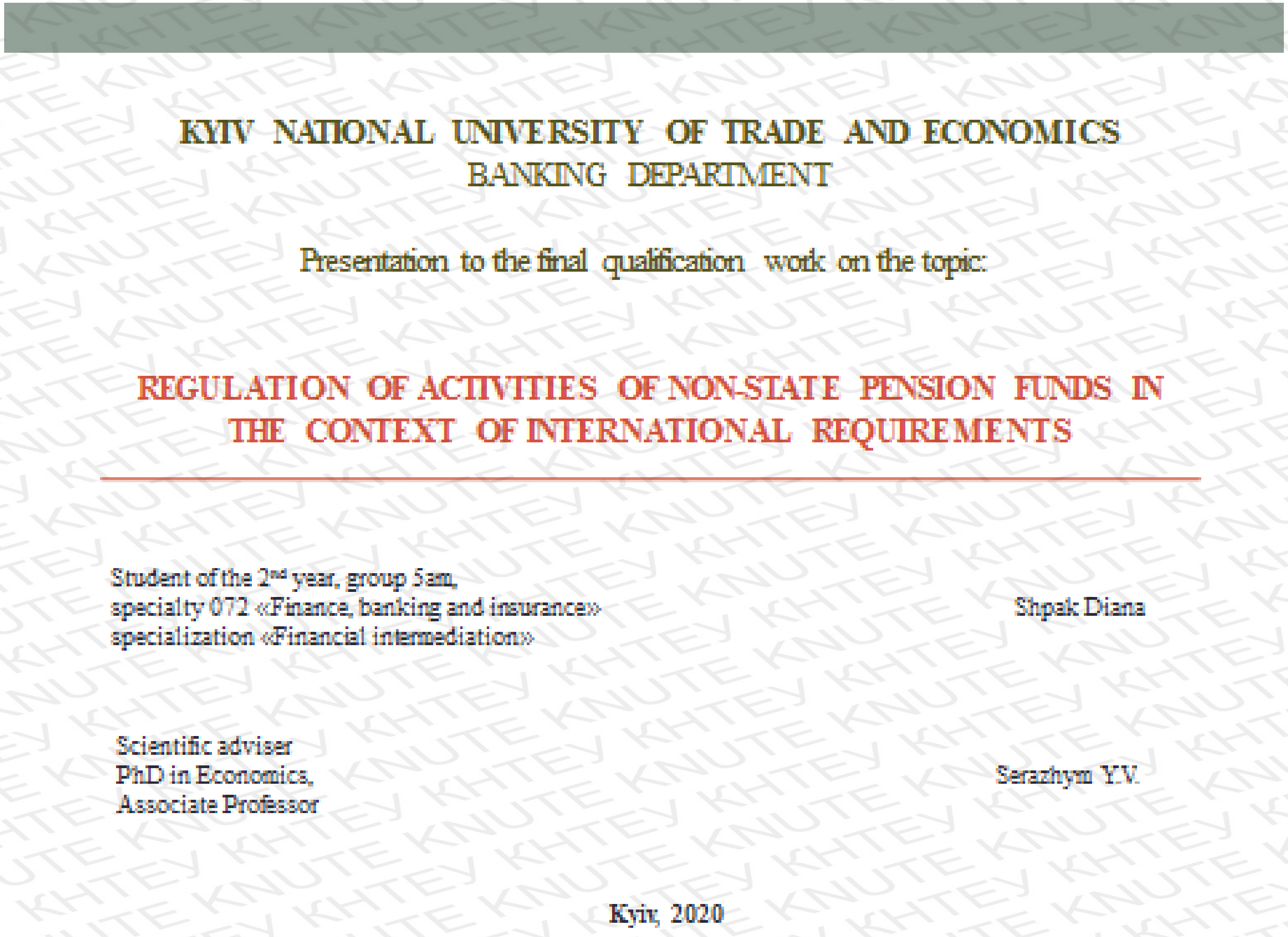


Fig. F.1.1 Presentation for the defense, Slide 1

Continuation of appendix F

Approaches of scientists to the interpretation of the essence of NPF

Scientist	Scientists' approaches to interpretation the concept
Y. Vitka	considers NPF as a non-profit social security institution
E. Sukhanov	notes that "the activities of such funds are related exclusively to the commercial use of citizens' funds and the distribution of income received between them"
N. Istomina	characterizes NPF as a financial institution with status collective institutional investor.
K. Chursina	submits NPF as social, intermediary, savings, investment and insurance institute
A. Talykova	characterizes NPF as financially independent and self-sustaining specialized non-bank financial and credit institution

Fig. F.1.2 Presentation for the defense, Slide 2

Continuation of appendix F

The bodies of state regulation of NPF activities and institutions that manage funds include:

National Commission for State Regulation of Financial Services Markets (up to July 2020);

National Securities and Stock Market Commission

National Bank of Ukraine

The Antimonopoly Committee of Ukraine

Fig. F.1.3 Presentation for the defense, Slide 3

Continuation of appendix F

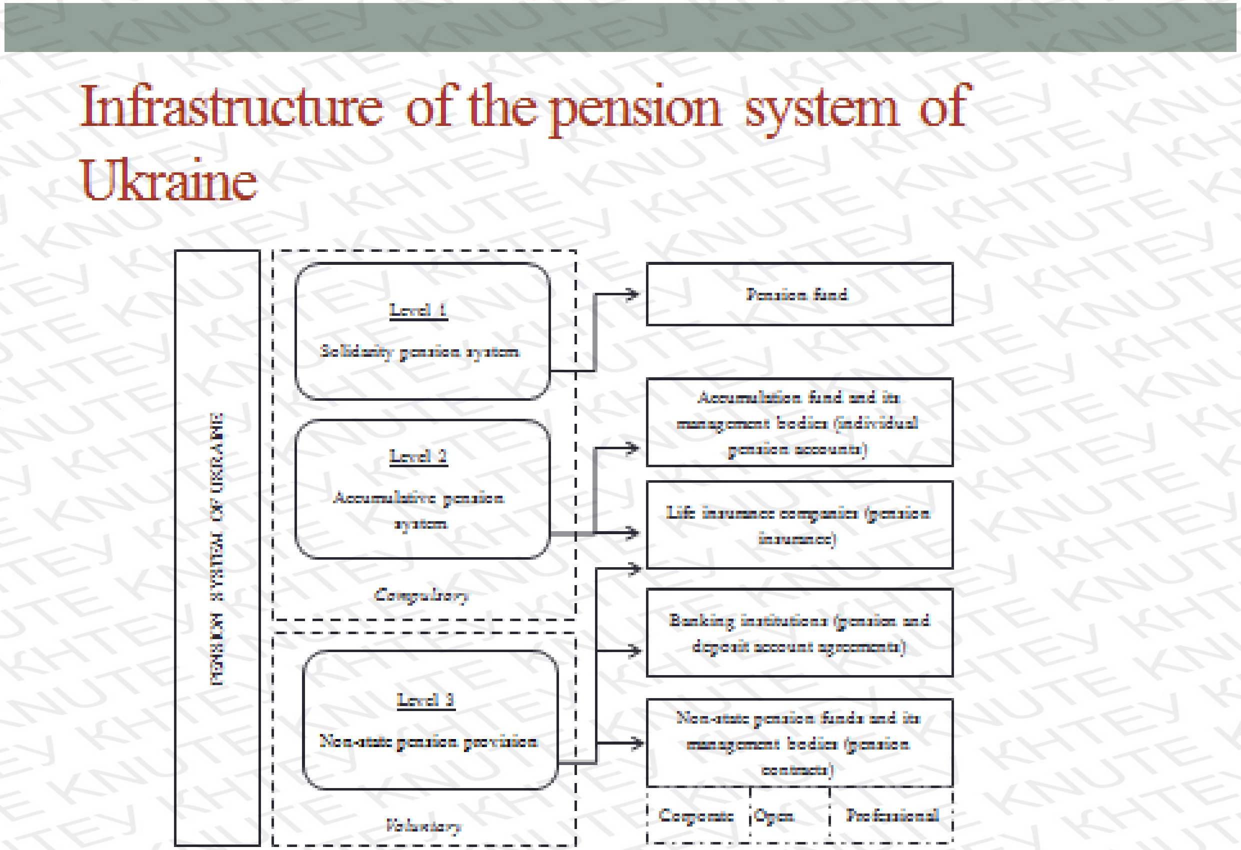


Fig. F.1.4 Presentation for the defense, Slide 4

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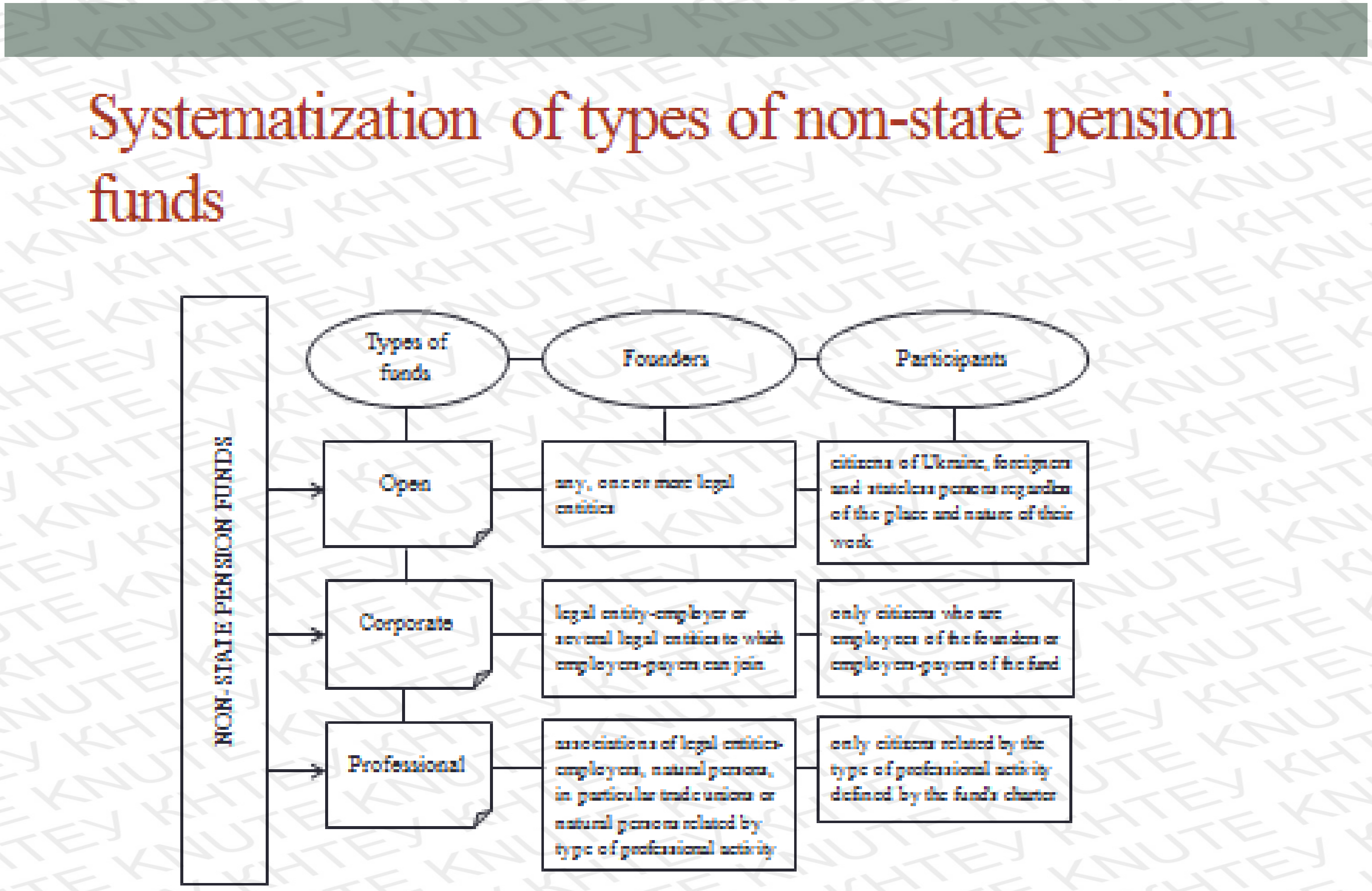


Fig. F.1.5 Presentation for the defense, Slide 5

Continuation of appendix F

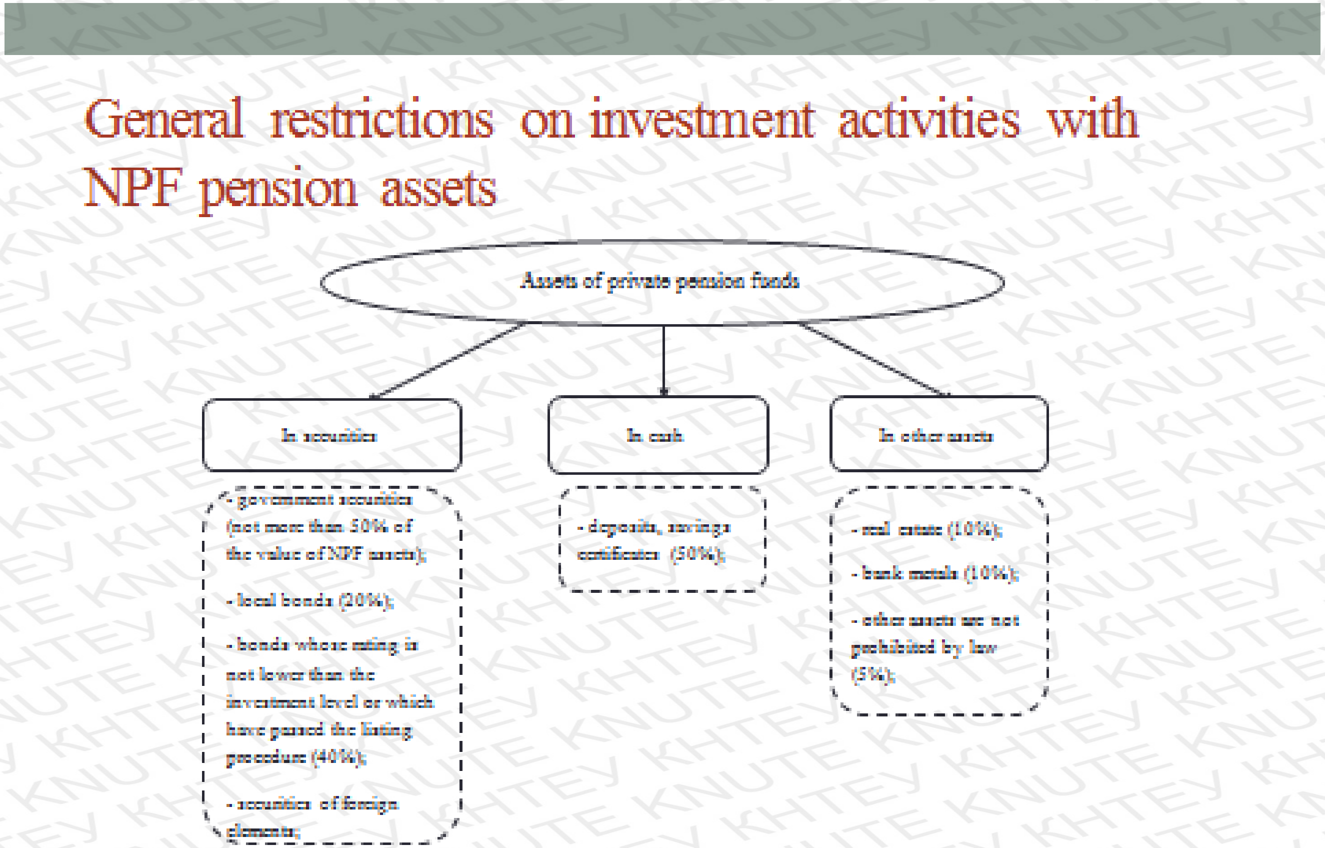


Fig. F.1.6 Presentation for the defense, Slide 6

Continuation of appendix F

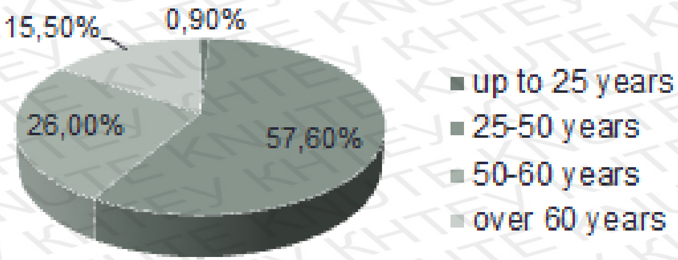
Dynamics of the main indicators of non-state pension funds

Indexes	As of 30.09.2017	As of 30.09.2018	As of 30.09.2019	Growth rates, %	
				2017/2018	2018/2019
Number of concluded pension contracts, th. units	68,4	66,3	74,7	-3,1	12,7
The total number of NPF participants, th. people	840,1	848,8	868,7	1,0	2,3
Total value of NPF assets, UAH mln.	2 326,8	2 651,3	2 977,9	13,9	12,3
Pension contributions, total, UAH mln.	1 972,7	1 964,2	2 112,6	-0,4	7,6
including:					
- *from individuals*	122,3	153,1	208,7	25,2	36,3
- *from persons-entrepreneurs*	0,2	0,2	0,2	0,0	0,0
- *from legal entities*	1 849,5	1 810,4	1 903,1	-2,1	5,1
Pension payments, UAH mln.	711,5	781,5	912,9	9,8	16,8
Number of participants who received / receive pension payments, th. people	84,0	80,8	83,8	-3,8	3,1
Amount of investment income, UAH mln.	1 318,3	1 667,2	2 038,7	26,5	22,3
Income from investing the assets of a private pension fund, UAH mln.	1 037,5	1 355,3	1 665,7	31,0	22,9
Amount of expenses reimbursed from pension assets, UAH mln.	283,8	311,9	373,0	9,9	19,6

Fig. F.1.7 Presentation for the defense, Slide 7

Continuation of appendix F

Distribution of NPF participants by age groups and by gender



Age group	Units of measurement	Women	Men	Total	Specific weight from age category,%	
					W	M
up to 25 years	Th.people	3,2	4,4	7,6	42,1	57,9
25-50 years	Th.people	214,6	586,2	500,8	42,9	57,1
50-60 years	Th.people	102,9	123,2	226,1	45,5	54,5
over 60 years	Th.people	46,1	88,1	134,2	34,4	64,5
Total	Th.people	366,9	501,8	868,7	42,2	57,8

Fig. F.1.8 Presentation for the defense, Slide 8

Continuation of appendix F

Analysis of the development of the private pension system taking into account the indicator of the minimum return on assets

Index	Year								
	2012	2013	2014	2015	2016	2017	2018	2019	2020
Average annual discount rate of the NBU,%	7,56	7	12	22,5	15,7	13,16	17,12	16,3	9,7
GDP change rate,%	0,2	3,16	7,13	20,8	-11	40,2	16,18	10,04	-15,4
Inflation rate,%	-0,2	0,5	24,9	43,3	12,4	13,7	9,8	4,1	2,7
Minimum return on invested assets,%	7,16	6,17	45,78	77,05	28,8	13,61	23,73	17,43	6,05

Fig. F.1.9 Presentation for the defense, Slide 9

Continuation of appendix F

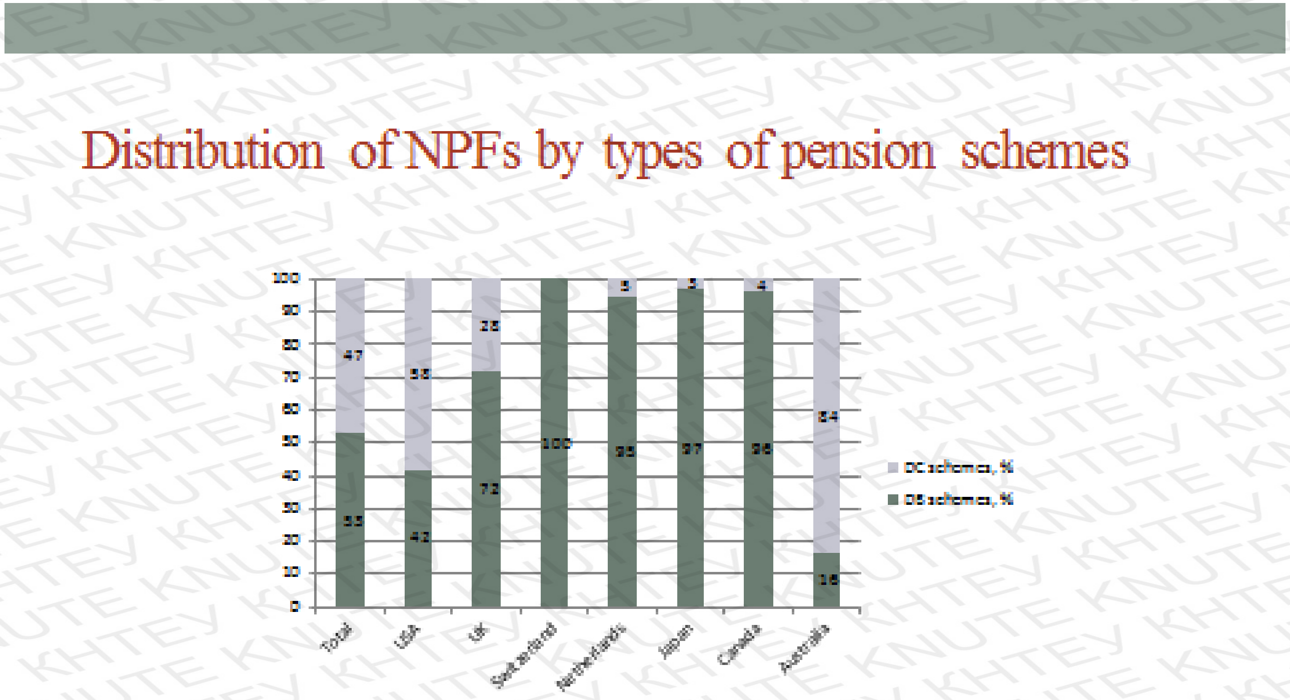


Fig. F.1.10 Presentation for the defense, Slide 10

Continuation of appendix F

International experience suggests elements that should drive the design of retirement savings systems:

1. Soft compulsion in the form of automatic enrollment and automatic escalation of contributions can make pension systems more comprehensive and help participants reach an adequate contribution level
2. Well-designed default options help people who are unable or unwilling to choose a contribution rate, a pension provider, an investment strategy, or a post-retirement product
3. Financial incentives are widely used to promote private pension arrangements as they exploit individuals' tendency to respond to immediate gratification
4. The Government should pay more attention to the critical need to empower citizens through appropriate financial information and education, to ensure that people are adequately informed about their retirement savings and the options they have to improve their financial well-being after retirement
5. Simplified information and choice can help people make better choices. Easy-to-use web applications, a smaller set of options, better disclosure of information, and ease of comparison of options can achieve this

Fig. F.1.11 Presentation for the defense, Slide 11

Continuation of appendix F

CONCLUSIONS

1. According to the results of the study of non-state pension funds, positive trends in their development were identified: an increase in the number of participants and an increase in the value of assets

2. The negative factors hindering the development of refineries in Ukraine are low incomes, high inflation and inflation expectations, GDP dynamics, hryvnia devaluation, unstable political situation and high distrust of financial institutions

3. The development of a strategy for state regulation of the refinery system requires improving the structure of supervisory bodies by introducing a mega-regulator in the person of the National Financial Supervision Commission

4. A scientific and methodological approach to assessing the activities of NPFs by calculating the real weighted average rate of return on assets is proposed

Fig. F.1.12 Presentation for the defense, Slide 12

Continuation of appendix F

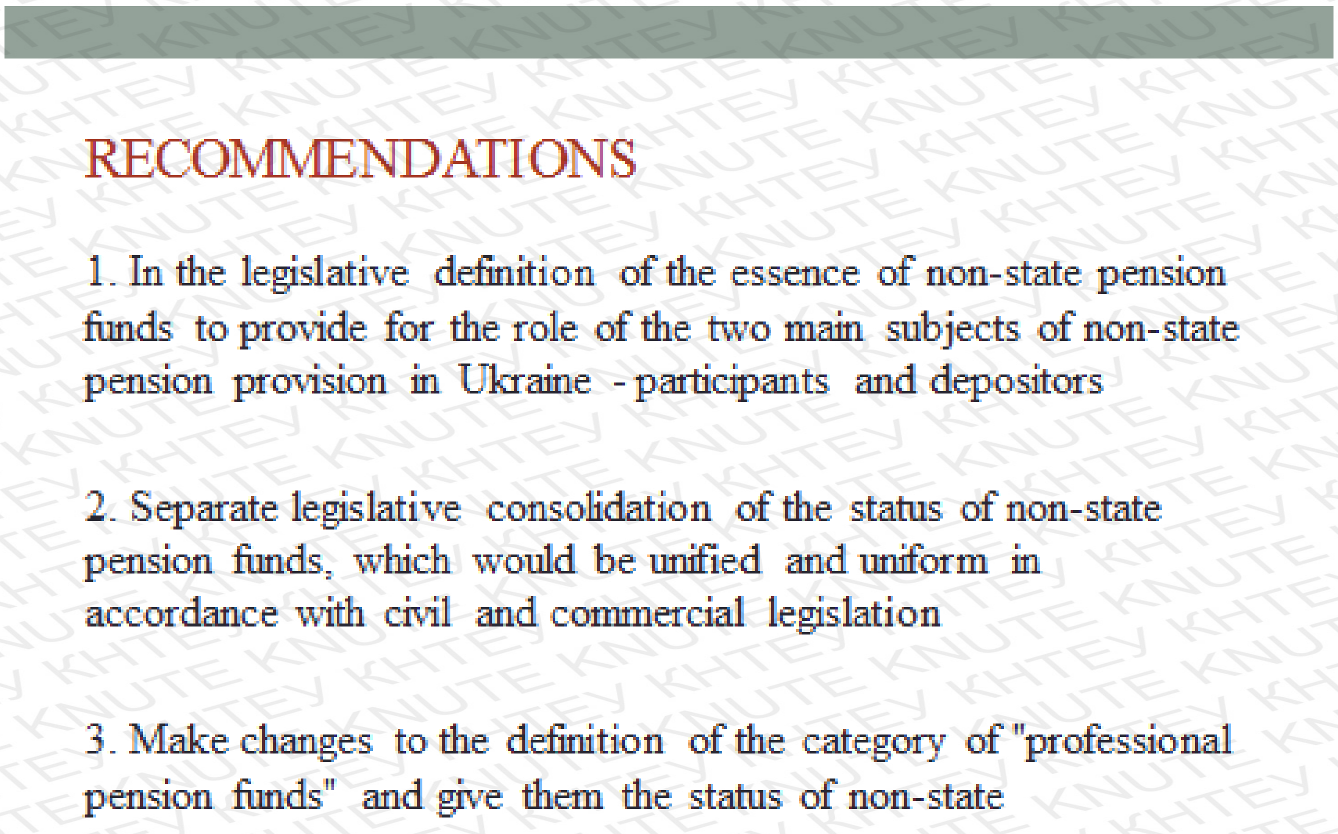


Fig. F.1.13 Presentation for the defense, Slide 13

Continuation of appendix F

Fig. F.1.14 Presentation for the defense, Slide 14