



FONDS DE RESERVE POUR LES RETRAITES

FOUNDATIONAL TEXTS

AS OF AUGUST 28, 2018

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1 - Act n°2001-624 of July 17th, 2001, amended by Act No. 2003-775 of August 21st, 2003, on the reform of pensions, codified in the Social Security Code, in Chapter V bis entitled Fonds de Réserve pour les Retraites in Articles L.135-6 to L.135-15.

Social Security Code

Chapter V bis: Fonds de Réserve pour les Retraites (the Fund)

Article L.135-6

(Act n°93-936 of July 22, 1993, Art.1, Official Gazette of July 23rd, 1993, in force on January 1st, 1994)
(Act n°98-1194 of December 23rd, 1998, Art.2 (IV-4°), Official Gazette of December 27th, 1998)
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(Act n°2000-1257 of December 23rd, 2000, Art.32, Official Gazette of December 24th, 2000)
(Act n°2001-152 of February 19th, 2001, Art.15, Art. 16(III), Official Gazette of February 20th, 2001)
(Act n°2001-624 of July 17th, 2001, Art.6(I), Official Gazette of July 18th, 2001, in force on January 1st, 2002)
(Act n°2004-1370 of December 20th, 2004, Art.56 (II) Official Gazette of December 21st, 2004).
(Act n°2010-1594 of December 20th, 2010 – art.9)
(Act n°2014-40 of January 20th, 2014 - art.4 (V))

A publicly owned, State-funded agency is established, named the "Fonds de Réserve pour les Retraites" (referred to hereinafter as the Fund) and placed under the supervision of the State.

I - The Fund is being established for the purpose of managing the sums that are allocated to it in order to build up reserves intended to contribute to the long-term sustainability of PAYGO pension plans.

The reserve is constituted for the benefit of the mandatory old-age insurance plans described in Article L.222-1 and items 1 and 2 of Article L.621-3 as well as the fund referred to in article L.135-1.

The sums allocated to the Fund shall be held in reserve until January 1st, 2011. As from that date and until 2024, the Fund shall each year at the latest by October 31st, pay 2.1 Billion euros to the "Caisse d'amortissement de la dette sociale" to help finance the deficits, from between 2011 and 2018, of the agencies referred to in the previous paragraph. The timetable and terms for such payments are determined by agreement between these two entities.

II - The reserve exceeding the coverage of the engagements as mentioned in the paragraph I in this article can be modified by the financial social security law and allocated to the financial imbalance corrections of the pension plans or to the fund as mentioned to the second item of paragraph I in this Article, including those described in Article L.114-4.

III - The FRR (Fonds de Réserve pour les Retraites) is also entrusted with the financial management of a portion of the one-off, lump-sum contribution in full discharge payable to the "Caisse Nationale d'Assurance Vieillesse des Travailleurs Salariés" pursuant to section 3 of Article 19, Act n°2004-803 dated August 9th, 2004 pertaining to the public electricity and gas utilities and to Electrical and gas companies.

The conditions and results of the management of this portion of the contribution shall be itemized and reviewed annually in the notes to the Fund's financial statements. This portion of the contribution and the investment income earned on it (net of fees incurred by the Fund) will be transferred back to the "Caisse Nationale d'Assurance Vieillesse des Travailleurs Salariés" starting in 2020, under the terms and conditions set forth in the agreement by and between the "Caisse Nationale d'Assurance Vieillesse des Travailleurs Salariés" and the FRR.

Note: Act n°2001-624 of July 17th, 2001, Art.6(III): the Fund described in Article L.135-6 of the Social Security Code shall be exempt from the business tax mentioned in Paragraph 5 of Article 206 of the General Tax Code.

Article L.135-7

(Act n°2001-624 of July 17th, 2001, Art.6(I), Official Gazette of July 18th, 2001, in force on January 1st, 2002)
(Act n°2001-1246 of December 21st, 2001, Art. 67(II), Official Gazette of December 26th, 2001).
(Act n°2003-775 dated August 21st, 2003, Art. 110, published in the Journal Officiel issued on August 22nd, 2003)
(Act n°2005-1719 dated December 30th, 2005, Art. 45 V Finances for 2006, published in the "Journal Officiel" issued on December 31st, 2005)
(Act n°2010-1594 of December 20th, 2010 – art.9)
(Act n°2014-40 of January 20th, 2014 - art.4 (V))

The Fund's resources are constituted as follows:

- 1° Repealed;
- 2° All or a part of the surplus of the Old Age Solidarity Fund (Fonds de solidarité vieillesse) mentioned in Article L.135-1, as provided for in a government order issued by the Ministers of Social Security and the Budget;
- 3° As the case may be, during the fiscal year, an amount representing a fraction of the projected surplus for the fiscal year of the Old-Age Solidarity Fund referred to in Article L.135-1 as presented by the Social Security Audit Commission during its meeting in the second half of the same fiscal year; a joint order of the Ministers of Social Security and the Budget shall determine the amounts to be paid and the payment dates;
- 4° The proceeds from the application of Article L.251-6-1;
- 5° Repealed;
- 6° Repealed;
- 7° Repealed;
- 8° Repealed;
- 9° Any other resources allocated to the Fund;
- 10° Income from investments made in the name of the Fund.
- 11° Repealed.

Article L.135-8

(Inserted by Act n°2001-624 of July 17th, 2001, Art.6(I), Official Gazette of July 18th, 2001 in force on January 1st, 2002)
(Act n°2010-1594 of December 20th, 2010 – art.9)
(Act n° 2018-699 of August 3rd, 2018 – article 74, X-4th)

The Fund shall have a Supervisory Board and an Executive Board.

A decree of the Council of State shall fix the composition of the Supervisory Board, constituted by two deputies and two senators, representatives of the insured appointed by representative trade unions with nationwide scope, representatives of employers and the self-employed appointed by representative trade unions for employers and the self-employed, government representatives and duly qualified individuals.

On the Executive Board's recommendation, the Supervisory Board shall set the general investment policy orientations for assets held by the Fund consistent with the principles of caution and diversification of risks in line with the objectives and timeframe for utilisation of the Fund's resources, in particular the payment obligations provided in article L.135-6. It controls the results, approves the annual accounts and prepares an annual public report on the management of the fund.

If the Executive Board's recommendation is not approved, it shall submit a new recommendation to the Supervisory Board. If this recommendation is not approved, the Executive Board shall implement the measures necessary for the management of the Fund.

The Fund shall have an Executive Board composed of three members, including the Chief Executive Officer of the "Caisse des dépôts et consignations", who shall act as Chairman. The members of the Executive Board other than the Chairman shall be appointed by decree for a period of six years, after consultation with the Supervisory Board.

The Executive Board shall direct the Fund and is responsible for its management. It shall apply the investment policy orientations. It shall ensure compliance with said orientations and in particular their suitability as regards the payment obligations provided in article L.135-6.

It shall regularly report to the Supervisory Board on this matter and, in particular, shall indicate for this purpose the manner in which the Fund's general investment policy orientations take into account social, environmental and ethical considerations.

Article L.135-9

(Inserted by Act n°2001-624 of July 17th, 2001 Art.6(I), Official Gazette of July 18th, 2001 in force on January 1st, 2002)

The Fund may employ persons who are not civil servants or are non-tenured civil servants. It enters into fixed-term or open-ended contracts with them.

The Fund shall bear all of its management costs.

Article L.135-10

(Inserted by Act n°2001-624 of July 17th, 2001 Art.6(I), Official Gazette of July 18th, 2001 in force on January 1, 2002)

(Act n°2004-1370 dated December 20th, 2004, Article 56 II, published in the Journal officiel issued on December 21st, 2004)

(Amended by Order n°2009-107 of 30th January 2009 – art.5)

The "Caisse des dépôts et consignations" shall ensure the administrative management of the Fund, under the authority of the Executive Board and in accordance with the terms and conditions set forth in the decree issued by the Council of State. This activity is independent of all other activities of the "Caisse des dépôts et consignations" and its subsidiaries.

Through periodically renewed mandates and in accordance with the procedures set forth in the Government Procurement Code, financial management of the Fund is entrusted to providers of investment services whose principal activity is the service described in Paragraph 4 of Article L.321-1 of the Monetary and Financial Code.

As an exception to the previous paragraph, the financial management of the Fund's assets can be entrusted to the latter, without recourse to the service providers referred to above:

1° under exceptional circumstances and temporarily, in the interest of safeguarding the assets held by the Fund;

2° or if the Fund decides to invest in units or shares of mutual funds (UCITS) or in units, shares or claims representing a financial investment issued by or within organisations administered under the laws of another country, regardless of their particular legal form.

The terms and conditions of application for this exception are set forth in a joint order issued by the ministers of the economy and social security.

The assets that the Fund is authorized to hold or use are assets listed in Article L211-1 of the Monetary and Financial Code and claims that represent a financial investment.

Article L.135-11

(Inserted by Act n°2001-624 of July 17th, 2001, Art.6(I), Official Gazette of July 18th, 2001 in force on January 1st, 2002)

(Act n°2010-1594 of December, 20th 2010 – art.9)

The prudential rules that apply to the Fund shall be determined by joint decision of the ministers for the economy, the budget and social security.

Article L.135-12

(Inserted by Act n°2001-624 of July 17th, 2001, Art. 6(I), Official Gazette of July 18th, 2001 in force on January 1, 2002)

(Act n°2004-1370 dated December 20th, 2004, Article 56 II, published in the Journal Officiel issued on December 21st, 2004)

(Act n°2010-1594 of December 20th, 2010 – art.9)

The Supervisory Board shall appoint two statutory auditors to a six-year term.

They certify the annual financial statements before these documents are submitted by the Executive Board to the Supervisory Board prior to publication.

The provisions of articles L.822-9 to L.820-3-1, L.823-6, L.823-7, L.823-13 to L.823-17, of the last two paragraphs of article L.823-12 and articles L.822-17 and L.822-18 of the Company Code shall apply to the statutory auditors appointed to the Fund.

The members of the Supervisory Board shall exercise the rights granted to shareholders and general meetings of shareholders by Articles L.823-6 and L.823-7 of the Company Code.

Article L.135-13

(Inserted by Act n°2001-624 of July 17th, 2001, Art. 6(I), Official Gazette of July 18th, 2001 in force on January 1st, 2002)

All members of the Executive Board must inform the Chairman of the Supervisory Board of any interests they hold or any functions they exercise or have recently exercised in an economic or financial sector as well as any offices they hold or have recently held within a legal entity. This information shall be held at the disposal of members of the Executive Board.

In carrying out financial management, no member of the Executive Board may consider a matter in which he or she or, if applicable, a legal entity in which he or she exercises functions or holds an office, has an interest. Nor may he or she participate in a deliberation relating to a matter in which he or she or, as the case may be, a legal entity in which he or she exercises functions or holds an office, has represented one of the parties concerned during the eighteen months preceding the deliberation.

The Chairman of the Supervisory Board shall take appropriate measures to ensure compliance with the obligations and prohibitions resulting from the preceding paragraphs.

The members of the Executive Board, as well as the employees and agents of the Fund, are bound by professional secrecy under the conditions and subject to the penalties stipulated in Articles 226-13 and 226-14 of the Criminal Code. Experts and other persons consulted are bound by professional secrecy under the same conditions and subject to the same penalties.

Article L.135-14

(Inserted by Act n°2001-624 of July 17th, 2001, Art.6(I), Official Gazette of July 18th, 2001 in force on January 1st, 2002)

The Fund shall be subject to the control of the Audit Office (Cour des Comptes), the General Inspectorate of Social Affairs and the General Finance Inspectorate.

Reports of inspection and control bodies and special reports of the Audit Office relating to the Fund shall be transmitted to the Supervisory Board.

The Supervisory Board may also hear any member of an inspection or control body who has carried out a mission relating to the management of the Fund.

Article L.135-15

(Inserted by Act n°2001-624 of July 17th, 2001, Art.6(I), Official Gazette of July 18th, 2001 in force on January 1st, 2002)

A decree of the Council of State shall determine the terms for the application of this Chapter. In particular, it shall specify:

- The powers and operating terms of the Supervisory Board and the Executive Board;
- The terms of supervision and, in particular, the cases and conditions in which the resolutions of the Supervisory Board and the Executive Board are subject to approval;
- The terms for the preparation and approval of the budget of the Fund.

1 - Decree n°2001-1214 of December 19th, 2001 pertaining to the Fonds de Réserve pour les Retraites (the "Fund")

Section 1: Provisions relating to Fund organization and management

Article R.135-18

(Decree n°93-1354 of December 30th, 1993, Art.1, Official Gazette of December 31st, 1993, in force on January 1, 1994)

(Decree n°96-532 of June 14th, 1996, Art.4(2°), Official Gazette of June 16, 1996)

(Decree n°99-898 of October 22nd, 1999, Art.1(V), Official Gazette of October 24th, 1999)

(Decree n°2001-1214 of 19th December 2001, Art.2(3°), Official Gazette of December 21st, 2001 in force on January 1st, 2002)

(Decree n°2001-1214 of 19th December 2001, Art.1, Official Gazette of December 21st, 2001 in force on January 1st, 2002)

The Fund is placed under the general supervision of the Ministers of Social Security, the Economy and the Budget.

Article R.135-19

(Decree n°99-898 of October 22nd, 1999, Art.1(V), Official Gazette of October 24th, 1999)

(Decree n°2001-1214 of December 19th, 2001, Art.2(3°), Official Gazette of December 21st, 2001 in force on January 1, 2002)

(Decree N n°2001-1214 of December 19th, 2001, Art.1, Official Gazette of December 21st, 2001 in force on January 1st, 2002)

(Decree n°2002-394 of March 22nd, 2002, Art.1, Official Gazette of March 24th, 2002)

(Decree n°2003-1202 of December 18th, 2003, Art. 1, Official Gazette of December 19th, 2003)

(Decree n°2006-781 of July 3rd, 2006 – art. 12 (V))

I - The Supervisory Board is composed of the following:

1° Two members of the National Assembly and two members of the Senate, or their alternates;

2° Five representatives of social security beneficiaries, or their alternates, designated by general labor and trade unions representing salaried workers, with nationwide scope, as follows:

- One by the "Confédération Générale du Travail";
- One by the "Confédération Générale du Travail-Force Ouvrière";
- One by the "Confédération Française Démocratique du Travail";
- One by the "Confédération Française des Travailleurs Chrétiens";
- One by the "Confédération Française de l'Encadrement-CGC".

3° Five representatives of employers and self-employed workers, or their alternates, designated by representative trade unions for employers and self-employed workers, as follows:

- Three by the "Mouvement des Entreprises de France";
- One by the "Confédération Générale des Petites et Moyennes Entreprises";
- One by the "Union Professionnelle Artisanale".

4° Two representatives of the Minister of Social Security, or their alternates, appointed by order of the Minister of Social Security;

5° One representative of the Minister of the Economy or an alternate, appointed by order of the Minister of the Economy;

6° One representative of the Minister of the Budget or an alternate, appointed by order of the Minister of the Budget;

7° Two individuals with recognized credentials in fields relevant to the stated missions of the Fund:

- One individual appointed by the Minister of Social Security;
- One individual appointed by the Minister of the Economy and the Minister of the Budget.

The Chairman of the Supervisory Board of the Fund is appointed by decree from among the board members. The Supervisory Board elects two vice-chairmen from among its members.

The Supervisory Board members referred to in items 2, 3 and 7 are appointed for a term of six years, with half of the seats up for re-election each time elections are held. In the event of the removal, incapacity or death of any member or alternate, another member or alternate is designated to serve as his replacement for the remainder of the term.

As a transitional measure, as an exception to the first sentence of the preceding paragraph and for the initial appointment, half of the Supervisory Board members referred to in items 2°, 3° and 7° are appointed for a renewable term of three years. The list of these members will be established by drawing lots.

II - Supervisory Board members other than the chairman perform the duties of their office in a voluntary capacity.

A special allowance, determined by order of the Minister of Social Security, the Minister of the Economy and the Minister of the Budget, is granted to the Chairman of the Supervisory Board.

Supervisory Board members are entitled to a travel allowance and expenses, under the terms and conditions set forth in decree n°2006-781 of July 3rd, 2006.

Article R.135-20

(Decree n°99-898 of October 22nd, 1999, Art.1(V), Official Gazette of October 24th, 1999)

(Decree n°2001-1214 of December 19th, 2001, Art.2(3°), Official Gazette of December 21st, 2001 in force on January 1st, 2002)

(Decree n°2001-1214 of December 19th, 2001, Art.1, Official Gazette of December 21st, 2001 in force on January 1st, 2002)

I - The role of the Supervisory Board is:

- 1° To define, on the Executive Board's recommendation, general investment policy orientations for the Fund's assets, as described in Paragraph 3 of Article L.135-8;
- 2° To appoint the independent auditors referred to in Article L.135-12;
- 3° To audit fund performance;
- 4° To approve the Fund's financial statements after having heard the report of the accounting officer;
- 5° To prepare an annual report on Fund management for public disclosure.

II - The resolutions of the Supervisory Board referred to in items 1 and 2 of Paragraph I of this article are enforceable as a matter of right.

The decisions of the Supervisory Board referred to in items 3 and 4 are enforceable under the terms and conditions set forth in Article R.135-26.

III - To assist the Supervisory Board in the preparation of its general investment policy orientations for the Fund's assets, the Executive Board provides an analysis of financial market developments over the preceding twelve months and their impact on long-term trends and, given the Fund's investment time horizon and estimated revenues, recommends allocations for each financial instrument category that takes into account portfolio assets, return and risk criteria, and the prudent man rule.

In the case described in Paragraph 4 of Article L.135-8, the Executive Board may deviate from the latest guidelines set forth by the Supervisory Board, if circumstances so warrant and if doing so is intended to reduce the exposure of Fund investments. The Executive Board informs the Supervisory Board of any measures taken with this intent.

Article R.135-21

(Decree n°99-898 of October 22nd, 1999, Art.1(V), Official Gazette of October 24th, 1999)
(Decree n°2001-1214 of December 19th, 2001, Art.2 -3°, Official Gazette of December 21st, 2001, in force on January 1st, 2002)
(Decree n°2001-1214 of December 19th, 2001, Art.1, Official Gazette of December 21st, 2001, in force on January 1st, 2002)
(Decree n°2005-436 of May 9th, 2005 – art. 19 (V) JORF May 10th, 2005)

Meetings of the Supervisory Board are called by its chairman at least twice a year. This call is of right when requested by one of the Fund's supervisory ministers.

The chairman sets the agenda. The chairman or the Supervisory Board may ask the Executive Board to recommend the general investment policy orientations for the Fund's assets.

The Supervisory Board may not validly deliberate unless at least half of its members are present at the meeting.

If the quorum requirement is not met, the Supervisory Board shall meet again with the same agenda within twenty days and then validly deliberate, regardless of the number of members in attendance. Supervisory Board resolutions are ratified by a simple majority of its members when at least half of the members are present at the meeting, and by a simple majority of the members in attendance otherwise.

The Chairman casts the deciding vote in the event of a tie.

The Supervisory Board adopts the bylaws pertaining to its operating procedures. These bylaws are enforceable only after the Fund's supervisory authority has approved them.

The Executive Board members, the accounting officer and the member of the general economic and financial control body of the establishment attend Supervisory Board meetings in a consultative capacity and do not vote. The Supervisory Board may invite any other individual of its choosing to address the Board.

Minutes for each session are recorded and signed by the chairman. Minutes are communicated to the supervisory authorities within fifteen days of the related Supervisory Board meeting.

Article R.135-22

(Inserted by Decree n°2001-1214 of December 19th, 2001, Art. 1, Official Gazette of December, 21st, 2001, in force on January 1st, 2002)
(Decree n°2005-1762 dated December 30th, 2005 relative to the FRR (Fonds de Réserve pour les Retraites), amending the French social security code (second part: Décrets en Conseil d'Etat), published in the Journal Officiel issued on December 31st, 2005).
(Decree n°2009-1431 of November 20th, 2009 – art.1)

The Executive Board directs the agency and ensures its smooth operation. It carries out all functions that are not attributed to another authority. In particular:

- 1° It recommends the general investment policy orientations for the fund's assets to the Supervisory Board, in compliance with the rules set forth in Article R.135-29;
- 2° It applies the general investment policy orientations, ensures compliance with said orientations by its asset managers and reports to the Supervisory Board at least every six months;
- 3° It drafts specifications for the RFPs referred to in Article L.135-10;
- 4° It appoints duly qualified individuals to serve on the committee charged with selecting asset managers described in Paragraph I of Article R.135-27;
- 5° It selects the third-party portfolio management firms referred to in Article L.135-10;
- 6° It enters into all agreements on behalf of the Fund and monitors their performance;
- 7° It prepares the Fund's administrative and technical management budget;
- 8° It implements the Fund's budget;
- 9° It submits the Fund's financial statements to the Supervisory Board;
- 10° It recruits and supervises Fund personnel;

11° It draws up the Fund's internal policies and procedures, except for those that pertain to the Supervisory Board;

12° It provides secretarial services to the Supervisory Board.

The agreements referred to in item 6 hereinabove are communicated to the supervisory authorities within fifteen days of the date on which they are entered into.

The resolutions described in items 4, 7 and 11 are enforceable as provided for in Article R.135-26.

Article R.135-23

(Inserted by Decree n°2001-1214 of December 19th, 2001, Art.1, Official Gazette of December 21st, 2001, in force on January 1st, 2002)

The Chairman of the Executive Board represents the Fund before the court and in all civil matters. The chairman is authorized by the Executive Board to act in legal proceedings on its behalf. He signs all contracts and agreements. The Chairman of the Executive Board is the authorizing officer for the Fund's expenditures and revenues. He or she approves the financial statements. The chairman may delegate signing authority, as provided for in the bylaws (internal policies and procedures) referred to in Article R.135-22.

In the event of that the position of chairman of the Executive Board becomes vacant temporarily, or in the event that the chairman is incapacitated, his duties shall be performed by one of the two other members appointed by decree.

The duties of the Executive Board members, other than those of the chairman, are performed to the exclusion of any other activity and give rise to compensation.

Article R.135-24

(Inserted by Decree n°2001-1214 of December 19th, 2001, art.1, Official Gazette of December 21st, 2001, in force on January 1st, 2002)

(Decree n°2009-1431 of November 20, 2009 – art.1)

The administrative management duties described in Article L.135-10 and carried out under the authority of the Executive Board include:

- Secretarial services for the Fund's committees and boards; legal, accounting and budget assistance;
- Preparation of RFPs launched to select the third-party portfolio management firms referred to in Article L.135-10;
- General management of the Fund's cash flow that cannot be performed by the firms referred to in the preceding line;
- Preparation of Executive Board recommendations to the Supervisory Board on the Fund's general investment policy orientations;
- The custodial services described in item 1 of Article L.321-2 of the Monetary and Financial Code;
- Oversight of the performance of the mandates described in Article L.135-10.

An agreement between the Fund and the Caisse des dépôts provides for the Fund's administrative management. In particular, it describes the resources allocated by the Caisse to perform this task. Once the agreement becomes enforceable as provided for in Article R.135-26, it shall be communicated to Supervisory Board members.

Article R.135-25

(Inserted by Decree n°2001-1214 of December 19th, 2001, Art. 1, Official Gazette of December 21st, 2001, in force on January 1st, 2002)

The terms under which the resources listed in Article L.135-7 are paid over to the Fund are determined by agreements by and between, respectively:

- The Fund and the French State;

- The Fund and the "Agence centrale des organismes de sécurité sociale";
- The Fund and the "Caisse des dépôts et consignations".

In particular, these agreements stipulate the supporting documents that must be communicated to the Fund and payment terms and schedules.

Article R.135-26

(Inserted by Decree n°2001-1214 of December 19th, 2001, art.1, Official Gazette of December 21st, 2001, in force on January 1st, 2002)

(Decree n°2005-1762 dated December 30, 2005 relative to the FRR (Fonds de Réserve pour les Retraites), amending the French social security code (second part: Décrets en Conseil d'Etat), published in the Journal Officiel issued on December 31st, 2005).

I - The resolutions of the Supervisory Board referred to in items 3 and 4 of Article R.135-20, the resolutions of the Executive Board referred to in items 4, 7 and 11 of Article R.135-22 and the agreement referred to in the last paragraph of Article R.135-24 are enforceable, barring express approval previously notified, upon expiration of a one-month period starting from the date of receipt by the Minister of Social Security and the Minister of Economy and Finance of the resolutions and relevant documents, unless one of the aforementioned Ministers signals opposition.

If one of the aforementioned Ministers files a written request for additional information or documents, the one-month period is suspended until such time as the requested information or documents are provided.

II - The measures taken by the Executive Board by virtue of Paragraph 4 of Article L.135-8 are subject to the provisions of Paragraph I of this article, with the following modifications:

- 1° Oversight is confined to the issue of legality;
- 2° The one-month period referred to in Paragraph I of this article is reduced to one week.

Article R.135-27

(Inserted by Decree n°2001-1214 of December 19th, 2001, art.1, Official Gazette of December 21, 2001, in force on January 1st, 2002)

(Decree n°2003-1202 of December 18th, 2003, Art. 2, Official Gazette of December 19th, 2003)

(Decree n°2005-1762 dated December 30th, 2005 relative to the FRR (Fonds de Réserve pour les Retraites), amending the French social security code (second part: Décrets en Conseil d'Etat), published in the Journal Officiel issued on December 31, 2005).

(Decree n°2009-1431 of November 20th, 2009 – art.1)

(Decree n°2009-1431 of November 20th, 2009 – art.2)

I - A manager selection committee is formed to review and analyse the proposals for the awarding of mandates as provided in Article L.135-10. The Executive Board consults the committee when drafting specifications for the RFPs. Reports are provided to the committee on the performance of the mandates. In addition to its chairman, this committee includes four duly qualified individuals appointed by the Executive Board. The chairman of the manager selection committee is a member of the Executive Board other than the Chairman of the Executive Board.

II - The Executive Board (or one of its members appointed for this purpose) may receive assistance in the inspection of the procedures and operations carried out for the Fund by the third-party portfolio management firms described in Article L.135-10.

III - As an exception to the relevant provisions of Article 133 of the French government procurement code and to section I of Article 3 of application Decree n°2004-1299 dated November 26th, 2004, the Fund may opt to forgo submitting to the opinion of the French government procurement commission (the Commission des marchés publics de l'Etat) draft versions of management contracts that it concludes in application of Article L.135-10.

As an exception to the provisions of Article 119 of the French government procurement code, the Fund may decide to submit draft management contracts to be entered into pursuant to article L.135-10 of this code to the specialist procurement commissions for their opinion.

Article R.135-28

(Inserted by Decree n°2001-1214 of December 19th, 2001, Art.1, Official Gazette of December 21st, 2001, in force on January 1st, 2002)

(Decree n°2005-1762 dated December 30th, 2005 relative to the FRR (Fonds de Réserve pour les Retraites), amending the French social security code (second part: Décrets en Conseil d'Etat), published in the Journal Officiel issued on December 31st, 2005).

I - The Fund's accounting officer is appointed by joint order from the Ministers of Social Security and the Budget.

II - The annual budget of the Fund is determined by November 30th of the preceding year. Estimates are made and duly recorded for costs relating to the custody of securities and financial management.

III - The independent auditors certify the itemized statement of the Fund's assets and their valuation.

IV - The Fund is subject to the financial oversight of the State under the terms and conditions set forth in the Decree of October 25th, 1935 establishing the financial oversight of public boards and independent authorities. The procedures governing the performance of this oversight role are set forth in a government order issued by the Minister of Economy and Finance. The Fund is not required to contribute to the cost related to this oversight.

V - The "Caisse des dépôts et consignations" receives a service fee equal to the expenses it incurs in performing the services described in Article R.135-24. This fee is paid by the Fund.

Article R.135-29

(Decree n°2011-950 of August 10th, 2011 – art.1)

Voting rights are exercised by the Fund's representatives in the sole interests of the Fund.

2 - Decree dated November 24th, 2011 pertaining to the appointment of the chairman of the Supervisory Board of the FRR (Fonds de Réserve pour les Retraites) - Mr. Vasselle (Alain).

By decree of the President of the French Republic, dated November 24th, 2011, Mr. Alain Vasselle is appointed chairman of the Supervisory Board of the FRR (Fonds de Réserve pour les Retraites).

3 - Decree dated July 12th, 2013 pertaining to the appointment to the Executive Board of the FRR - Mr. Chevalier (Yves).

By decree of the President of the Republic dated July 12th, 2013, Mr. Yves Chevalier, first counselor of the regional general accounting office, is appointed member of the Executive Board of the FRR (Fonds de Réserve pour les Retraites).

Mr. Yves Chevalier is responsible for assuming the role of chairman of the Executive Board of the FRR in the event that neither he nor Mr. Olivier Rousseau is able.

4 - Decree dated December 8th, 2017, pertaining to the appointment of the CEO of the Caisse des depots et consignations – Mr Lombard (Eric).

The President of the French Republic,

Based on the report submitted by the Prime Minister and the Minister of the Finance and the Public accounts,

In light Article 13 of the Constitution;

In light of organic law n°2010-837 dated July 23rd, 2010 related to the application of the subparagraph 5 of the article 13 of the Constitution;

In light of the French Monetary and Financial Code, in particular Articles L.518-11 and R.518-2;

In light of law n°2010-838 dated July 23rd, 2010 related to the application of the subparagraph 5 of the article 13 of the Constitution;

In light of decree n°85-834 dated August 6th, 1985 on appointments to executive management positions within certain public agencies, public companies and nationalized companies and amending decree n°59-587 dated April 29th, 1959 as amended;

In light of the Finance, general economic and budgetary control of the National Assembly commission dated November 28th, 2017.

In light of the French Senate's Finance Commission dated November 28th, 2017;

And having heard the Council of Ministers,

Hereby decree:

Article 1

Mr. Eric Lombard is appointed CEO of the "Caisse des dépôts et consignations".

Article 2

The Prime Minister and the Minister of the Finance and the Public accounts are responsible, to the extent that each one is concerned, for ensuring enforcement of this decree, which will be published in the "Journal officiel" of the French Republic.

5 - Decree dated February 26th, 2011 pertaining to the appointment to the Executive Board of the Fonds de Réserve pour les Retraites - Mr. Rousseau (Olivier).

By decree of the President of the French Republic, dated February 26th, 2018, Mr. Olivier Rousseau, "*administrateur civil hors classe*", is appointed member of the Executive Board of the FRR.

Mr. Olivier Rousseau is responsible for assuming the role of chairman of the Executive Board of the FRR in the event that the incumbent is incapacitated, or the position be temporarily vacant.

1 - Government Order dated August 16th, 2016 concerning the exercise of budgetary control over the Fonds de Réserve pour les Retraites (the "Fund").

The Minister of the Finance and public accounts, the Minister of Social Affairs and Health and the Minister of the Economy, Finance, Industry and digital,

Given the articles L.135-6 and R.135-28 of the social security code;

Given the decree n°2012-1246 dated November 7th, 2012 related to the budgetary management and public accounting, in particular article 220;

Given the government order dated June 25th, 2014 pertaining to the guidance document of employments management and credits of agencies staff.

Hereby order:

Article 1

The Fonds de Réserve pour les Retraites is subject to budgetary control as required under articles 220 to 228 of the above-mentioned decree dated November 7th, 2012 in accordance with the provisions of this Order. For the purpose of analysing and evaluating the FRR's risks and performance, the controller assesses its investment management, hedging of liabilities and changes in surplus.

Article 2

The budget controller is supplied, in the same manner as members of the bodies whose sessions it may attend pursuant to article 222 of the above-mentioned decree dated November 7th, 2012, with the documents communicated to them prior to each session together with reports and minutes. Pursuant to sub-paragraph 2 of the same article, the document referred to in article 10 may offer the budget controller the opportunity to attend sessions of any existing FRR committee, commission or consultative body.

Article 3

For its examination of the initial budget, rectified budgets and the financial account, the budget controller receives the draft documents specified in article 175 of the above-mentioned decree dated November 7th, 2012, to the extent such article applies, prior to their submission to executive board members. Once the budget has been voted, the budget controller receives a detailed breakdown of budgetary allocations and forecast revenue under the conditions specified in the document referred to in article 10.

Article 4

The management reports specified in article 223 sub-paragraph 2 of the above-mentioned decree dated 7 November 2012 are supplied to the budget controller at least twice each year, before 31 May and before 30 September, unless otherwise agreed by the controller.

These comprise:

1. Financial management :
 - assets status and management results;
 - position regarding mandates already existing or under preparation ;
 - monitoring of risks.
2. Budget management :
 - update of detailed initial breakdown;
 - detailed position regarding budget execution and forecast execution to 31 December;
 - position of commitments and, if relevant, update of multi-year programming;
 - a brief memorandum analyzing execution of, and forecast for unconsumed, budgetary allocations, identifying potential risks of unsustainable execution and proposed corrective measures
 - In the furtherance of its oversight duty, the financial controller may conduct investigations, make requests, issue communications or consult onsite all documents, including documents of title, in the possession of the departments under the supervision of the authorizing officer or the accounting officer.

Article 5

Pursuant to article 223 of the above-mentioned decree dated November 7th, 2012, the budget controller is supplied in particular with the following documents:

- information on monitoring of targets set by ministers for FRR officers;
- information on monitoring of targets set by ministers for FRR officers;
- documents of a strategic nature concerning the FRR's mission, objectives, resources and financial commitments;
- documents concerning the organisational structure, internal procedures and internal (in particular accounting and budgetary) control operations of the FRR, together with all risk-mapping related documents;
- documents concerning its purchasing, real estate, human resources and information systems policies;
- if relevant, information regarding the establishment of any subsidiaries;
- inspection and audit reports of the statutory auditors, and the internal and external auditors, together with the FRR's action plans for implementation of their recommendations.

Article 6

The budget controller monitors the management of staffing and personnel budgetary allocations as required under the above-mentioned order dated June 25th, 2014 relating to public entities' management projections for staffing and personnel budgetary allocations.

Article 7

Under the conditions and by reference to the thresholds set forth in the document specified in article 10, with regard to the quality of internal controls: The following are subject to approval (visa) :

- the Agreement entered into with "Caisse des Dépôts et Consignations" pursuant to article R. 135-24 of the Social Security Code;
- the general or category-specific measures concerning remuneration or management of working hours impacting on payroll;
- documents concerning the recruitment, remuneration and career advancement of executive managers.

The following are subject to visa or advice or prior notification:

- decisions taken pursuant to the above-mentioned Agreement;
- recruitment contracts, including secondments;
- incoming and outgoing staff handover agreements;
- measures relating to staff career advancement;
- contract terminations;
- severance pay;
- borrowing and granting of security, loans, where permitted under applicable regulations;
- real estate acquisitions and disposals;
- leases other than leases of state property;
- contracts other than purchase order contracts;
- purchase orders;
- acquisition or disposal of holdings in, and contributions of capital to or withdrawals of capital from, any entity.

The following are subject to advice or prior notification:

- framework agreements;
- purchase order contracts;
- transactions prior to transmission to third parties for signing.

Article 8

The budget controller draws up a programme of a posteriori controls depending on the risks identified relating to the quality of the budgetary accounts maintained or the sustainability and execution of budgetary projections. This programme is based on the risks determined in the performance of the controller's duties from his work on internal budgetary controls or in audit conclusions.

This control may be performed in respect of acts of, or circuits and processes for, income and expenditure.

Following the advice of the authorising officer (ordonnateur), the budget controller submits the controls programme to the FRR and provides details, if relevant, of the agents, acting under the authority of the budget minister, who will assist him.

The FRR must supply the budget controller and his assistants with all documents necessary to conduct these a posteriori controls within a period of no more than one month. The conclusions and recommendations if any of the controls are communicated to the authorising officer and, if necessary, the budget, economy and social security ministers.

The authorising officer specifies the measures it proposes to implement to mitigate the risks or deficiencies identified.

The budget controller may at any time, as provided in article 10, carry out an a posteriori control of any specific act that is not subject to advice or visa.

Article 9

If the budget controller believes that the FRR's management jeopardizes the sustainability of its budget execution having regard to budgetary authorisations, the hedging of its mandatory or unavoidable expenses, the continuance of its operations or the quality of its budgetary accounts, it shall notify the authorising officer in writing. The authorising officer similarly notifies the measures he proposes to take to restore the budgetary position.

The budget controller provides a report on these exchanges to the budget, economy and social security ministers.

Article 10

After consultation with the authorising officer, the budget controller prepares a document establishing a detailed list of acts that are subject to visa, advice or prior notification, the applicable visa, advice or prior notification thresholds, the format of the documents and statements to be supplied and the frequency and procedure for their submission.

This document is delivered to the authorising officer, the accounting officer and the ministers for the budget, the economy and social security.

Article 11

The order dated June 28th, 2002 organising the financial control of the Fonds de Réserve des Retraites is repealed.

Article 12

This order shall be published in the Official Journal of the French Republic.

2 - Government order of May 24th, 2016 relating to the Fonds de Réserve pour les Retraites.

The minister for the finance and the public accounts and the minister of social affairs and health,

Given the Company Code, in particular article L.233-3;

Given the public procurement code;

Given the monetary and financial code;

Given the social security code, in particular articles L.135-10, L.135-11 and R.135-27;

Given the government order of August 10th, 2011 relating to the Fonds de Réserve pour les Retraites;

Given the government order of March 29th, 2016 establishing the list of information and documents that may be requested of procurement contract candidates,

Order:

Article 1

I - The Fonds de Réserve pour les Retraites may not invest directly or indirectly:

1° More than 5% of its assets in financial instruments of one single issuer, with the exception of:

- a) Financial instruments issued or guaranteed by one of the member States of the Organisation for Economic Cooperation and Development (OECD) as well as securities issued by the "Caisse d'amortissement de la dette sociale";
- b) Units or shares of undertakings for collective investment listed at the article L.214-1 of the monetary and financial code whose portfolio is made up exclusively of financial instruments referred to in (a);

2° More than 25 % of its assets in shares or securities conferring entitlement to share capital in enterprises whose registered office is situated outside the European Economic Area or that are not traded on a regulated market in a State that is party to the European Economic Area Convention or on a market lawfully operating in a third country member of the Organization for Economic Cooperation and Development. The relevant authorities of such third country must have laid down regulations governing the operation of, access to and admission to trading on such market and imposed compliance with disclosure and transparency obligations.

II - The following rules apply to investments by the Fonds de Réserve pour les Retraites:

1° The Fonds de Réserve pour les Retraites may not hold more than 3% of the shares or securities conferring entitlement to share capital or units of a single issuer or rights representing a financial investment in one single entity, that are admitted to trading on a French or foreign market in financial instruments operated by a market operator or investment services provider or any other similar foreign entity, subject as provided in 2° and 3° below;

2° This 3% ratio does not apply to shares, securities conferring entitlement to share capital, units of a single issuer or rights representing a financial investment in an entity incorporated in France or abroad, whatever its legal form, whose principal object is the investment of capital in financial instruments, in real estate or real property rights and which, by contractual agreement or applicable regulations, is subject to rules offering a level of protection equivalent to that provided under the rules set forth in sections 1 and 2 of chapter IV of Part I of Book II of the monetary and financial;

3° Without prejudice to the investments already committed by the Fonds de Réserve pour les Retraites on the date this Order enters into force for non-listed assets, the ratio for holdings by the Fund in any entity referred to in 2° may not exceed 20 %. If this ratio is exceeded due to movements in the financial markets, the executive board shall implement the necessary measures to bring the Fund into compliance within no more than six months. This ratio does not apply to investments in an entity entirely dedicated to the Fonds de Réserve pour les Retraites and held through a management mandate;

4° The 3% ratio does not apply to a holding of shares, securities conferring entitlement to share capital, units of a single issuer or rights representing a financial investment in an entity where such assets are held through any of the entities listed in 2° and where such entities are subject by virtue of contractual agreement or applicable regulations, to diversification rules equivalent to those set forth in, by sections 1 and 2 of chapter IV of Part I of Book II of the monetary and financial code;

5° The Fund may not have control, within the meaning of article L.233-3 of the Company Code, of companies other than those entities listed in 2°.

III - The Fonds de Réserve pour les Retraites may enter into contracts constituting forward financial instruments under the same conditions as apply to such contracts when entered into by undertakings for collective investment in transferable securities (OPCVM) as determined by the provisions of the articles R.214-15 and R.214-16 à R.214-18 of the monetary and financial code.

However, counterparty risk on a single counterparty is limited to 5% of the Fund's assets.

IV - Exposure to forex risk, assessed directly or indirectly, must not exceed 20% of total assets.

V - The Fund may not invest in shares, securities conferring entitlement to share capital, units of a single issuer or rights representing a financial investment in an entity, where such a holding could expose it to a risk of loss greater than the amount of its investment.

Article 2

I - Pursuant to the third paragraph of article L.135-10 of the social security code, the Fonds de Réserve pour les Retraites shall, on an exceptional and temporary basis, directly manage one or more of the mandates listed in the second paragraph of the same article, with the sole objective of safeguarding its assets, where the following conditions are satisfied simultaneously:

1° An investment services provider is no longer in a position to manage all or some of the assets that have been entrusted to it by the Funds under an asset management mandate;

2° On the advice of the manager selection committee referred to in article R. 135-27 of the social security code, the executive board considers that no service provider that has been awarded a mandate by the Fund, is able to manage the assets referred to in the previous paragraph. The executive board informs the chairman of the supervisory board that the conditions for the third paragraph of article L. 135-10 of the social security code to apply have been met and reports thereon to the board at its next meeting. The chairman of the supervisory board and the manager selection committee are also provided with the monthly results of such internal management.

II - Where the conditions of I have been met, the Fund shall as soon as possible, in respect of the assets which it is going to manage directly, enter into one or more new contracts, in accordance with articles L. 135-10 and R. 135-27 of the social security code, following the procedures provided in the public procurement code.

III - On the advice of the manager selection committee, as often as necessary and at least once per year, the executive board shall explain to the supervisory board the circumstances in which the general direction in which the mandates are heading could result in the conditions referred to in I being met.

Article 3

I - Pursuant to the provisions of the fifth paragraph of article L.135-10 of the social security code, the Fund is authorised, on and subject to the conditions laid down by the supervisory board and the limit referred to in II, to invest in units or shares of undertakings for collective investment and units, shares or rights representative of a financial investment issued by or in foreign law entities with similar objects, whatever their legal form.

II - The Fund may not invest more than 20% of its assets in financial instruments referred to in I. If due to fluctuations in the financial markets this limit of 20% is exceeded, the executive board shall implement measures to enable the Fund within less than three months to comply with this limit once again.

III - Units or shares in money market undertakings for collective investment, held for the purposes of day-to-day cash management, are not included in the limit referred to in II.

Article 4

By exception to the provisions of article 2 of government order of March 29th, 2016 made pursuant to the first paragraph of article 45 of the public procurement code establishing the list of information and documents that may be required of candidates for the award of public contracts, the public buyer may request disclosure of overall turnover, turnover in respect of supplies, services or works to which the contract relates, achieved during the last five financial years, such disclosure specifying the candidate's total workforce and the number of management personnel for each of the last five financial years together with a list of the principal supplies or services provided during the last five financial years.

Article 5

The limits and the ratios referred to articles 1 to 3 of this order must be estimated at the market value.

Article 6

Government order August 10th, 2011 relating to the Fonds de Réserve pour les Retraites is repealed.

Article 7

This order shall be published in the Official Gazette of the French Republic.