

Reversal of the Pension Reform in Poland

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Abstract

The pension system and pension funds are important elements of the economic system. Their functioning is analysed not only by lawyers and economists but also by employers, employees and politicians. The relationship between the pension system and the fiscal system is important for every country since the standard of living but also the functioning of the labour market is strongly affected by the level of pension contributions.

The paper presents the evaluation of the relationship between recent legal changes in and functioning of Open Pension Funds in Poland. The results of performed analysis show that the legal changes introduced in 2011-2014 lead to slow reversal of the capital part of the Polish pension system.

Keywords: pensions, pension funds, fiscal system, Poland.

Introduction

In the past, the Polish pension system was based on a pay-as-you-go rule. In 1999 Poland introduced a major pension reform in order to improve sustainability of the pension system. This led to the creation of the pension market. It enabled the creation of domestic long-term capital, which until today plays an important role in the Polish economy and assists the development of the local financial markets.

For almost 15 years Poland belonged to the fastest growing pension markets in the world. This spectacular growth in the first decade of the second millennium was possible thanks to a steady and substantial inflow of contributions to Open Pension Funds (hereinafter OPF) and very a limited outflow of capital from the Polish pension market. This pattern was changed by decreasing contributions to OFE in 2011 and later reversed in 2014 by transferring 153 151,2 mln PLN from Open Pension Funds to the Social Security Institution. This change caused

stagnation of the Polish pension market and created a major threat of reversal of the pension reform in Poland. The purpose of this research is:

- 1) to evaluate the consequences of recent legal changes in the Polish pension system for a capital part of the system;
- 2) to describe the development of the pension market and its importance for Poland;
- 3) to prove that the latest changes slowly lead to reversal of the Polish pension reform of 1999.

To achieve the research objectives the economic analysis method of laws was used and scientific literature and normative documents were reviewed. Statistical analysis and comparative analysis were used to do economic analysis of laws. The studied period 2000-2015.

Development of the Open Pension Funds market

During the first nine years the assets of OPF grew steadily and reached a peak in October 2007. Then the assets of OPF set their first record of 142,8 bn PLN. The financial meltdown of 2008 led to a major crisis of the Polish pension market. Despite constant inflows of contributions to OPF their net assets shrunk to just 130,87 bn PLN in February 2009 (Banaszczak-Soroka and Jakubowski, 2009). Thanks to recovery of the global financial markets the situation in the Polish pension market improved. The OPF market grew almost to 175bn PLN between February 2009 and November 2013 reaching a peak of 305,8bn PLN. This growth was largely supported by good performance of the Polish financial markets after the first wave of the global financial crisis until December 2013.

The first nine years of the functioning of the Polish pension market coincided with the bull market

period in the global economy that lasted from 2003 to 2007 (Jakubowski, 2013a). Finally, the growth of the OPF market stopped at the end of 2013 when the second reform of the capital pension pillar was voted by Polish Parliament.

The comparison of the total pension assets with GDP shows a very rapid growth of the pension market in relation to the size of the Polish economy (Niggemann and Rocholl, 2010). At the very beginning of the pension reform the pension asset to GDP ratio was just 1,33%. Ten years later it was already 15,65% and at the end of 2013 it was 18,3%. This indicates how important the pension savings element of the Polish economy had become. This capital accumulation enabled a fast development of the Polish financial markets and turned the Warsaw Stock Exchange into a local financial centre for Central and Eastern European enterprises.

The development of the OPF market would not be possible without a steady and substantial inflow of capital to the second pillar of the Polish pension system (Szumlicz, 2009). Until 2014 compulsory contributions transferred by the Social Insurance Institution from workers' gross earnings constituted

major part of capital gathered and managed by OPF. Until 2011 these contributions were set at high level of 7,3% of gross earnings. For a long time capital outflows from the Polish pension market were very limited since the number and value of the private pension benefits were very low (Dybał, 2014). For a long time big inflows matched with very limited capital outflows and were the major source of pension market growth in Poland in the first fifteen years of the existence of this market (Jakubowski, 2012).

Fiscal situation and reversal of the pension reform in Poland

Unlike the rest of the Central and Eastern European countries, Poland was not harmed by recession during the global financial crisis. Nevertheless, the economic slowdown that Poland suffered in the years 2009, 2012 and 2013 endangered sustainability of the Polish fiscal system.

Due to the global financial crisis Polish budget deficit¹ increased from 1,9% in 2007 to 7,5% of GDP in 2010 (Table 1).

Table 1

General government deficit (annual data)

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Deficit	-6.1	-5.2	-4.0	-3.6	-1.9	-3.6	-7.3	-7.5	-4.9	-3.7	-4.0	-3.3

Source: composed by the author, based on Eurostat data.

A deteriorating economic situation forced reforms of the capital pension pillar that were supposed to improve fiscal situation in Poland by increasing revenues of the Social Insurance Institution (ZUS). Firstly in 2011 contributions to OPF were lowered from 7,3% to 2,3% of gross earnings in order to increase pension contributions received by Social Insurance Institution from 12,22%

to 17,22% of gross earnings (Act on amendment to laws on functioning of the social security system of 25 March 2011, Journal of Laws, 2011, No. 75, item 398). This change was not enough to stop the growth of public debt² in Poland, which grew constantly since 2007 and reached the level of more than 55% of GDP (Table 2).

Table 2

General government gross debt (annual data)

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Debt	46.6	45.3	46.7	47.1	44.2	46.6	49.8	53.3	54.4	54.0	55.9	50.4

Source: composed by the author, based on Eurostat data.

¹ Public deficit is defined by the Maastricht Treaty as general government net borrowing according to the European System of Accounts. The general government sector comprises central government, state government, local government and social security funds. The relevant definitions are provided in Council Regulation 479/2009, as amended (Dybał, 2015).

² General government gross debt is defined by the Maastricht Treaty as consolidated general government gross debt at nominal (face) value, outstanding at the end of the year in the following categories of government liabilities (as defined in ESA2010): currency and deposits, debt securities and loans. The general government sector comprises the sub-sectors: central government, state government, local government and social security funds (Dybał, 2015).

This created a major political threat to the government of Donald Tusk. It is set out in Article 216 paragraph 5 of the Constitution of the Republic of Poland, that public debt should not be higher than 3/5 of annual GDP of Poland (Journal of Laws, 1997, No. 78, item 483). Additionally, Act on Public Finance, Article 86 of 27 August 2009 (Journal of Laws, 2013, item 885) sets two thresholds at the level of 55% and 60% of GDP. In case of crossing the first level the government is forced to apply a remedial program, which includes socially painful fiscal cuts in the following years. For example, no budget deficit is allowed in the following year. This limitation forced the Polish government to take a more radical approach towards fiscal policy.

As a one of the elements of the restrictive fiscal policy the Polish Parliament voted Act on amendment to laws on the rules of paying out retirement pensions from assets accumulated in OPF of 6 December 2013 (Journal of Laws, 2013, item 1717). In accordance with this legal act, OPF were forced to transfer 51,5% of their accounting units to the Social Security Institution on 3 February 2014. The total value of the transferred assets was 153 151,2 mln PLN. The nominal value of the transferred securities was 146 bn PLN. This included:

- 130 bn PLN – Treasury Bills
- 15,6 bn PLN – Highway Bonds
- 200 mln PLN – debt securities guaranteed or backed by the State Treasury or the National Bank of Poland

Debt securities transferred to the Social Security Institution were redeemed by the Ministry of Finances.

Partial nationalization of OPF assets led to reduction of Polish public debt by 145 bn PLN what constitutes 8,5% of GDP. Nevertheless, given the generous indexation of pension rights in the public part of the pension system, a decrease of the retirement age in Poland back to the level of 65 for men and 60 for women, negative demographic trends, this positive fiscal effect is just temporary (Banaszczak-Soroka, 2014).

Also in February 2014 the level of contributions paid to OPF was set at 2,92% of gross earnings. But what is more important this contribution became voluntary. Since February 2014 insured citizens have no right to choose if they still want to pay part of their pension contributions to OPF. In accordance with of Act on amendment to laws on the rules of paying out retirement pensions from the assets accumulated in OPF, Article 11 (Journal of Laws, 2013, item 1717) all OPF members had an opportunity to officially declare their will to continue paying pension contributions to a chosen open pension fund between 1 April 2014 and 31

July 2014. Since 2016 every four years, between 1 April and 31 July, all OPF members will have to formally declare their will to continue paying part of their pension contributions to OPF Fund (Act on the Social Insurance System, Article 39a, paragraph 1. Journal of Laws, 2015, item 121). If an insured citizen does not formally declare his will to continue paying part of his pension contributions to OPF the whole pension contribution (19,52% of gross earnings) shall be received by the Social Insurances Institution (Chybalski, 2013).

Legal investment limits

Together with the transfer of assets to the Social Insurance Institution (ZUS) legal investment limits for OPF underwent major changes. In the years 1999-2011 their assets were managed just like in balanced funds. OPF portfolios were composed of two major components: a fixed portion of income and an equity portion (Dybał, 2008).

In accordance with Act on the Law on organization and functioning of pension funds (Journal of Laws, 2013, item 989), there was no legal limit of investments in fixed income assets and the expected role of this asset class was to provide for more stable periodic returns and some protection against a prolonged decline in the market value of OPF equity investments.

The legal limit of investments in equity assets was set at the maximum level of 40% of OPF portfolio. The expected role of this asset class was to maximize the long term real growth of OPF assets. These two limits were the most important legal standards and had a fundamental influence on the structure of OPF portfolios (Chybalski, 2009).

This was radically changed on 3 February 2014 together with a transfer of half of OPF assets. The most important change took place in the limit on debt allocations for OPF. Right now legal limits for this asset class has become most restrictive.

Practically right now the most important and most restrictive limits are set for debt allocations. In accordance with Act on Open Pension Funds, Article 141 paragraph 2 point 1, it is not allowed to invest in government bonds, treasury bills and other debt instruments issued or guaranteed by the Polish State Treasury, the National Bank of Poland or governments and central banks of the European Union, Organization for Economic Co-operation and Development or European Economic Area member states (Jakubowski, 2015a).

On the other hand, liberalization of limits on equity investment was maximized on 3 February 2014 together with a transfer of half of OPF assets. Right now OPF are managed just like equity funds. Their portfolio is mainly composed of shares

(stocks) of companies listed on regulated markets. Since 2014 there is no maximum level for this asset class (Soldek, 2014).

Investment policy of Open Pension Funds

From the economic perspective, the most important question is how pension capital is invested. For a long time, until the beginning of 2014, OPF remained most dependent on domestic assets, with around 100% of total assets invested in the Polish market. Less than one percentage point of the pension capital was invested abroad. At the same time a domestic part of the aggregate portfolio had high exposure to bonds. Equity allocations remained low, much below a half of total assets (Table 3). The main reason behind that was old legal investment limits of OPF (Jakubowski, 2014).

The reform of 2014 completely changed the aggregate portfolio of all open pension funds and turned them from balanced funds (40% equity and 60% bonds) into equity funds (minimum 75% equity in 2014). This radical change is quite unusual from the global perspective.

During the period 2000-2013 domestic bonds were always dominating portfolios of OPF. Until 2012 bond allocations were always kept above the level of 60% and during the first wave of the financial crisis (2008-2009) the level increased to almost 80%. At the same time equity allocations remained second biggest part of OPF portfolios. Until the second half of 2013 this asset class was always below the level of 30%.

Table 3

Polish pension asset allocation

Year	Equities	Bonds	Other	Cash
2000	35%	63%	0%	2%
2005	32%	64%	4%	0%
2010	36%	59%	1%	4%
2013	42%	52%	0%	6%
2014	83%	9%	1%	7%
X 2015	83%	10%	1%	6%

Source: Annual Bulletins of Polish Financial Supervision Authority *Open Pension Funds Market*; Annual Bulletins of Polish Financial Supervision Authority *Occupational Pension Programs' Market*; Annual Bulletins of Polish Financial Supervision Authority *Individual Retirement Accounts' Market*

A transfer of the majority of OPF fixed income assets (worth 153 billion of PLN) to the Social Insurance Institution completely reshaped the structure of OPF assets. Since the beginning of 2014 equity allocations dominate OPF portfolios. More than 83% of the pension capital has been invested right now in domestic equities. Domestic corporate bonds constitute almost 10% of OPF portfolios. This

makes the Polish pension market most exposed to equities and quite vulnerable to a bad situation on the Warsaw Stock Exchange (Jakubowski, 2015b).

Further analysis of the Polish pension market indicates that it still remains dependent on domestic assets, with more than 93% of total assets invested in its own market. Less than 7% of the pension capital have been invested abroad (Table 4). What is striking, this situation is changing very slowly despite liberalization of the legal limit on foreign investments of OPF (Soldek, 2015).

Table 4

Open Pension Funds asset allocation

Year	Domestic equities	Domestic bonds&cash	Foreign assets
December 2010	36,2%	63,1%	0,7%
December 2011	31,2%	68,2%	0,5%
December 2012	35,0%	64,2%	0,8%
December 2013	40,8%	57,8%	1,4%
December 2014	79,7%	16,4%	3,9%
June 2015	79,7%	13,8%	6,5%

Source: Monthly Bulletins of Polish Financial Supervision Authority *Open Pension Funds' Market*

It is worth noting that domestic allocations have a positive influence on the development of the Polish financial markets (Dybał, 2013). But a high exposure to domestic bonds and low equity and foreign allocations are not safe for the customers. It is because a very limited diversification of the pension assets may endanger this capital in the case of macroeconomic, demographic or even political shocks affecting the Polish state and the Polish economy³. Moreover, a heavy dependence of the Polish pension market on the domestic assets (they include mainly equities) is against global trends. From the global perspective, in the last twenty years, the home bias in the equity space was significantly reduced. The weight of domestic equity in the pension assets portfolios fell in almost all analysed countries⁴.

Capital shrinking of Open Pension Funds

The reform of 2014 fundamentally changed the functioning conditions of capital part of the

³ More about macroeconomic, demographic and political shocks see Nicholas Barr. *Reforming Pensions: Myths, Truths, and Policy Choices* (2000). IMF Working Paper WP/00/139, 5–8, 31-32.

⁴ Towers Watson *Global Pension Asset Study 2016* (TW 2016)

Polish pension system. Firstly, a transfer of assets from OPF to the Social Insurances Institution halved the size of the pension market of Poland. Secondly, lowering contributions paid to OPF Funds limited capital inflow to these funds. Thirdly, introduction of freedom to pay contributions to an open pension fund led to a significant drop in the value of the contributions paid to OPF (Table 5). These three changes started to slow down the process of informal phasing of capital part of the Polish pension system, and that means a gradual reversal of the Polish pension reform (Bardzikowski, 2015).

Table 5

Contributions and net assets of Open Pension Funds (1999-2015)

Data	Net assets	Total contributions	Annual contributions
2010	221,25	163,46	23,16
2011	224,72	179,21	15,75
2012	269,60	184,33	8,41
2013	299,27	198,68	11,05
2014	148,45	203,20	4,53
IX 2015	143,32	205,61	-

Source: Annual Bulletins of Polish Financial Supervision Authority *Open Pension Funds' Market*

A key element of the future of the OPF market of Poland is the ability of these funds to attract new young customers, who will pay contributions in the following decades. The reform of 2014 introduced a freedom to pay contributions to OPF. In these new legal conditions, the youngest insured people have a real choice if they want to be members of OPF at all. They can choose not to sign a contract with OPF and pay second pillar pension contributions only to the Social Insurances Institution.

The consequence of this legal situation is that the majority of young people opt out from becoming members of OPF. This leads to a dramatic drop of OPF membership among the youngest insured people (Table 6).

Table 6

The youngest members of Open Pension Funds by age

Month	17 and less	18-20	21-25
December 2012	40 406	270 366	1 780 013
December 2013	37 964	255 710	1 697 005
December 2014	34 782	223 663	1 530 775
March 2015	1 167	149 165	1 215 886
June 2015	1 167	149 171	1 215 909
September 2015	1 172	149 179	1 215 935

Source: Quarterly Bulletins of Polish Financial Supervision Authority *Open Pension Funds' Market*

The most impressive is a drop of OPF membership among the youngest group of insured people, aged less than 18 years old. Just in the first quarter of 2015 the number of the youngest members of OPF went down thirty times, from 35 000 people to just 1 167 people. Right now this number has been slowly growing to 1 172 but this change is insignificant.

In other age categories, a drop was not so spectacular but total numbers are much bigger. In the first quarter of 2015, the number of OPF members aged 18-20 went down by almost 75 000. In the same quarter the number of OPF members aged 21-25 went down by almost 315 000. Right now these numbers have been slowly growing, but still these changes are rather insignificant.

A limited enrolment of new members to OPF and continuing withdrawal of the oldest members who reach the retirement age lead to a drop of OPF membership (Table 7).

Table 9

Total number of Open Pension Funds' members

Month	Members of OPF
December 2013	16 377 714
December 2014	16 621 686
September 2015	16 564 653

Source: Quarterly Bulletins of Polish Financial Supervision Authority *Open Pension Funds' Market*

The total number of OPF members reached its maximum in March 2014 (16 703 761 people). Since that moment the number of OPF customers has been regularly going down. Between March 2014 and September 2014 this number was lowered by almost 140 000 people.

A falling number of OPF customers has a negative impact on the value of the capital transferred to it. Nevertheless, introduction of a freedom to pay contributions to OPF in the future is most important (Brzęczek, 2015).

According to Social Insurances Institution data of March 2015, only 15,1% of OPF members formally declared their will to pay capital pension contributions to a chosen open pension fund. The total number of them is only 2,5 mln people. It is worth noting that the oldest members of OPF were not allowed to choose. Those insured who will reach the retirement age after less than 10 years automatically pay their pension contributions only to the Social Insurances Institution (Act on the Social Insurances System, Article 22, paragraph 3 in conjunction with Article 22, paragraph 3d, Journal of Laws, 2015, item 121).

Lowering OPF contributions and making them voluntary resulted in a lower value of contributions

paid to OPF (Table 8) and a lower net asset value of OPF.

Table 8

Amount of pension contributions transferred to Open Pension Funds by the Social Insurances Institution (quarterly)

Month	Amount of pension contributions (PLN)
December 2014	742 846 634,90
March 2015	817 491 744,68
April 2015	840 125 668,39
September 2015	774 638 141,40

Source: Quarterly Bulletins of Polish Financial Supervision Authority *Open Pension Funds' Market*

This is a beginning of a slow down and constant shrinking of OPF net assets. A chance to reverse this process depends on the ability of OPF to attract young customers who will pay more contributions and reignite a growth of the pension market in Poland.

Conclusions

Until 2007 the reformed Polish pension system with compulsory OPF was perceived as a modern and effective solution to problems in an ageing society. It was the global financial crisis that highlighted major flaws of the OPF market. Between 2007 and 2009 insured people were exposed to negative consequences of investment risk connected with capital accumulation in pension funds. This triggered a debate on pension among scientists, politicians and people working for pension market institutions in Poland.

As a result of this debate, the government of Donald Tusk decided to deeply reform the capital pillar of the Polish pension system in 2011-2014.

The most important elements of this reform were: reduction of contributions paid to OPF, introduction of a freedom to pay these contributions, transfer of more than 50% of OPF net assets to the Social Insurances Institution. This analysis shows that these changes lead to a slow reversal of the pension reform in Poland.

An introduction of a freedom to pay contributions to OPF (freedom of the youngest insured people to become OPF members) together with a withdrawal of the old members who have reached the retirement age leads to a drop of the total number of OPF members. This means a lower number and value of contributions paid to OPF. This difference is best visible when the first quarter of 2011 is compared to the third quarter of 2015. At the beginning of 2011 the Social Insurances Institution

transferred to OPF 6 470 mln PLN. At the end of 2015 the value of the transferred contributions was less than 775 mln PLN.

A falling number of OPF members and a falling value of contributions paid to OPF leads to a slow decrease of OPF net assets. This process will be accelerated by lowering the retirement age in Poland back to 65 for men and 60 for women.

Therefore next year might be decisive for the future of the Polish pension market. Between April 2016 and July 2016 OPF members once again will have to declare their will to pay OPF contributions. If OPF are able to persuade insured citizens to pay more contributions then a growth of the pension market will be reignited.

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Reversal of the Pension Reform in Poland

Summary

In the past, the Polish pension system was based on a pay-as-you-go rule. On 1 January 1999 Poland introduced a major pension reform in order to improve sustainability of the pension system. The new system consisted of three independent pillars. The first one was and still is public and managed by the Social Insurance Institution. It is obligatory, financed using the pay-as-you-go method, created on the basis of a set contribution but operates on the principle of inter-generational solidarity. The second one was based on the market of private pension funds. It was obligatory, financed through funding, also based on a set contribution but without inter-generational solidarity. The third one was and still is intended to supplement the benefits from the first two ones and therefore participation is voluntary. This pillar is based on various forms of private pension schemes. It is

financed through funding, based on a set contribution and without inter-generational solidarity. The pension reform of 1999 led to the creation of the pension market in Poland. The formation of the funded pillar of the Polish pension system based on Open Pension Funds (hereinafter OPF) market enabled the accumulation of substantial long term capital. After the first year of functioning of the market the accumulated pension capital was only 2.25 bn PLN. In just 15 years this sum increased more than hundredfold to reach its peak level in November 2013 (306 bn PLN). The comparison of the total pension assets with GDP shows this rapid growth of the pension market in relation to the size of the Polish economy. At the beginning of the third millennium the pension asset to GDP ratio was just 1,33%. Ten years later it was already 15,65% and at the end of 2013 it was 18,3%. Therefore OPF became an

important element and a stimulus for the development of the financial markets in Poland.

Until 2008 the Polish reformed pension system with compulsory OPF was perceived as a modern and effective solution to problems in an ageing society. It was the global financial crisis that highlighted the major flaws in the OPF market. Despite a constant inflow of contributions to OPF their net assets shrunk to just 130,87 bn PLN in February 2009. For the first time OPF customers were hit by negative consequences of investment risk connected with capital accumulation in these pension funds. The value of their accounting units – financial instruments sold by OPF and accumulated by OPF members in their individual accounts – fell down sharply. Between October 2007 and February 2009 the value of the weighted average accounting unit fell down from 29,80 PLN to just 22,93 PLN. This triggered pension debates among scientists, politicians and people working for pension market institutions in Poland.

The Polish Parliament voted Act on amendment to law on the rules of paying out retirement pensions from the assets accumulated in OPF on 6 December 2013. This legal act introduced several fundamental changes in the funded pillar of the Polish pension system.

Firstly, a transfer of assets from OPF to the Social Insurances Institution halved the size of the pension market in Poland. OPF were forced to transfer 51,5% of their accounting units to the Social Security Institution on 3 February 2014. The total value of the transferred assets was 153 151,2 mln PLN. The nominal value of the transferred securities was 146 bn PLN. This included:

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- 200 mln PLN – debt securities guaranteed or backed by the State Treasury or the National Bank of Poland.

Debt securities transferred to the Social Security Institution were redeemed by the Ministry of Finances.

Partial nationalization of the OPF assets led to a reduction of Polish public debt by 145 bn PLN what constitutes 8,5% of GDP. Nevertheless, given a generous

indexation of pension rights in the public part of the pension system, a planned decrease of the retirement age in Poland back to the level of 65 for men and 60 for women, negative demographic trends, this positive fiscal effect is just temporary.

Secondly, lifetime capital pension benefits (the unded pillar of the pension system) were replaced by joint pension benefits from the first and the second pillar and paid out by the Social Insurances Institution. This coincided with introduction of faster withdrawals of capital from OPF. This process starts ten years before an OPF member reaches the retirement age. Each month 1/120 of accounting units accumulated by this member is transferred to his subaccount with the Social Insurances Institution. This only deepens and speeds up a decrease of the OPF assets.

Thirdly, the level of contributions paid to OPF was set at 2,92% of gross earnings. But, what is more important, this contribution became voluntary. Since February 2014 insured citizens are not allowed to choose if they still want to pay part of their pension contributions to OPF. According to Act on amendment to law on the rules of paying out retirement pensions from assets accumulated in OPF article 11 all OPF members between 1 April 1 and 31 July 31 2014 had an opportunity to officially declare their will to continue paying pension contributions to a chosen open pension fund. Since 2016 every four years, between 1 April and 31 July 31 all OPF members will have to formally declare their will to continue paying part of pension contributions to OPF. If the insured citizen does not formally declare his will to continue paying part of his pension contribution to OPF, the whole pension contribution (19,52% of gross earnings) shall be received by the Social Insurances Institution.

These three changes started a slow process of informal phasing off of capital part of the pension system in Poland and this means a gradual reversal of the pension reform in Poland.

Keywords: pensions, pension funds, fiscal system, Poland.