

Pursuant to the provisions of UNMIK Regulation No. 2005/20, On Pensions in Kosovo, dated 29 April 2005,

For the purpose of applying Sections 11, 12 and 17 UNMIK Regulation No. 2005/20 (the “Pensions Regulation”), in the matter of prescribing standards and guidelines in the transaction of investments of pension assets and the role(s), duties and obligations of the asset manager(s) in relation thereto.

The Governing Board of the Central Banking Authority of Kosovo (CBAK), at its meeting held on 04 April 2007 adopts the following:

## **Rule 10 on Amending rule on Asset Managers of Pension Assets**

### **Section 1**

#### **Scope and Purpose of this Rule**

##### **1.1 Scope of Rule**

This Rule applies to Asset Managers of pension assets of the Kosovo Pension Savings Trust (the “Trust”), Supplementary Employer Pensions (Pension Funds) and, where applicable, Supplementary Individual Pensions (Pension Providers).

##### **1.2 Purpose of the Rule**

This Rule prescribes certain guidelines for the proper investment of pension assets pursuant to the provisions of Sections 11, 12 and 17, of the Pensions Regulation.

## **Section 2 General Provisions**

### **2.1 Definitions**

All terms used in this Rule are as defined in the Pensions Regulation..

“Asset management agreement” refers to the agreement, by whatever name called, between the Trust, the governing body of a Pension Fund or a Pension Provider, where applicable, and the Asset Manager(s) relating to management and investment of pension assets.

“Asset management” includes the giving of investment advice and the transaction of investment such as, but not limited to, the solicitation, sourcing, negotiation, acquisition, exchange, retention, and disposition of pension assets and accounting the results thereof, including projecting investment performance of actual or proposed investment assets.

“Investment principles” refer to the investments policies and investment performance objectives adopted by the pension entity for the investment of pension assets whether expressed in the Pension Bylaws, Pension Rules or in the investment directives.

“Investment directives” refer to the orders or instructions made by the pension entity to the asset manager(s) specifying the terms, conditions and manner of transacting investment of pension assets.

“Pension entity” includes the Trust, Pension Funds and, where applicable, Pension Providers.

## **Section 3 Conditions for Conducting the Business of Asset Managers**

### **3.1 Asset Managers Located in Kosovo**

An asset manager located in Kosovo must satisfy all of the following conditions:

a) Form of organization and license. A bank or a financial institution that is a legal entity in Kosovo and licensed as such by the CBAK, authorized according to the requirements of the banking regulations and of Rule 4 of these Rules to conduct the business of asset management.

b) Compliance with the Pensions Regulations, the CBAK Rules on Pensions and other applicable pension laws, statutes, regulations or rules. An asset manager is

deemed to have agreed and continue to agree to comply with the provisions of the Pensions Regulation, these Rules and other laws, regulations or rules promulgated by competent authorities in Kosovo that affect management of pension assets.

c) Fiduciary responsibilities. An asset manager assumes fiduciary duties and responsibilities to the pension entity and the participants and beneficiaries for prudential management of their pension assets. This fiduciary duty and responsibility is deemed included in every asset management agreement relating to pension assets.

d) Segregation of pension assets. An asset manager must maintain, administer, record, account and shall render reports on, assets under its management separately from each and every pension entity and from all other asset management accounts it has with other persons or entities.

e) Supervision and regulatory oversight. An asset manager, and all its directors, officers, employees and/or any person who exercise, or may exercise, any function relating to the management of pension assets agree and continue to agree to submit themselves to direct supervisory and regulatory oversight by the CBAK Department of Pensions relating to the conduct of its business as asset manager of pension assets.

### **3.2. Asset Managers outside Kosovo**

a) Licensing. Asset Managers located outside Kosovo must be licensed by banking, financial services or capital markets regulator in a member state of the EU or OECD and must provide evidence of such license to the Trust and the CBAK.

b) Compliance with applicable laws. An asset manager outside Kosovo must comply with applicable laws and regulations in the jurisdiction where licensed and must provide evidence that it is in good standing in the relevant jurisdiction.

c) Segregation of pension assets. An asset manager must maintain, administer, record, account and shall render reports on, assets under its management separately from each and every pension entity and from all other asset management accounts it has with other persons or entities.

## **Section 4 The Business of an Asset Manager**

### **4.1 Duties and Responsibilities**

In the management of pension assets the asset manager shall:

- a) Manage pension assets only in accordance with the statement of investment principles adopted, and the investment directives issued, by the pension entity that are consistent with requirements of the Pensions Regulation and of Rule 9 of these Rules.
- b) Execute investment of pension assets only through the authorized custodian.
- c) Maintain appropriate records of transactions investing pension assets providing adequate trails of all investment transactions.
- d) Keep copies of settlement documents supporting any transfer, issue or acquisition of funds and securities constituting the pension assets and verify that these documents correspond to its underlying instructions, requests or agreements with the custodian.
- e) Provide all information requested by the pension entities with whom it has asset management agreements as are necessary for these entities to comply with the requirements of the Pensions Regulation, these Rules and other applicable laws, statutes, rules or regulations by competent authorities.
- f) Ensure that every agreement, request or direction it makes with the custodian, the Trust, trustees, administrators of the pension entities, for the management of pension assets, conforms with the terms and conditions of the underlying statement(s) of investment principles and investment directives that comply with the requirements prescribed in the Pensions Regulation and Rule 9 of these Rules for the investment of pension assets.
- g) Ensure that it has established adequate and effective system of internal control for the management of pension assets.
- h) Report promptly to the Trust, the Pension Fund and/or Pension Provider as applicable, any investment of pension assets that it believes breaches or violates the requirements of the Pensions Regulation, these Rules, other applicable laws, statutes, regulations or rules relating to the pension assets under its management, or concerning the proper discharge of its fiduciary duties.
- i) Render regular reports to the Trust, the Pension Fund and, where applicable, the Pension Provider, required under the terms of the asset management agreement with copy to the CBAK in the same manner and time as they are submitted to the pension entity.
- j) Report promptly to the Trust, (the Pension Fund and the Pension Provider, if applicable) and to the CBAK any information that may come to its knowledge that endangers or may endanger the safety and security of the pension assets because of acts or omissions attributable to the Governing Board of the Trust or the governing body of any Pension Fund, the administrator, the custodian or any

person having some discretionary powers and/or control over the management and custody of pension assets including any adverse information about the such persons that exposed, exposes or may expose the pension assets to unnecessary risk of loss and/or of any condition suggesting breach or violation of the Pensions Regulation, these Rules or of any legal or fiduciary duty.

k) Report promptly and directly to the CBAK any information, known to him, involving or suggesting fraud, dishonesty or misuse of pension assets attributable to any entity or person; or when the Governing Board of the Trust or the governing body of any Pension Fund failed, or is reasonably believed to fail, in addressing or taking corrective actions to remedy a known breach or violation of any legal and fiduciary duties required of the Governing Board, administrator(s), custodian(s) or other persons having discretionary power and control over the pension assets.

## **Section 5 The Asset Management Agreement**

### **5.1 Requirement of the Agreement**

No asset manager shall undertake pension asset management activities unless it has a duly executed and effective asset management agreement with the Trust, (Pension Fund or Pension Entity, where applicable).

### **5.2 Form and Content of an Asset Management Agreement**

Every asset management agreement must be in writing, signed and dated by officers who are duly authorized by board resolution of the governing boards of the pension entity and the asset manager stipulating, at a minimum, the particulars of the following requirements:

- a) The specific duties and responsibilities of the asset manager.
- b) The manner by which the asset manager performs its duties and responsibilities.
- c) Specific instructions for the voting of shares.
- d) The remuneration of the asset manager and the manner by which these fees and charges are determined if they are agreed as percentage of pension assets under management.
- e) The procedure and requirements for the termination of the agreement.
- f) The sanctions to be imposed on the asset manager for breach or violation of the terms and conditions in the agreement.

## **Section 6**

### **Investment through Open-End Vehicles**

#### **6.1 Applicable to the Trust**

If the Governing Board of the Trust decides to invest some or all of the Pension Assets of the Trust through an Open-end Vehicle, the following requirements apply:

- a) Form of organization and license. The Open-end Vehicle must be operated, managed and established by a bank, insurance company, or a financial institution that is a legal entity in one of the countries of the OECD and is licensed by the financial markets regulator according to the requirements of the applicable laws and regulations to conduct the business of asset management through an Open-end Vehicle.
- b) Fiduciary responsibilities of the Board. The determination as to whether it is optimal to use an Open-end Vehicle rather than some other form of asset management is a fiduciary responsibility of the Governing Board, taking into account the quality of the investment, the amount of assets under management, the diversification of investment, and the costs of management. Selection of the Open-end Vehicle must proceed in accordance with the selection criteria set forth in the Pensions Regulation.
- c) Fiduciary responsibilities of the Open-end Entity. An Open-End Entity assumes fiduciary duties and responsibilities to the Trust and the participants and beneficiaries for prudential management of Pension Assets.
- d) Selection process. The Governing Board must select an Open-end Vehicle that adopts and applies investment policies consistent with the statement of investment principles of the Trust and which would reasonably be expected to comply with the restrictions and limitations as to classes of investments of Section 10 of the Pensions Regulation.
- e) Periodic review. It shall be the duty of the Governing Board to periodically review the pooled investments of the Open-End Vehicle and evaluate its general compliance with its own published investment principles as well as the asset class and diversification requirements of Section 10 of the Pensions Regulation. The Governing Board shall report the results of such review to the BPK on a regular basis, no less than once every three (3) months. Repeated and persistent deviation from such guidelines by the Open-end Vehicle shall be grounds for reconsideration of the appropriateness of the investment. Such deviations shall not be a breach of the fiduciary responsibilities of the Governing Board. However, if the deviation continues for six months from date of discovery or nine months from date of deviation (whichever is shorter) the Board shall take steps to

withdraw from the Open-end Vehicle and to choose an investment manager or other pooled fund that conforms to the Pensions Regulation.

f) Separate accounting for Trust pension assets. An Open-end Vehicle shall record and report on the pooled assets under its management and shall render an accounting on the share of total pooled assets (or the number of units in the pool) that are owned by the Trust.

g) Custodian. The Governing Board shall take steps to ensure that the Open-End entity has established adequate and effective system of internal control for the custody and management of pooled assets, documenting all purchases and sales and relevant transactions. The Governing Board of the Trust will not be required to select an independent custodian for those pension assets of the Trust that are invested on a pooled basis through the purchase of shares of an Open-end Vehicle. Instead, the Trust may rely on the custodian of the Open-end Vehicle, provided that the custodian of the Open-End entity maintains separate controls from the Asset Manager. The Trust is required to maintain all records with respect to its investments in the Open-end Vehicle including all additions to or subtraction from the Trust's holding.

h) Proof of licensing. The Open-End Entity must provide to the Trust evidence that it is appropriately licensed for its business according to the laws of a member of the OECD and that such license is not under suspension or revocation.

i) Transfers. The Governing Board shall also establish procedures ensuring that all asset transfers from the Open-End Entity shall be made pursuant to proper decisions of the Governing Board and for payment of pension or expenses.

## **6.2 Form and Content of Agreement with the Trust**

No Open-end Vehicle shall undertake pension asset management activities for the Trust unless it has a duly executed a written agreement with the Trust, signed and dated by officers who are duly authorized by resolution of the Governing Board of the Trust and by authorized persons of the Open-end Vehicle, including the following:

a) Duties and responsibilities of the Open-end Vehicle, the terms for the purchase of shares and the asset classes used as well as any restrictions thereon.

b) Procedures for asset custody and the identity of the custodian of the Open-end Vehicle.

c) Remuneration of the Open-end Vehicle and the manner by which these fees and charges are determined as percentage of pension assets under management.

d) Procedure and requirements for the termination of the agreement.

e) Sanctions to be imposed on the Open-end Vehicle for breach or violation of the terms and conditions in the agreement.

In compliance with Section 12.5 of the Pensions Regulation, the Trust may execute the standard subscription document of the Open-end Vehicle.

### **6.3 Applicable to Pension Funds, and Pension Providers**

Pension Funds, or if applicable, Pension Providers, must appoint Asset Manager(s) in accordance with this Rule.

#### **Section 7**

With approval of this rule will be abrogated rule 14 on investment of pension assets of the Kosovo pension savings Trust thought Open – End Entities.

#### **Section 8**

#### **Entry into Force**

This Rule shall enter into force on 16 April 2007.

Michel Svecine  
Managing Director