

Pursuant to the provisions of UNMIK Regulation No. 2005/20, On Pensions in Kosovo, dated 29 April 2005, on amending UNMIK Regulation No. 2001/35,

For the purpose of execution of Section 9 of the UNMIK Regulation No. 2005/20 (the “Pensions Regulation”), in the matter of proper and prudential safe-keeping and custody of pension assets.

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

Rule 8 on Amending rule on the Custody of Pension Assets

Section 1

Scope and Purpose of this Rule

1.1 Scope of Rule

This Rule applies to Custodians of pension assets of the Kosovo Savings Pension Trust (“the Trust”) and when applicable, to Custodians of Pension Fund or Pension Provider pension assets.

1.2 Purpose of the Rule

This Rule prescribes certain guidelines for the proper custody of pension assets pursuant to the provisions of Section 9 of the Pensions Regulation.

Section 2 General Provisions

2.1 Definitions

All terms used in this Rule are as defined and stated in the Pensions Regulation and/or as further defined in this Rule.

“Custodial agreement” refers to the agreement, by whatever name called, between the Trust (Pension Fund or Pension Provider, where applicable) and the Custodian relating to custody of pension assets.

“Custody of pension assets” includes the safekeeping, acquisition and disposition of pension assets according to the terms and conditions of the underlying custodial agreement.

“Investment principles” refers 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” refers to the orders or instructions made by the pension entity to the custodian specifying the terms, conditions and manner of acquiring, releasing and/or disposing of pension assets. “Pension entity” includes, unless the context indicates otherwise, the Trust, Pension Funds and Pension Providers.

Section 3

Conditions in the Conduct of Business of Custodians

3.1 General Conditions for Kosovo Custodian

A custodian of pension assets that is a legal entity in Kosovo must satisfy the following conditions:

a) Form of organization and license. A custodian must be a legal entity licensed by the CBAK according to the banking regulations and authorized to conduct banking business including custody and safekeeping of assets.

b) Compliance with the Pensions Regulations, the CBAK Rules on Pensions and other applicable pension laws, statutes, regulations or rules. A custodian of pension assets 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 that affect custody of pension assets.

c) Fiduciary responsibilities. A custodian assumes fiduciary duties and responsibilities to the pension entity and the participants and beneficiaries of the pension arrangements for prudent transaction involving pension assets under its custody. This fiduciary duty and responsibility is deemed included in every custodial agreement relating to pension assets.

d) Segregation of pension assets. A custodian must maintain, administer, record, account and shall render reports on, custodial assets separately from each and

every pension entity's trust account or from all other custodial or trust account belonging to other persons or entities.

e) Supplementary supervision and regulatory oversight. A custodian and all its directors, officers and employees who exercise, or may exercise, any function relating to pension assets agree to submit themselves to supplementary supervision and regulatory oversight by the CBAK Directorate of insurance and Pensions relating to the conduct of its business as custodian of pension assets.

3.2 Custodians located outside Kosovo

Custodians located outside Kosovo must be licensed by a banking, financial services or capital markets regulator of a member state of the EU or OECD and provide the Trust and the CBAK proof of such license.

Section 4

The Business of a Custodian of Pension Assets

4.1 Duties and Responsibilities

In the custody of pension assets the Custodian shall:

- a) Receive and safe-keep paper securities, titles and deeds constituting pension assets.
- b) Maintain appropriate records of paperless securities underlying pension assets and provide an adequate trail of transactions involving them.
- c) Receive and keep copies of settlement documents supporting the transfer, issue or acquisition of funds and securities constituting the pension assets.
- d) Establish and maintain a register of pension assets under its custody in a manner that provides an adequate trail of all transactions affecting the assets.
- e) Provide all information requested by the Trust and other pension entities with whom it has a custodial agreement as are necessary for them 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 made by the Asset Manager(s) (in the case of the Trust), the board of directors, administrators or Asset Managers (in the case of Pension Funds and Pension Providers), for the acquisition and disposal of pension assets, conforms with the terms and conditions of the underlying statement(s) of investment principles and investment directives and complies with the requirements prescribed in the Pensions Regulation and these Rules for investment of pension assets.

g) Fulfill the instructions of the Trust, the board of directors or administrator (in the case of a Pension Fund or Pension Provider) that are consistent with the terms of the underlying statement of investment principles, investment directives and the requirements of the Pension Regulations, these Rules and such other laws, statutes, rules or regulations involving pension assets and trusts.

h) Ensure that pension assets are invested in accordance with the Pensions Regulation, these Rules, other applicable laws, statutes, regulations and rules issued by competent authorities regarding pension assets and that investments are being done according to the terms of the statement(s) of investment principles and the investment directives.

i) Ensure that the Asset Manager(s) fulfills its legal obligations in investing the pension assets.

j) Ensure that it has established an adequate and effective system of internal control for the custody of pension assets, every transaction involving acquisition and disposition of assets and the sufficiency and accuracy of accounting and financial information relating to them.

k) 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 custody, or concerning the proper discharge of fiduciary duties and obligations governing trusts, in general.

l) Render its regular reports required under Rule 6 of these Rules within the time so prescribed.

m) 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 may endanger the safety and security of the pension assets because of acts or omissions attributable to the trustees or any of its members, the administrator, the Asset Manager(s) or any person having some discretionary powers and/or control over the investment and custody of pension assets, including any adverse information about the such entities and/or individuals, that may expose the pension assets to unnecessary risk of loss or of any condition suggesting breach or violation of the Pensions Regulation, these Rules or of any legal or fiduciary duty or obligation.

n) Report promptly and directly to the CBAK any information, known to it involving or suggesting fraud, dishonesty or misuse of pension assets attributable to any entity, trust or individual; or when the governing bodies of the pension entity(ies) failed, or is reasonably believed to fail, in addressing, or taking corrective actions to remedy, a breach or violation of legal and fiduciary duties required of the board of directors, administrator(s), asset managers(s) or other persons having discretionary power and control over the pension assets.

Section 5

The Custodial Agreement

5.1 Requirement of the Agreement

No custodian shall receive, accept, acquire or dispose pension assets or any title, security, or similar documents, memoranda or record constituting pension assets, unless it has a duly executed and effective custodial agreement with the Trust, Pension Fund or Pension Entity, where applicable.

5.2 Form and Content of a Custodial Agreement

Every custodial 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 Custodian stipulating, at a minimum, the particulars of the following requirements:

- a) The specific duties and responsibilities of the Custodian.
- b) The manner by which the Custodian performs its duties and responsibilities.
- c) The remuneration of the Custodian and the manner by which these fees and charges are determined if they are agreed as percentage of pension assets.
- d) A general warranty that all requirements of the Pensions Regulation and these Rules relating to custody of pension assets were, and will be continually, satisfied by the Custodian.
- e) A stipulation that all duties and responsibilities required of the Custodian under the Pensions Regulation, this Rule and other applicable rules of the CBAK are incorporated in the agreement.
- f) An indemnity or "hold harmless" provision that the pension entity, its governing board, the pension assets, the participants and beneficiaries are held harmless from, and will be properly indemnified by the Custodian of, all inappropriate cost, expense, charge on, or loss of, or damage to, or liability created against, the pension assets because of fraudulent, dishonest or negligent acts or omissions of the Custodian, its directors, officers, agents and/or employees.
- g) The procedure and requirements for the termination of the agreement and the time and manner by which the custodial assets are transferred to a substitute or new Custodian.

Section 6

Custodial Requirements for Investments in Open-End Vehicles

6.1 Applicable to the Trust

- a) Trust Assets invested through an Open-End Vehicle are not subject to the requirements of Section 9 of the Pensions Regulation and may be held through custodial arrangements of the Open-End Vehicle using a form custodial agreement.
- b) The Governing Board must review the custodial arrangements of the Open-End Vehicle and determine that they are appropriate, that the custodian will verify that the Open-End Vehicle fulfills its legal obligations in relation to the pooled assets with respect to the acquisition, disposition and safekeeping of the holdings in the pool.
- c) The Governing Board shall take steps to ensure that the Open-End Vehicle 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.

6.2 Applicable to Pension Funds and Pension Providers

- a) Pension Assets of invested by Pension Funds or Pension Providers through an Open-End Vehicle are not subject to the requirements of Section 9 of the Pensions Regulation and may be held through custodial arrangements of the Open-End Vehicle.
- b) Pension Funds and Pension Providers using Open-End Vehicles must review the adequacy of custody arrangements and determine that they are sufficient to safeguard pension assets.

Section 7

Entry into Force

This Rule shall enter into force on 16 April 2007.

Michel Svetchine
Managing Director