



Banking and Payments Authority of Kosovo

Pursuant to the provisions of UNMIK Regulation No. 2001/35, On Pensions in Kosovo, date of 22 December 2001,

For the purpose of execution of Section 14 of UNMIK Regulation No. 2001/35 (the “Pensions Regulation”), in the matter of prescribing the manner of effecting the creation and establishment of a Supplementary Employer Pension Fund (“Pension Fund”).

Governing Board of the Banking and Payment Authority of Kosovo (BPK), at its meeting held on July 25, 2002 adopts the following:

Rule 12 on the Establishment of Pension Funds

Section 1 Scope and Purpose of this Rule

1.1 Scope of Rule

This Rule applies to Employers establishing Supplementary Employer Pension Funds providing pension benefits to their employees and their beneficiaries. It also applies to the Pension Fund legal entities created by Employers as trusts for the administration and management of the employee pensions and the pension assets. Where applicable, this Rule applies as well to the members of the Board of Directors of such Pension Fund entities.

1.2 Purpose of the Rule

This Rule enforces the provisions of Section 14 of the Pensions Regulation and prescribes certain guidelines and requirements in forming, creating and/or establishing Pension Funds.

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.

“Early pension benefit” means a provision in the pension Bylaws allowing a participant who retires before normal pension age to commence his/her

pensions. An “early pension benefit” may begin after the earlier of age 60 or 35 years of service. Lifetime payments of “early pension benefits”, in a Defined Benefit Pension, require actuarial calculations to reduce benefits based on age at retirement.

“Bylaws” refers to that document defined under Section 1 of the Pensions Regulation, that governs the administration and management of the pension scheme and provides terms and conditions for the payment of contributions and receipt of pensions.

“Charter” refers to the document through which the highest governing body of an Employer resolves or decides to establish and create a Supplementary Pension Fund in the form of a management trust.

“Beneficiary” is the person or persons designated by the participant to whom payment of his/her pension benefits is (are) to be made in the event the participant dies before his/her pension commences or during the period of pension payments to the extent of his/her outstanding pension benefits.

“Disability pension” refers to an eligibility to commence pension benefits before age 65 for a participant who suffers a qualifying disability defined by the SRSG or by a law or statute giving him/her a right to commence pensions, or as shall be defined in the Pension Bylaws, consistent with applicable laws.

“Deferred pension” means the pension benefit that is vested to the participant upon his/her termination of employment occurring before pension age but for which the commencement of pension is postponed until he/she reaches normal pension age or eligibility for accelerated pension.

“Highest governing body” of an Employer refers to the board of directors of a corporate entity, joint stock or association, the managing partner or partners in a partnership and/or the owner in a sole proprietorship.

“Normal pension age” means age 65, and “normal pension benefit” means the pension benefit to a participant that is commenced after he/she attains normal pension age.

“Sponsor” means the Employer establishing and creating a Supplementary Employer Pension Fund.

“Register of Pension Funds”, means the book or register maintained by the BPK containing a list of all licensed Pension Funds, their Sponsors and Co-sponsors and copies of their respective Bylaws.

“Vested right” of a participant means the interest of or benefit to a participant or beneficiary in the Pension Fund assets that cannot be forfeited or lost but which right to use and receive the benefit arises only at, or when the

participant reaches, normal pension age, early retirement age, qualifying disability or death of the participant.

Section 3

Establishing a Supplementary Employer Pension (Pension Fund)

3.1 General Requirements

- a) The Charter executed by the Employer sponsoring the Pension Fund establishes a Pension Fund. The Charter shall, among others, specify:
 1. The creation of an independent, not for profit, Pension Fund entity in the form of a management trust for the administration and management of an employer sponsored pension scheme and the related pension assets.
 2. The number of the board of directors of the Pension Fund Entity, which number is not less than 3 or more than 15 who shall act as fiduciaries of the pension assets and be in charge of the overall administration and management of the Pension Fund.
 3. The Board of Directors is to be composed of members appointed by the Sponsor and members representing the participants. The Charter shall specify the manner by which members of the Board of Directors are selected. The members representing participants must constitute a majority. If there is a trade union representing employees, the participant representatives can be appointed by the trade union. If there is no trade union, another mechanism for election or appointment of representatives of the participants must be specified in the Charter. If the members are to be elected, a simple election procedure designed to minimize cost should be used.
 4. The appointment documentation of the members for the first Board of Directors shall be submitted to the BPK, attested by the Pension Fund Sponsor and the trade union, if applicable. The qualification of a member of the Board of Directors is subject to prior approval by the BPK.
 5. When the Board of Directors of the Pension Fund is elected or appointed and members qualified by the BPK, it assumes full and independent control and direction of the administration and management of the Pension Fund.
 6. The term or terms of office of the members of the board of directors, the procedure for electing or appointing them,

qualifications and the grounds for their removal.

7. The commitment of the Sponsor to make pension contributions pursuant to relevant agreements. With respect to Defined Benefit Pensions, the Sponsor must agree to make contributions sufficient to maintain the funding schedule in accordance with Pension Regulation Section 14.11 so as to fully fund Vested Accrued Service benefits within a period of not less than twenty years.
- b) The Board of Directors of the Pension Fund and the Sponsor adopts the Pension Bylaws and undertakes an information campaign regarding the Bylaws and the pension arrangement among all employees who are eligible for participation in the pension scheme.
 - c) The Board of Directors appoints a Custodian and Asset Manager(s), if applicable, in accordance with the requirements of Rule 8 and Rule 10, of these Rules, respectively.
 - d) The Board of Directors together with the Sponsor applies for a Pension Fund license and registration with the BPK according to the requirements of Rule 1 of these Rules.
 - e) The issuance of a Pension Fund license and registration certificate by the BPK completes the process of the creating the Pension Fund as a legal entity.

3.2 Specific Requirements

- a) Pension Bylaws. A written document (together with its amendments, if any), signed by members of the board of directors of the Pension Fund and the duly authorized officer representing the highest governing body of the Sponsor, containing the following stipulations:
 1. The form of the pension fund (Defined Benefit or Defined Contribution).
 2. Name, location and bank requisites of the Pension Fund and Sponsor.
 3. Procedure for selecting the board of directors of the Pension Fund and the procedures and requirements for the conduct of its board meetings, which meetings are held at least once every 6 months.
 4. Terms for enrolling individual employees as participants of the Pension Fund.

5. The occupational categories of employees participating in the Pension Fund if not all employees will participate.
6. The procedure for making contributions and the obligations of the employer and employees (if applicable) to contribute.
7. The procedure for determining the actuarial methodology to be used in making Defined Benefit pension payments.
8. For Defined Benefit Pension Funds, the schedule for determining the Vested Rights of participants, indicating the years of service required for an accrued right not to exceed 5 years; the methodology used for actuarial calculations to determine the amount of employer contribution required to meet the full funding requirements of Pensions Regulation 14.11; the procedure, time and manner, for participants to receive reporting statements on the performance of the management of the Pension Fund assets.
9. For Defined Contribution Pension Funds, a statement as to the completely Vested Rights of participants to all pension assets allocated to Individual Accounts; procedures for maintaining records with respect to contributions and investment performance (income or loss) on Individual Accounts; notification to the participants of the amounts outstanding on their Individual Accounts, not less than annually.
10. For Defined Benefits Pension Funds providing Early Pension benefits, a description of the actuarial reduction to be made to benefits in order to accommodate the early pension payments.
11. Obligations of the Pension Fund.
12. A statement of investment principles for the pension assets (including asset allocation, mix, diversification and other matters) and the procedure for selecting Asset Manager(s), in substantial compliance with paragraph (b) of this Sub-section.
13. Procedure for selecting a Custodian and the custody of pension assets.
14. Terms of, procedures in and forms of payment of Pensions to the participants, including, if applicable, Early Pension benefits, disability pension benefits, and survivor's benefits; the terms and amounts of such benefits and the rights of beneficiaries.
15. Terms and procedures for a participant's transfer out or his/her right to deferred pension benefits in case of termination of

employment, the participants' rights to transfer out in the event of liquidation or bankruptcy of the Sponsor.

16. Procedures and formalities required in the amendment the Bylaws.
 17. Procedures required in the termination of the Pension Fund.
 18. Such other provisions as the BPK may, from time to time, require.
- b) The Statement of Investment Principles. This section or part of the Bylaws shall contain at least the following provisions:
- 1) The qualitative characteristics of the investments to ensure safety, security and profitability of the investments.
 - 2) The quantitative investment return objective and the manner by which the objective is to be achieved year by year.
 - 3) The maximum proportional limit that can be placed in one investment type, consistent with the requirements of the Pensions Regulation.
 - 4) The maximum proportional limit that can be invested in one issuer or one entity.
 - 5) The kinds, types or classes of investments where the assets cannot be placed.
 - 6) The minimum liquidity requirements or provisions required of the total investment.
 - 7) The manner by which the investment performance is reported by the board of directors to the participants and the BPK.
 - 8) The utilization of expert advice from the asset managers, investment planners, financial advisers and other professionals in the investment of pension assets.
 - 9) An internal system or mechanism where participants can submit their investment related comments and proposals and the manner by which the board of directors addresses them.
 - 10) The time, frequency and manner in which the Board of Directors reviews the statement of investment principles, the procedure through which changes thereto are made and procedure in which the participant and the BPK are notified of those changes.

Section 4

Principles and Guidelines in the Establishment of Pension Funds

In the establishment of Pension Funds and the formulation of the Bylaws and in the implementation of the pension program, the following principles and guidelines are to be observed:

- a) Segregation of pension assets. The Pension Fund is a separate legal entity from the Sponsor. The pension assets shall continually be segregated from the assets of the Sponsor in all matters relating to control, custody, investment and management.
- b) Implementation of a funding system. Pension assets shall be comprised of contributions to the Pension Fund made by or on behalf of the employees and the investment income derived therefrom. In case of Defined Contribution pensions, the contributions plus investment income, minus expenses, shall comprise pension funding. In Defined Benefit pensions, the Pension Fund must develop a funding schedule. Pension assets should be allowed to accumulate in such a manner that will enable the Pension Fund to adequately pay for the pension promises. The Sponsor is duty bound to ensure that the pension promises or liabilities are funded as required by Pensions Regulation 14.11. A book reserve or liability maintained by the Sponsor for the funding of a Pension Fund is not permitted or allowed.
- c) Promotion and transparency. Pension Funds shall promote only the objectives of the Pension Fund to provide pensions and the assets are invested only to promote the pension objectives. The administration and management of Pension Funds must be conducted in utmost transparency requiring the Board of Directors to provide certain information and disclosures to the participants about the assets and their respective rights.
- d) Supervision. The investment, custody and used of pension assets are subjected to supervision to ensure that pension assets are used only for the payment of pension entitlements. The BPK shall maintain a Register of Pension Funds that shall be open for public view during reasonable business hours.
- e) Locking-in of participants' interests. The interest of a participant in a Pension Fund is his/her property right but this property right is made available to him/her only for pension payments when he or she reaches pension age, early retirement or disability pension as authorized by the Bylaws, or to his/her beneficiary (ies) in case of death prior to the commencement of pension.

Section 5
Entry into Force

This Rule shall enter into force on July 25, 2002.

Managing Director