



Based on Article 35, paragraph 1.1, of Law No. 03/L-209 on Central Bank of the Republic of Kosovo (Official Gazette of the Republic of Kosovo, No. 77/16 August 2010) and Article 13 of Law No. 04/L-101 on Pension Funds of Kosovo (Official Gazette of the Republic of Kosovo, No. 10/8 May 2012), the Board of the Central Bank of Kosovo, at its meeting held on 29 November 2018, adopts the following:

## **REGULATION FOR THE ESTABLISHMENT OF THE SUPPLEMENTARY EMPLOYER PENSION FUND**

### **Article 1**

#### **Purpose and Scope**

1. The purpose of this Regulation is to define the general and specific requirements as well as the principles and guidelines for the establishment of Supplementary Employer Pension Funds.
2. This Regulation shall apply to employers who establish supplementary employer pension funds (Pension Funds).

### **Article 2**

#### **Definitions**

1. All terms mentioned in this regulation have the same meaning as those defined in Article 1 of Law No. 04 / L-101 on Pension Funds of Kosovo and Article 1 of Law No. 04 / L-168 on Amending and Supplementing the Law No. 04/L-101 on Pension Funds of Kosovo (hereinafter: Law on Pension Funds) and/or the definitions provided below for the purpose of this Regulation:
  - 1.1 *Founding act* - means a written legal document signed by the highest governing body of the Employer establishing the Pension Fund as a not-for-profit legal entity.
  - 1.2 *Disability Pension* - means the pension acquired before reaching the age of 65 years by a person suffering from a qualified disability whose right to pension is recognized by the applicable legislation.
  - 1.3 *Pension age* – means the age of sixty-five (65) years;
  - 1.4 *Sponsor* – means the employer who establishes the pension fund.

### **Article 3**

#### **General requirements for the establishment of the Supplementary Employer Pension Fund**

1. The Pension Fund is established by the Founding Act approved by the Employer that sponsors the Pension Fund.
2. The pension fund is established as a not-for-profit legal entity.
3. The Board of Directors of the Pension Fund shall consist of not less than 3 (three) and not more than 15 (fifteen) members.
4. The Board of Directors should act as a fiduciary of pension assets and is responsible for the Pension Fund management.
5. The Board of Directors shall consist of members appointed by the sponsor and the members representing the participants. The Founding Act shall specify the criteria and procedure by which the members of the Board of Directors are selected. The Members representing participants shall 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 participants' representatives must be specified in the Founding Act. If the members are to be elected, a simple selection procedure should be used.
6. The document by which the members of the Board of Directors are appointed must be submitted to the CBK, as certified by the Pension Fund Sponsor and the Trade Union, if applicable. Members of the Board of Directors of the Pension Fund should be approved in advance by the CBK.
7. The Board of Directors shall appoint the Asset Manager and Custodian, if applicable, in accordance with the requirements of the applicable regulations on Pension Asset Custodians and Pension Asset Managers.
8. The Sponsor shall commit to make pension contributions according to the respective agreements. With regard to Defined Benefit Pensions, the Sponsor shall agree to provide sufficient contributions to maintain the pension funding plan in accordance with Article 14.11 of the Law on Pension Funds.
9. The Board of Directors of the Pension Fund and the Sponsor shall approve the normative acts of the Pension Fund and undertake an information campaign regarding the normative acts of the Pension Fund and pension arrangements for all employees eligible for participation in the pension scheme.
10. The application for the licensing of the Pension Fund in the CBK shall be done in accordance with the requirements of the Regulation on the Licensing of Supplementary Employer Pension Funds.

### **Article 4**

#### **Specific requirements for the establishment of the Supplementary Employer Pension Fund**

1. The normative acts of the Pension Fund shall comprise the following elements:

- 1.1 The form of the Pension Fund (defined benefit or defined contribution);
- 1.2 Name, location, and bank information of the Pension Fund and the Sponsor;
- 1.3 Specification for holding meetings of the Board of Directors at least once every 6 months;
- 1.4 Conditions for membership of individual civil servants as Participants of the Pension Fund;
- 1.5 Occupational categories of employees participating in the Pension Fund, if not all employees participate;
- 1.6 The procedure for making contributions and the obligations of the employer and employees (if applicable) to contribute;
- 1.7 Procedure for determining the actuarial methodology to be used in making the defined benefit pension payments.
- 1.8 For the Defined Benefit Pension Fund, the plan for determining the rights acquired by the participants, indicating the years of service required for an accrued right that does not exceed 5 years; the methodology used for actuarial calculations to determine the amount of employer's contribution required to meet the full funding requirements in accordance with Article 14.11 of the Law on Pension Funds; procedures, time and manner for participants to receive the reported statements on the development of Pension Fund Asset Management.
- 1.9 For the Defined Contribution Pension Fund, a statement on fully acquired rights of participants to all pension assets allocated to individual accounts; procedures for maintaining records with respect to contributions and investment development (income or loss) on individual accounts; the Pension Fund shall, at regular intervals and at least once every twelve (12) months, inform each participant in writing of the funds in the participant's individual account, the dates of contributions and the amounts of the investment income;
- 1.10 Pension Fund obligations;
- 1.11 Statement of Investment Principles for Pension Assets, including asset allocation, mix, risk distribution (diversification) and other matters, and procedures for the selection of the Asset Manager;
- 1.12 Procedure for the selection of the Pension Asset Custodian and custody;
- 1.13 Terms, procedures and forms of pension payment for participants, including if applicable disability pension benefits as well as benefits and entitlements of beneficiaries;
- 1.14 Terms and procedures for a participant's transfer or his/her right to deferred pension benefits in case of termination of employment, the participant's rights to transfer in the event of liquidation or bankruptcy of the Sponsor;
- 1.15 Procedures and formalities required for amending and supplementing normative acts of the Pension Fund;
- 1.16 Procedures required for termination of the Pension Fund;
- 1.17 Other elements that might be required by the CBK.

2. The normative acts shall also contain the Statement of investment principles, which shall contain at least the following elements:
  - 2.1 Qualitative characteristics of the investment in order to ensure investment security and profitability;
  - 2.2 Quantitative objectives of return on investment and how this objective will be achieved year after year;
  - 2.3 The maximum proportional limit that may be imposed on a type of investment, consistent with the requirements of the Law on Pension Funds;
  - 2.4 The maximum proportional limit that can be invested in one issuer or one entity;
  - 2.5 Forms, types and classes of investments in which assets cannot be invested;
  - 2.6 Minimum liquidity requirements or necessary total investment requirements.
  - 2.7 The manner by which the investment performance is reported by the Board of Directors to the participants and the CBK;
  - 2.8 The utilization of expert advice from asset managers, professional investment advisors, financial advisors and other professionals in pension assets investments;
  - 2.9 An internal system or mechanism where participants can submit their investment related proposals and comments and the manner by which the Board of Directors addresses them;
  - 2.10 The time, frequency and manner in which the Board of Directors reviews the Statement of investment principles, the procedure through which changes to this statement are to be made, and the procedures by which the participant and the CBK are notified of those changes.

## **Article 5**

### **Principles and guidelines for the establishment of the Supplementary Employer Pension Fund**

1. For the establishment of the Pension Fund and the formulation of normative acts of the Pension Fund and in the implementation of the pension program, the following principles and guidelines shall be observed:
  - 1.1 *Allocation of pension assets.* The Pension Fund is a separate legal entity from the Sponsor. Pension assets must always be segregated from the Sponsor's assets in all matters relating to the Control, Custody, Investments and the Asset Manager.
  - 1.2 *Implementation of the 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 the case of defined contribution pensions, contributions plus investment income, minus expenses, shall comprise the pension funding. In defined benefit pensions, the Pension Fund must develop a funding plan. Pension assets should be allowed to accumulate in a way that will enable the Pension Fund to adequately pay the pension promises. The Sponsor shall be obliged to ensure that the commitments or obligations are funded in accordance with Article 14, paragraph 11, of the Law on Pension Funds.

- 1.3 *Promotion and Transparency.* Pension Funds shall only promote the objectives of the Pension Fund to ensure that pensions and assets are invested solely to promote pension objectives. Pension Fund Management shall be carried out in utmost transparency requiring the Board of Directors to provide certain information to the participants about the assets and their respective rights.
- 1.4 *Supervision.* The investment, custody and use of pension assets shall be supervised to ensure that pension assets are used solely for the payment of pension entitlements.
- 1.5 *Locking of participants' interests.* The Participant's interest in the Pension Fund is his/her property right, but this property right is only made available to him/her for pension payments when he/she reaches the pension age or of disability pension or to his/her beneficiary in the case of death prior to the commencement of pension.

**Article 6**  
**Pension Funds Register**

The CBK shall maintain and publish the Register of licensed Pension Funds.

**Article 7**  
**Enforcement and Remedial Measures**

For violation of the provisions of this Regulation shall be subject to measures set out in the legislation in force.

**Article 8**  
**Abrogation**

Upon entry into force of this Regulation, Rule 12 for the Establishment of the Pension Fund, dated 25 July 2002, shall be abrogated.

**Article 9**  
**Entry into force**

This Regulation shall enter into force 15 days after its approval by the Board of the Central Bank.

Flamur Mrasori  
Chair of the Board of the Central Bank