



Pursuant to Article 35, paragraph 1, sub-paragraph 1.1 of the Law No. 03 / L-209 on the Central Bank of the Republic of Kosovo (Official Gazette of the Republic of Kosovo, No. 10/16 August 2010) and Article 8 of the Law No. 04 / L-101 on Kosovo Pension Funds (Official Gazette of the Republic of Kosovo, no. 10/8 in May 2012), the Board of the Central Bank of the Republic of Kosovo in its meeting held on October 31, 2016 approved:

Regulation on the Custodian of Pension Assets

Article 1

Purpose and Scope

1. The purpose of this Regulation is to define the criteria and guidelines for the operation of the Pension Assets Custodian.
2. This Regulation shall apply to the Kosovo Pension Savings Fund, Supplementary Employer Pension Funds and the Supplementary Individual Pensions (hereafter Pension/s Fund/s).

Article 2

Definitions

1. All terms used in this Regulation shall have the same meaning as the terms defined in Article 1 of the Law No. 04 / L-101 on Pension Funds of Kosovo and the Law No. 04 / L-168 on amending and supplementing the Law No.04 / L-101 on Pension Funds of Kosovo and /or with the following definitions for the purpose of this Regulation:

- a) **“Agreement for custody of pension assets”** - refers to the agreement between the Pension Fund and the custodian relating to the custody of pension assets.
- b) **“Custody of pension assets”** - includes safekeeping of pension assets in accordance with the terms of the agreement for custody of pension assets.
- c) **“Statement of investment principles”** – refers to the investment policy and investment development objectives adopted by the Pension Fund for the investment of pension assets, which must be in accordance with the CBK pension law and regulations or with investment directives which the pension entity determines for its asset managers or custodians.

d) **“Investment directives”** – refers to the orders and instructions of the Pension Fund to the assets manager (s) or custodians, specifying the terms, conditions and manner of pension assets investment in accordance with the statement of investment principles.

e) **OECD** - means the Organization for Economic Cooperation and Development.

Article 3

Custody of pension assets

1. The activity of pension assets custody will be exercised by the custodians of pension assets who are licensed by the CBK, or from a member state of the OECD under the conditions specified in the Law on Pension Funds of Kosovo and this regulation.

2. Pension Fund must appoint a single custodian to whom it shall delegate the custody of pension assets and enter into a custody agreement with that custodian. The custodian and its employees who have discretion with respect to the pension fund shall be fiduciaries of the fund for purposes of the law.

3. Pension Fund shall select a custodian by competitive international bid. The terms and procedure for conducting the bid, including pre-qualification requirements for the custodian, the amount and composition of its equity; the grounds and the procedure for suspension or cancellation of its license shall be established in conformity with the Law on Pension Funds.

4. A custodian may act as such in relation to more than one fund but must keep the pension assets, operations and records of the Fund strictly segregated from any other assets and from those of the custodian.

5. Pension Fund shall notify the CBK regarding the appointment of the pension assets custodian.

Article 4

Conditions for conducting custodian business

1. The custodian of pension assets which is a legal entity in Kosovo must meet the following conditions:

a) it is licensed by the CBK, it is not under enforcement action and the license has not been suspended;

b) it satisfies a requirement for minimum paid up capital as specified in the CBK regulations;

c) it does not act as Pension Fund manager and it is not an affiliated entity of the assets manager or any member of the Governing Board of the Fund;

d) it does not lend money to, or borrow from, the asset manager or its affiliates;

e) to be licensed by the CBK in accordance with banking regulations and authorized to conduct banking business including maintenance of pension assets;

f) to comply with the requirements of the Law on Pension Funds of Kosovo, the CBK regulations for pensions and other applicable laws;

g) to undertake fiduciary duties and responsibilities to the Pension Fund and the participants and beneficiaries 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;

h) to maintain, administer, record, account and shall render reports on pension assets separately from each and every account the custodian holds in its day-to-day activities; and

i) directors, senior officers and employees who exercise or may exercise any function related to pension assets will be subject to additional supervision by the CBK regarding the activities of pension fund custodian.

2. The custodian of pension assets that is a legal entity outside Kosovo must be licensed by a banking, financial services or capital markets regulator of a member state of the OECD, and must be in good standing and not under enforcement action, and shall provide the Pension Fund and the CBK evidence on the license, through which proves that it is allowed to conduct pension custody activity.

3. The CBK may request additional information or documentation regarding the pension assets custodian if deemed necessary.

Article 5

Duties and Responsibilities of a Custodian of Pension Assets

1. In the custody of pension assets the Custodian shall:

- a) Receive and safe-keep securities constituting pension assets;
- b) Maintain appropriate records of any kind of Pension Fund guarantees;
- c) Receive and store copies of settlement documents supporting the transfer and issuance of monetary fund constituting the pension assets;
- d) Register the corresponding accounts into the register of Pension Funds deposited to the Custodian;
- e) Provide the Fund with all necessary information to assist in meeting the obligations of this law;
- f) Ensure that every agreement for the acquisition and disposal of Pension Fund complies with this law or other laws, applicable provisions and investment principles issued by the Fund;
- g) Follow the instructions of the Fund, unless such instructions are in violation to this law and other applicable provisions or the investment principles;

- h) Ensure that Pension Fund assets are invested conform to this law, other regulations in force and the statement of investment principles, while in case of any violation notify the Fund under any procedure of notification specified by the Fund under its agreement to Custodian of assets;
- i) Ensure that the director (s) of assets meets his obligations related to the investments of pension fund;
- j) Fulfill other obligations specified in the agreement reached with the Fund for custody of assets and with other regulations to be issued by the CBK;
- k) Ensure that the Asset Manager meets his legal obligations in investing the pension assets;
- l) Ensure that has established an adequate and effective system of internal control related to the custody of pension assets to check any transaction involving the acquisition and disposal of pension assets, accounting and financial information about them;
- m) Promptly report to Pension Fund, any investment of pension assets, where is alleged violation of the legal framework dealing with pension assets;
- n) Prepare and report, regular reports required by regulatory requirements of CBK;
- o) Report to Pension Fund, and CBK any information that may come to his knowledge that could endanger the safety and security of pension assets committed by individuals or legal entities;
- p) Report promptly and directly to CBK any information that relates or suspicion involving or suggesting fraud, dishonesty or misuse of pension assets caused by the pension fund, asset managers of pension funds, or other responsible persons of these institutions; or when the governing bodies of the Pension Fund fail to address or undertake remedial actions to avoid breaches of legal or fiduciary duties.

Article 6

The Custodial Agreement

No custodian shall receive pension assets in custody if there is no agreement on custody of pension assets with the Pension Fund.

Article 7

Form and Content of the Custodial Agreement

1. Any agreement on custody of pension funds must be in writing, it shall contain all the duties and responsibilities required of the Custodian of the pension funds under the Law on Pension Funds of Kosovo, this Regulation and other applicable provisions.
2. In addition to the requirements under paragraph 1 of this Article, the agreement on custody of pension funds must contain at least the following requirements:
 - a) The specific responsibilities of the Custodian;
 - b) The manner by which the Custodian shall perform his/her responsibilities;

- c) The remuneration of the Custodian and the manner by which salary expenses are calculated as a percentage of pension assets to be held;
- d) A provision whereby the Custodian of pension assets takes the responsibility or warranties that all requirements of the Law on Pension Funds of Kosovo and regulations regarding the custody of pension funds will be implemented by the Custodian of the pension funds.
- e) A provision under which the Pension Fund entity, its governing board, pension assets, participants and beneficiaries, will be protected, and will be compensated fully by the custodian of all unnecessary expenses or unreasonable charges, losses or damages or liabilities arising on pension assets due to fraud, dishonesty, negligent acts or omissions of the Custodian, its directors and officers.
- f) The procedures and requirements for the termination of the agreement and the time and manner by which the assets under custody will be transferred to the new Custodian.

Article 8

Custodial Requirements for Open-End Vehicles investments

1. Custodial of pension funds can be done through Open-End Vehicle investment instrument as required by article 11 of the Law on Pension Funds of Kosovo.
2. Pension Funds invested through Open-End Vehicle are not subject to the requirements of Articles 3 and 4 of this Regulation.
3. Custodial of pension funds for investment through Open-End Vehicle instrument is made under the agreement for custodial of pension assets.
4. The Governing Board of the Pension Fund, by reviewing relevant reports / documents published or unpublished, and reports of the External Auditor for the past three years, shall ensure that custodian of pension funds through Open-End Vehicle has established adequate and effective system of internal control for custody and management of joint asset ("cash reserves") documenting all purchases, sales and relevant transactions related to investment of pension assets.

Article 9

Replacement of Custodian

The Pension Fund shall notify the CBK in written 30 days before the change of Custodian.

Article 10

Enforcement and remedial actions

Violations of the provisions of this Regulation shall be subject to the measures envisaged by the Law on Pension Funds.

Article 11

Repeal

With the entry into force of this Regulation shall be repealed Rule 8 on Custody of Pension assets dated April 4, 2007.

Article 12

Entry into force

This Regulation shall enter into force on 15 November 2016.

Chairman of the Board of Central Bank of the Republic of Kosovo

Prof. Dr. Bedri Peci.