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## **Banking and Payments Authority of Kosovo**

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

For the purpose of execution of Section 33 of the UNMIK Regulation No.2001/35,

Governing Board of the Banking and Payment Authority of Kosovo, at the meeting held on May 2, 2002 adopts the following:

### **Rule 3 on the Transitional Licensing of Supplementary Employer Pensions and Supplementary Individual Pensions Existing as of March 1, 2002**

#### **Section 1 Scope and Purpose of this Rule**

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

This Rule applies to all Supplementary Employer Pension Funds (“Pension Fund”) and Supplementary Individual Pensions (“Pension Providers”) that are existing as of March 1, 2002 and wishing to bring their pension arrangements in conformity with, and in compliance to the UNMIK Regulation 2001/35 (the “Pensions Regulation) and the Rules on Pensions prescribed by the BPK consistent to the Pensions Regulation.

The initial step to bring these pension fund entities “in compliance” is their due licensing as Pension Funds or Pension Providers. For this effort, the BPK shall afford every assistance and cooperation to all these entities in order for the participants and beneficiaries of existing pensions programs in Kosovo obtain and enjoy the benefits and protection afforded them under the Pensions Regulation.

##### **1.2 Purpose of this Rule:**

To establish requirements, conditions and procedures for the licensing of Supplementary Employer Pension Funds and Supplementary Individual Pensions Provider that are already created, established and existing as of March

1, 2002 consistent with provisions of Chapter VII of the Pensions Regulation and to afford them every opportunity to conform with the Pensions Regulation.

## **Section 2 General Provisions**

### **2.1 Definition of Terms**

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

“Licensee” is the entity licensed by the BPK under this Rule including, where applicable, its directors (trustees), officers, managers and employees.

“Main shareholder” means a shareholder or beneficial owner of 10% or more equity shares of the Sponsor of the pension scheme and/or the entity that provided such individual pensions programs. The term includes the owner when the sponsor is a sole proprietorship, the partners, in the case of partnerships, the members (or by any other name called), in the case of non-stock corporations, associations or other recognized entities sponsoring a Pension Fund.

“Sponsor(s)” means the employer(s) that have established pension arrangement(s), in any of its form.

### **2.2 Conditions of the Transitional License**

- a. Supplementary Employer Pensions and Supplementary Individual Pensions can only be provided by legal entities established in the form of trust for management of pension assets.
- b. The continuing provision for Supplementary Employer Pensions or Supplementary Individual Pensions can only be undertaken with a license issued in accordance with the licensing Rules of the BPK.
- c. Supplementary Employer Pensions providers shall be licensed in accordance with Rule 1 of these Rules relating to Pension Funds.
- d. Supplementary Individual Pensions providers shall be licensed in accordance with Rule 2 of these Rules relating to Pension Providers.
- e. The application/license fee is not refundable if the license is refused. An application fee shall be paid again for each subsequent licensing application in the event that issuance of a license of a prior application was previously refused.

- f. Rule 1 of these Rules prescribes the amount of the application/license fee for Pension Funds and Rule 2 of these Rules determines the application/license fee for Pension Providers.

### **Section 3 Procedure and Time Limitations**

#### **3.1 Procedure for transitional compliance with the Pensions Regulation.**

Recognizing the need for existing pensions arrangements to conform to the Pensions Regulation in order to afford due benefit and protection to pension participants and their beneficiaries, the following procedure is adopted with respect to the licensing of existing Employer Pensions Funds and Pension Providers:

- a. **Employer Pension Funds.** Providers that offered or offering existing employer pension arrangements must apply for the appropriate license using the licensing procedures and complying with the requirements prescribed by Rule 1 of the Rules on Pensions issued by the BPK.
- b. **Individual Pensions.** Providers that offered or offering existing individual pension arrangement must apply for the appropriate license using the licensing procedures and complying with the requirements prescribed by Rule 2 of the Rules on Pensions issued by the BPK.
- c. **Compliance Plan.** Applicants under this Rule must submit to the BPK a compliance plan or plans, including a determination of the Vested Rights of employees and pension participants and their beneficiaries with respect to their existing pension promises.

#### **3.2 Time Limitations**

Recognizing that the Section 33.1 of the Pensions Regulation prescribed a time limitation for the transitional compliance of existing providers of pension arrangements, which period of time is set for four (4) months from the adoption date of the Pensions Regulation; and recognizing further that Section 32.4 provides that the effective date of the regulation shall be March 1, 2002 and therefore such period of 4 months to comply ends on July 1, 2002; and recognizing furthermore, that the period from the publication of this Rule until July 1, 2002 is inadequate for existing providers of pension arrangements to bring themselves in compliance with the prescriptions of Section 33 of the Pensions Regulations and the BPK Rules on Pensions, particularly in the matter of

licensing, the following time limitations for the transitional licensing of existing providers of pensions is prescribed:

- a. **Filing of the application for a license.** The application and documents submitted in support of the application must be filed with the BPK on or before July 1, 2002.
- b. **Actions by the BPK.** The BPK reviews the application during a period of 45 days from the time it is "filed". On or before September 1, 2002, BPK shall issue the license or refuse to issue a license. Refusal to issue a license is based solely on conditions indicated in Rules 1 or 2 of these Rules, as applicable. For applications filed on or before July 1, 2002, the BPK may, at its discretion, afford additional period of time, not extending beyond September 30, 2002, for the issuance of a license if it is satisfied that Applicant meets or could meet the licensing requirements and the compliance plan or plans submitted by the Applicant can be reasonably performed and executed to adequately cover the rights of the participants and their beneficiaries under Pensions Regulation and these Rules with respect to their pension promises.

#### **Section 4 Assistance from the BPK**

- 4.1 **Identifying service providers.** It is recognized that several requirements in the licensing require the use of financial services providers or products that are not readily available in Kosovo. In an effort to facilitate compliance with the Pensions Regulation and these Rules, the BPK will assist Applicants in identifying possible providers of such services or products.
- 4.2 **Compliance plan and procedures.** The Applicant may request for a conference with the BPK to address issues relating compliance procedures and requirements that may present compliance difficulties. The Applicant submits a proposal on how the constraints are best handled. The conference is intended to draw a compliance plan. If a compliance plan is drawn, the BPK and the Applicant must reduce the plan in writing, signed by the BPK and the Applicant setting forth the time schedule for the Applicant to comply.

#### **Section 5 Effect of Failure to Comply**

- 5.1 **Termination of the Pension Arrangement.** In the event that an existing pension fund or pensions provider fails to file its Application, or if any Applicant is not able to meet the compliance schedule herein prescribed,

the pensions provided by them will be terminated in accordance with the Pensions Regulation and other applicable Rules.

- 5.2 Non-reversion of pension assets.** Consistent with the provisions of Section 33.4 of the Pensions Regulation, no pension asset shall revert to the Sponsor(s) in the event pension arrangements are terminated under this Rule.

### **Section 6 Entry into Force**

This present Rule, approved by the Governing Board, shall enter into force on May 2, 2002.

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Managing Director