

Pursuant to Article 35, paragraph 1, subparagraph 1.1, of 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), Article 18 and Article 23 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 the Republic of Kosovo, in its meeting held on 27 January 2022, approved the following:

REGULATION ON TRANSFERS AND TRANSFER PAYMENTS OF PENSION ASSETS

Article 1

Purpose and scope

1. The purpose of this Regulation shall be to determine the conditions and procedural requirements for the transfer of pension assets to another pension entity and the manner of payment of such transfers, in accordance with the instructions of participants or beneficiaries.
2. This Regulation shall apply to Employer Supplementary Pension Funds (“Pension Funds”), to Pension Providers providing Individual Supplementary Pensions (“Pension Provider”) and to participants and beneficiaries of Pension Funds and such Pension Providers. This Regulation shall also apply to the Kosovo Pension Savings Trust (KPST) to the extent that the KPST is a fund that receives beneficiary transfer.

Article 2

Definitions

1. All terms in this Regulation shall have the same meaning as the terms defined in Article 1 of Law No. 04/L-101 on Pension Funds of Kosovo and Law No.04/L-168 on amending and supplementing the Law 04/L-101 on Pension Funds of Kosovo (hereinafter: the Law on Pension Funds) and/or the definitions below for the purpose of this Regulation:
 - 1.1. **Deferred pension** – shall mean the pension benefit for which the participant has the rights acquired by termination of employment before retirement age, but where this benefit is deferred until retirement age.
 - 1.2. **Pension entity** – shall refer to the Pension Fund or Pension Providers, or the Kosovo Pension Savings Fund, according to the respective context.
 - 1.3. **Termination of employment relationship** – shall mean the cessation or termination of the employer-employee relationship, which is the basis for an individual's participation in the Pension Fund, for any reason other than retirement, disability qualification or death.

- 1.4. **Vested rights to receive a pension** – shall mean the rights of the participant to the pension at certain amounts, the value/amount as a vested right which is the value of the pension assets in his/her individual account.

Article 3

Criteria for transfers from the Supplementary Employer Pension Fund (Pension Fund)

1. The Pension Fund in the normative act of the pension should define the criteria that provide the participant the right to transfer the vested rights to his /her pension benefit in the following circumstances:
 - 1.1. Termination of employment.
 - 1.2. Liquidation or bankruptcy of the employer.
 - 1.3. Termination, liquidation and suspension of the Pension Fund.
 - 1.4. Change in the occupational category of the participant, in case the employer has established a specific regulation of the pension conditions or Pension Fund for different occupational categories for his employees.
2. The regulation on pensions that provides for the pension with certain amounts should include the Pension Benefit Table, which presents the specific periods of participation. The value/amount of pension benefits at the end of each period must qualify as a vested right. The value/amount as a vested right can be deducted at the amount of the fee set by the Pension Providers, if the following requirements are met:
 - 2.1. For the participant who terminates the payment of contributions, the vested rights to the Pension Fund remain as a deferred pension. Pension payment begins at retirement age. If an individual who has a deferred pension dies before the beginning of the pension payment, the deferred pension benefits will be paid in accordance with the pension regulations, respecting the rights of the participant in case of death in accordance with the legislation in force.

Article 4

Procedures for conduction of transfers of Pension Benefits

1. In order to transfer pension assets from the Pension Fund (transferor) to another Pension Fund, Pension Provider or KPST (transfer recipient) the following requirements must be met:
 - 1.1. Any Pension Fund or Pension Provider that sponsors the pension agreement must, in the pension normative acts or pension regulations, specify the conditions for registration or participation in their pension arrangement(s). The following procedures shall apply for the registration of participants:
 - 1.1.1.Registrations or participation forms must be available to complete and sign at the pension entity for all proposed participants.
 - 1.1.2.Approval of the proposed registration or participation by the pension entity receiving the transfer authorizes the commencement of pension contributions.
 - 1.1.3.Receipt in the pension entity of the first pension contribution for the individual's account completes his/her participation in the pension program.

- 1.2. Each transfer of pension assets requires prior written notice signed by the participant and sent to the Pension Fund that performs the transfer.
 - 1.2.1. The written notice must conform to the following requirements:
 - 1.2.1.1. The pension entity receiving the transfer must provide the participant with the notice form. The form must request such information as is required by the Pension Entity receiving the transfer to register the participant, including information about the beneficiary.
 - 1.2.1.2. The participant must complete and sign the notice form.
 - 1.2.1.3. The signature of an official of the pension entity receiving the transfer is evidence of the receipt of the proposed registration of the participant in the pension entity receiving the transfer.
 - 1.2.1.4. The Pension Fund making the transfer receives the notice.
 - 1.2.2. The participant has the obligation to notify the Pension Fund that makes the transfer, about the transfer of his/her pension assets. The notice can be sent at any time:
 - 1.2.2.1. Upon termination of employment, the vested rights of the employee who has terminated the employment relationship should be considered as deferred pension until he/she sends the notice in full compliance with this Regulation.
 - 1.2.2.2. In cases of liquidation or bankruptcy of the employer, the highest governing bodies of the employer have a fiduciary duty to notify the Pension Fund and the Pension Fund has a fiduciary duty to notify the participants about the bankruptcy of the employer as soon as such a situation becomes known or there is reliable perception of this condition in the governing bodies. Also, the highest body of the employer has a fiduciary obligation to notify the Pension Fund, and the Pension Fund has the obligation to inform participants of any failure of the employer to pay pension contributions in accordance with the employment contract in accordance with the pension normative acts. The Pension Fund is also responsible for notifying participants and paying pension contributions as required by applicable employment contracts or collective agreements in accordance with the provisions of the CBK regulations on pensions.
 - 1.2.2.3. During the termination or liquidation of the Pension Fund, the Special Manager or the Board of Directors in accordance with the CBK regulations in force on the termination of the Employer Supplementary Pension Fund, must follow the procedures for the termination, liquidation and distribution of pension assets.
 - 1.2.2.4. At any time, in case of change in the occupation category of the participant when the Special Pension Funds are provided for different occupational categories within the same employer.
- 1.3. The Pension Transfer Fund must make the payment of the transfer of pension assets in accordance with the following instructions:
 - 1.3.1. Transfer payments must be made directly to the pension entity receiving the transfer according to the written notice described in sub-paragraph 1.2 of this Article.
 - 1.3.2. Transfer payment must be made no later than 10 days from the date of receipt of the notice from the transferring Pension Fund.

- 1.3.3. The Pension Fund that makes the transfer must, in order to make the transfer payment, notify the participant of such a transfer. The pension entity receiving the transfer should also be notified, as appropriate, whether any portion of the transferred pension assets is favoured by any tax exemption or other fiscal burden, describing the nature and value of such exemptions.
- 1.3.4. The participation of employees who have terminated their employment relationship in the Pension Fund making the transfer shall be terminated on the tenth (10) day after receiving written notice from the receiving Pension Fund, ensuring that the requirements described in sub-paragraph 1.2. of this Article are met.

Article 5

Terms and criteria for transfers of Individual Supplementary Pension (Pension Provider)

1. Participants have the vested right to transfer their "Vested Rights" to their pension assets in the following cases:
 - 1.1. At the request of the participant.
 - 1.2. Liquidation or bankruptcy of the Pension Provider.
 - 1.3. Termination and liquidation of the pension program.
2. The value/amount of pension benefits should be qualified as "Vested Rights" for pension assets referred to in paragraph 1 of this Article, as defined in the relevant CBK regulations on pensions, as well as determined in accordance with the CBK Regulation on pension benefits from individual supplementary pensions.
3. Participants have the right to suspend or terminate their contributions to the pension scheme, allowing him/her to let his/her vested rights as a deferred pension. Pension provisions should clearly define the terms and conditions applicable to such deferred pensions. The participant may, in accordance with this Regulation, transfer at any time his or her rights to a deferred pension.

Article 6

Procedures for conduction of transfers of Pension Assets

1. In order to complete the transfer of pension assets from the Pension Provider making the transfer to another pension entity receiving the transfer, the following requirements must be met:
 - 1.1. Any Pension Fund or Pension Provider sponsoring pension arrangements must establish in the pension normative acts or their pension regulations the terms and conditions for registration or participation in their pension arrangement(s). The following procedures must be followed to register participants:
 - 1.1.1. Registration or participation form must be available to complete and sign at the pension entity for all proposed participants.
 - 1.1.2. Approval of the proposed registration or participation by the pension entity receiving the transfer authorizes the commencement of pension contributions.
 - 1.1.3. Receipt of the first pension contribution from the pension entity on behalf of an individual who terminates the participation, according to paragraph 1 of this article, of him/her in the pension program.

2. Each transfer of pension funds requires prior written notice, signed by the participant and sent to the transferring Pension Provider.
 - 2.1. The written notice must comply with the following requirements:
 - 2.1.1. The Pension Fund receiving the transfer or the Pension Provider must provide the participant with the notice form. The form must contain the request for such information that may be required by the pension entity receiving the transfer to register the participant.
 - 2.1.2. The participant must complete and sign the notice.
 - 2.1.3. The signature of a Pension Fund official receiving the transfer or the Pension Provider is proof of the registration of the proposed participant in the Pension Fund receiving the transfer or the Pension Provider.
 - 2.1.4. The Pension Provider making the transfer receives the notice.
3. The participant has the duty to notify the Pension Provider who makes the transfer for the transfer of his/her pension assets. The notice may be sent at any time at the request of the participant, and:
 - 3.1. During liquidation, bankruptcy or compulsory liquidation, in case of liquidation or bankruptcy of the Pension Provider. The highest governing bodies of the Pension Provider have a fiduciary duty to notify the participant of an imminent bankruptcy of the Pension Provider as soon as this becomes known or understood by these bodies or any of their members.
 - 3.2. During the termination or liquidation of the pension program in accordance with the plans declared by the Special Manager, the Liquidator or the Board of Directors who in accordance with the applicable banking and insurance regulations and/or the CBK regulations in force, is in charge of termination of the pension program and/or liquidation and distribution of pension funds.
 - 3.3. At any time, in case of change in the occupational category of the participant when special Pension schemes are offered by the Pension Provider for different occupational categories.
4. The Pension Provider who makes the transfer must make the pension assets transfer payments in accordance with the following instructions:
 - 4.1. Transfer payments must be made directly to the Pension Fund that receives the transfer or to the Pension Provider according to the written notice specified in paragraph 2 of this Article.
 - 4.2. Transfer payment must be made no later than 10 days from the date of notice received by the Pension Provider making the transfer.
 - 4.3. The Pension Fund that makes the transfer must, in order to make the transfer payment, notify the participant of such a transfer. The pension entity receiving the transfer should also be notified, as appropriate, whether any portion of the transferred pension assets is favoured by any tax exemption or other fiscal burden, describing the nature and value of such exemptions.
 - 4.4. The participation of an individual in the Pension Provider's pension program is terminated on the tenth (10th) day of receipt of the written notice from the Pension Provider making the transfer, ensuring that the requirements set out in paragraph 3 of this Article are in compliance.

Article 7

Terms and criteria for transfers to the Kosovo Pension Savings Trust (KPST)

1. Only participants who have not yet reached the age of 65 have the right to choose KPST which will be the fund that receives the transfer for pension assets held in the Pension Fund or the Pension Provider.
2. Pension assets of participants transferred to the KPST must be transferred to existing individual accounts, if such participants already participate in the KPST. The transfer must be reported in the next regular statement provided by the KPST. If the participant does not have an existing individual account, such individual accounts must be established by the KPST.
3. The KPST must provide participants who transfer their pension assets to the KPST with the same conditions as other existing participants. KPST should offer the same payment options as other participants with the same conditions, such as lump sum payments, instalment payments or annuities.

Article 8

Enforcement, remedies and civil penalties

Violations of the provisions of this Regulation shall be subject to the measures provided by the Law on the Central Bank of the Republic of Kosovo and the Law on Pension Funds of Kosovo.

Article 9

Repeal

With the entry into force of this Regulation, Rule 20 adopted on 16 March 2006 on the Amendment of the Rule on Transfers and Transfer Payments of Pension Assets of 23 October 2002 shall be repealed.

Article 10

Entry into force

This regulation shall enter into force fifteen (15) days from the date of its approval.

Flamur Mrasori

Chairperson of the Board of the Central Bank of the Republic of Kosovo