

LAW No. 05/L-116

**ON AMENDING AND SUPPLEMENTING THE LAW No. 04/L-101 ON PENSION FUNDS
OF KOSOVO, AMENDED AND SUPPLEMENTED BY THE LAW No. 04/L-115 AND LAW
No. 04/L-168**

The Assembly of the Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON AMENDING AND SUPPLEMENTING THE LAW No. 04/L-101 ON PENSION
FUNDS OF KOSOVO, AMENDED AND SUPPLEMENTED BY THE LAW No. 04/L-115 AND
LAW No. 04/L-168**

Article 1

Purpose

The purpose of this Law is amending and supplementing the Law No. 04/L-101 on Pension Funds of Kosovo (Official Gazette, No. 10, 08 May 2012), amended and supplemented by the Law No. 04/L-115 (Official Gazette, No. 25, 07 September 2012) and Law No. 04/L-168 (Official Gazette, No. 8/08 April 2013) (hereinafter: Basic Law).

Article 2

1. Article 4, paragraph 6 of the Basic Law is amended with the following text:

4.6. A Selection Committee shall propose candidates to the Assembly for vacancies for appointment or re-appointment of members of the Governing Board. The Selection Committee shall consist of the Governor of CBK-Chairperson, the Auditor-General and the Minister of Finance. The regular term of each appointed member for the Governing Board shall be four (4) years, with the possibility of reappointment. If a member resigns or leaves for other reasons, a new member shall be appointed for a full mandate. If the mandate of members of the Board expires and no new member is appointed, then the existing Board members shall continue their mandate for only ninety (90) days.

2. Article 4, paragraph 8 of the Basic Law, the text should be added at the end of the paragraph as well as sub-paragraphs with serial number 4.8.1. and 4.8.2, with the following text:

The Selection committee shall propose the candidates to the Assembly:

4.8.1. at least ninety (90) days before the term of the existing member expires; and

4.8.2. no later than ninety (90) days after losing the term of whatever position in the Governing Board due to resignation, case of death or dismissal by the Assembly.

Article 3

1. Article 7, paragraph 5. of the Basic Law is amended with the following text:

7.5. The Fund shall provide each participant with information on the contributions, dates of contributions, the amount earned from the investment and assets on the Individual Account, for the reporting year. The information shall be made as follows:

7.5.1. all active participants having made transactions within one calendar year, after the end of that calendar year, shall receive the report through the postal delivery or through electronic post; and

7.5.2. participants who have not made any transactions in their individual account shall receive a report at least three (3) years after the last report received.

2. Article 7, paragraph 10. of the Basic Law is amended with the following text:

7.10. In the event contributions are not attributed to Individual Accounts as a consequence of failing to identify employers, or the employer has not submitted the employees' list or the employer has submitted more funds than the actual list of employees, the unclaimed account together with any income or loss shall be allocated by the Fund to a special account.

3. In Article 7 of the Basic Law, after paragraph 10. there added new paragraph with an ordinal numbers 7.11 and 7.12, with the following text:

7.11. The Trust in cooperation with Tax Administration of Kosovo shall continuously develop activities for the identification of unclaimed contributions. In the event the taxpayers are not identified by the Trust for the relevant contributions and there is no notification by the taxpayers up to six (6) years upon the payment year, then the Government of the Republic of Kosovo is entitled to take a decision for collection of respective funds in the Budget of the Republic of Kosovo. A relevant decision shall be taken only after the Trust Board has informed the Government in writing that it has exhausted all possibilities of identification of the taxpayers for relevant contributions.

7.12. In case of identifying the payers of contributions after the deadline of six (6) years, the funds collected pursuant to paragraph 11. of this Article shall be returned to the Fund, together with interest equivalent to the average earnings that the Fund has had during this period.

Article 4

1. Article 9, paragraph 9.9. of the Basic Law is amended with the following text:

9.9. the maximum proportion of total pension funds, which can be invested in the assets of an issuer, including the calculation of affiliated persons assets, is five percent (5%) for shares, thirty percent (30%) in Securities of Kosovo Government, twenty percent (20%) for "AA-" rated bonds or higher, ten percent (10%) for "A-" rated bonds or higher, five percent (5%) for "BBB-" rated bonds or lower, and one percent (1%) for "BB +" rated bonds or lower. The maximum proportion of total pension funds that can be invested in

rated bonds “BB +” or lower should not exceed five percent (5%) of total funds. Credit rating should be by an internationally known agency for credit ratings, which implies that equivalent assessments can be marked with the grades or different letters.

2. Article 9, paragraph 10. of the Basic Law, is amended with the following text:

9.10. restrictions on investments in a single issuer set out in paragraphs 9.8. and 9.9. of this Law shall not apply to investments in a single instrument for the open investments or investments on funds traded on stock exchanges (Exchange Traded Funds), provided that the proportion of total pension funds invested in a single issuer comply with paragraphs 9.8. and 9.9. of this Law.

Article 5

Article 10, paragraph 1. of Basic Law is amended with the following text:

10.1. Asset Managers engaged in conducting the management of a part of Pension Assets or of all Pension Assets of the Trust, shall perform it only pursuant to pension asset management agreements, entered into in conformity with this Law and with other applicable regulations. The Asset Managers and their employees who have discretion with respect to the Pension Assets shall be Fiduciaries of the Trust.

Article 6

Article 11, paragraph 6. of the Basic Law shall be deleted from the text of the Basic Law.

Article 7

Article 12, paragraph 18. of Basic Law is amended with the following text:

12.18. Foreign employees with temporary stay in Kosovo, who have not been obliged to pay pension contribution, in conformity with the applicable legislation, and who are not obliged to pay contributions in conformity with applicable Laws, may withdraw their accumulated funds via one single payment.

Article 8

1. Article 29, title of Article is amended with the following text:

Article 29

Resolution of Disputes with Respect to Savings Pensions

2. Article 29, paragraph 1., 2. and 3. are deleted from the text of the Basic Law.

Article 9

1. Article 35, title of Article is amended with the following text:

Article 35
Entitlement to Savings Pensions

2. Article 35, paragraph 1. of the Basic Law is deleted from the Basic Law.

Article 10

Article 37, paragraphs 1., 2. and 3. of the Basic Law shall be amended with the following text:

37.1. Contributions made by an employer to KPST or an additional pension fund, pursuant to Article 6 of the Law, for the benefit of its employees shall be deemed an operating expense and will reduce the operating result of the employer subject to earnings tax.

37.2. Contributions made by an employee to KPST or in an additional pension fund, pursuant to Article 6 of the Law, shall not be subject to personal income tax.

37.3. Any payments either in the form of a phased withdrawal or payment for the purchase of an annuity from KPST or an additional pension fund may be subject to personal income tax at the time the payment is made and received by the participant, all in accordance with the Law on Personal Income Tax and sub-legal acts issued by Tax Administration of Kosovo.

Article 11

After Article 37 of Basic Law, a new Article is added with ordinal number 37A, with the following text:

Article 37 A
Audit Committee, Internal Audit, and External Audit

1. The Governing Board in KPST or in an additional pension fund shall establish the audit committee, the members of whom shall be selected among the governing board and external experts. The majority of audit committees shall be members of the governing board. At least one audit committee member shall be an external expert in the field of accounting or auditing, and shall be independent from the management and Governing Board.

2. The Governing Board in KPST or in an additional pension fund, upon the recommendation of the audit committee, shall assign an external independent and qualified auditor, approved by CBK.

3. The Governing Board in KPST or in an additional pension fund shall appoint an internal auditor who shall report to the audit committee and shall function independently from the pension fund management.

Article 12
Transitory provisions

Upon the Law becoming effective, the term of the current members of the Governing Board shall continue until the expiry of their mandate according to the Decision no. 04-V-840, dated May 6, 2014 and Decision no. 05-V-164, dated November 30, 2015 of the Assembly of the Republic of Kosovo.

Article 13
Entry into force

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 05/L-116
23 December 2016

Promulgated by Decree No.DL-003-2017, dated 06.01.2017, President of the Republic of Kosovo Hashim Thaçi.