

Pursuant to 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. 10/16 August 2010), and Articles 20 and 22 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 December 2014, adopts the following:

## REGULATION

### ON LICENSING OF SUPPLEMENTARY INDIVIDUAL PENSION PROVIDERS

#### Article 1

##### Purpose and Scope

1. This Regulation shall define the conditions, requirements, procedures and time limits that must be followed when applying for and granting a licence to Supplementary Individual Pension Providers (hereinafter: Pension Provider).
2. This Regulation shall be applied by the CBK to all applicants for the licence to establish a Pension Fund in the Republic of Kosovo.

#### Chapter I

##### General provisions

#### Article 2

##### Definitions

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

“**Licensee**” shall mean the legal entity licenced by the CBK under the Law on Pension Funds and this Regulation.

“**Pension**” shall mean the regular monthly payment made to a participant for life, beginning at pension age, physical disability or death of the participant according to the Law on Pension Funds of Kosovo.

“**Supplementary Individual Pension**” – shall mean a pension for an individual natural person purchased from a Pensions provider such as a financial institution, a bank, asset manager, Open-end vehicle or insurance company and provided according to this Law

**“Main shareholder”** shall mean the shareholder or beneficial owner of 10% or more of equity shares of the licensee.

**“Financial Institutions”** shall mean the banks, insurance companies, financial institutions for the management of a pension fund with a special contribution, and open-end vehicle companies.

### **Article 3**

#### **The Activity of Supplementary Individual Pension Providers**

1. Only the financial institutions according to this Regulation may provide supplementary individual pensions (hereinafter: Pension Providers).
2. No one may exercise pension provider activities in the Republic of Kosovo without prior licensing by the CBK.
3. Licensed pension providers shall be subject to regulation and supervision by the CBK.

### **Chapter II**

#### **Criteria for Licensing Supplementary Individual Pension Providers**

### **Article 4**

#### **Application Requirements**

1. Applicants for a pension provider license shall meet all the requirements under the Law on Pension Funds specified for the application process under the CBK's internal acts. The applicant may request the required application forms and the instructions for filling them from the CBK or find them on the CBK's official website.
2. The application shall be signed by the founder (s) and submitted to the CBK in person by the representative of the founder of the proposed pension provider. The application shall be submitted together with the complete documentation required under the Law on Pension Fund and this Regulation.
3. The documentation provided shall be in one of the two official languages of the Republic of Kosovo, either in original or in a certified copy.

### **Article 5**

#### **Licensing Criteria**

1. In addition to the requirements from Article 22 of the Law on Pension Funds, the financial institutions applying for licensing as pension providers shall meet the following criteria:
  - a. Be registered as a legal person in accordance with the Law on Business Organisations;
  - b. Have a good financial standing, supported with evidence such as audited financial statements, and provide evidence of no outstanding tax liabilities;

- c. The directors and managers of the proposed Pension Provider should not be convicted of any criminal offense and should meet the “fit and proper” requirements of the CBK;
2. The following documentation shall be attached to the application for licensing as a pension provider:
    - a. CBK form;
    - b. copy of ID card and registration as a financial institution;
    - c. full biographies of the founders, as well as financial statements if applicable,
    - d. list of the proposed members for the board of directors and managers, their full biographies, including evidence proving relevant background and experience;
    - e. organizational structure (organogram);
    - f. statute;
    - g. copy of business registration as a pension provider;
    - h. business plan;
    - i. pension plan;
    - j. the opinion of an independent expert/actuary confirming the existence of the valuation and certifying that the contributions required are adequate to pay the pensions in the event of a Defined Benefit Pension Fund;
    - k. a description of the pension categories to be provided on the market, and a copy of the individual pension contract (s) or equivalent document (s) evidencing the individual's participation;
    - l. overview of the risk management system provided by pension providers for the operation of the pension business;
    - m. pension provider's report on investment policy;
    - n. a copy of the agreement for the Custodian and Asset Manager if the applicant is not licensed as a Custodian or Manager of Personal Assets;
    - o. a list of participants indicating their professional categories or declarations of all the Sponsor's subordinates to participate;
    - p. name and contact details of the pension provider audit firm;
    - q. a document confirming that the proposed pension provider has the appropriate premises and infrastructure to operate as a Pension Fund, including the installation of

a computerized data reporting system with the CBK;

r. proof of payment of license fee based on number of participations;

3. In addition to the abovementioned requirements, the CBK may request additional information or documents.

#### **Article 6**

##### **Refusal to grant a license**

CBK may refuse to grant a license in accordance with the requirements set forth in Article 22 of the Law on Pensions.

#### **Article 7**

##### **Requirements for Foreign Financial Institutions**

1. A foreign financial institution applying to carry out Pension Provider activities in Kosovo shall, in addition to the requirements of this Regulation, meet the following requirements:
  - a. evidence from the applicant's supervisory or regulatory authority in his home country, stating that the applicant is in "good standing" and "in compliance" with all laws and regulatory requirements in that foreign jurisdiction;
  - b. evidence of its licensing by the banking regulator, financial services and regulatory capital markets of an OECD and EU member state;
  - c. evidence confirming the audited financial standing for the last 5 years. Where applicable, the financial standing of the applicant's parent company and related companies for the past 5 years must also be submitted;

#### **Article 8**

##### **Deadline for Reviewing the Licensing Application of Supplementary Individual Pension Providers**

1. The CBK shall review the submitted documents in accordance with the requirements of this Regulation.
2. Within 90 days from the date of receipt of the license application, the CBK shall issue a decision approving or rejecting the application for pension provider licensing. The CBK shall immediately inform the applicant of the decision taken.
3. Date of receipt of a license application shall be considered the date when the applicant has met all the requirements of this Regulation. The CBK shall notify the applicant in writing of such date.

4. The CBK shall, within 30 days after the day of receipt of the application, review the submitted documentation and notify the applicant in writing whether or not the documentation is complete.
5. If the documentation submitted is incomplete and/or does not meet the requirements set out in this Regulation, the CBK shall notify the applicant of the deficiencies or discrepancies with the provisions of this Regulation, together with the request for additional information or documentation.
6. The CBK shall terminate the licensing application review procedures if the data and/or documentation required for licensing is not completed by the applicant within 1 month of the CBK's notification under paragraph 5 of this Article. In case of termination of the licensing application review procedures, the applicant shall be notified in written by the CBK.

#### **Article 9**

##### **Fees for Licensing Supplementary Individual Pension Providers**

1. The applicant applying for a license as a pension provider shall pay the licensing and pension supervision fees in the amounts approved by the CBK.
2. The license application fee shall be non-refundable even if the license application is refused by the CBK.

#### **Article 10**

##### **License Characteristics**

1. The license shall be granted in written for an indefinite time period and shall be non-transferable.
2. If the pension provider fails to commence operation within 12 months from the licensing date, its license shall be revoked.

#### **Chapter III**

##### **Suspension and Revocation of the Licenses of Supplementary Individual Pension Providers**

#### **Article 11**

##### **Terms and Procedures for Revocation of the License of Supplementary Individual Pension Providers**

1. In addition to the conditions set forth in Article 24 of the Law on Pensions, the CBK may revoke the license based on one of the following conditions:

- a. recurrent violations or serious violations by the licensee, its Asset Manager or Custodian, of the requirements of the Law on Pensions, or applicable laws, or CBK regulations.
  - b. recurrent violations of the deadline set by the CBK for correction of violations in the activities of the licensee, which comprised the basis for the suspension of the license.
  - c. recurrent violations of the deadline set by the CBK for reporting on licensing activities.
  - d. failure of the licensee to meet the undertaken functions of providing pensions in a period of one year.
  - e. liquidation or termination of the licensee.
  - f. bankruptcy acknowledgment of the licensee.
  - g. for other reasons set forth in applicable regulations or guidelines issued by the CBK in connection with the Law on Pension Funds of Kosovo or applicable laws.
2. Once the decision for revocation of the license has been taken, the CBK shall notify the licensee in writing that their license has been revoked. The notice shall contain the criteria for the revocation and prohibition of the development of any activity for which the license was issued. The notice shall also be delivered to the Custodian and the Asset Manager. The revocation shall become effective in accordance with the deadline and manner prescribed in Article 24 of the Law on Pension Funds of Kosovo.
  3. In case the license is revoked, the pension provider shall be obliged to present all records and documents pertaining to the pension assets within the following deadline and procedures set forth in the Pension Regulations, unless the CBK, in the interest of participants and beneficiaries, orders an earlier time or another way to make such a presentation.
  4. Following the decision for license revocation, the termination procedure of the Pension Provider shall be implemented according to the provisions of Article 24 of the Law on Pensions.

## **Article 12**

### **Terms and Procedures for License Suspension**

1. Where the CBK decides to act in accordance with paragraph 2 of Article 24 of the Law on Pensions, it may suspend the license based on any of the following conditions:
  - a. violation of the requirements of the Law on Pension Funds of Kosovo, other

applicable laws and CBK regulations by the pension providers.

- b. failure to comply with the Pension Regulation.
  - c. failure to conclude agreements with the asset manager and/or agreements with the custodian if the pension provider is not authorized to act as Asset Manager or Custodian.
  - d. failure to comply with the CBK requirements regarding dismissal and waiver of violations within the time prescribed by the CBK, including failure to comply with the time limit for correcting and rectifying any such infringement.
  - e. if the license was obtained on the basis of any intentional forgery or false information submitted by or relating to the applicant.
  - f. failure to provide reports by the deadline required by the CBK.
  - g. non-compliance with the CBK's request for information when reviewing activities for licensees.
  - h. suspension of the licensee's license as an insurance company, bank or financial institution.
2. Within 2 working days following the decision on license suspension, the CBK shall notify the pension provider in writing of the following:
    - a. description of the violation as defined under the criteria for license suspension.
    - b. the necessary measures to be taken to remedy or correct the violation,
    - c. the period of time within which the violation must be corrected or rectified, as well as relevant documents to be brought to the CBK for correction and rectification,
    - d. list of activities that are prohibited during the suspension period.
  3. The Custodian and Asset Manager shall be notified within 2 working days from the decision to suspend the pension provider license, if applicable.
  4. Following the decision to revoke the license of the supplementary individual pension providers, the procedures shall be conducted according to the provisions of the Article 24 of the Law on Pension Funds.

**Article 13**  
**Judicial Reviews**

Pension provider may appeal to a Court of competent jurisdiction against the CBK's decision on refusal, suspension or revocation of the license.

**Article 14**  
**Abrogation**

Upon entry into force of this Regulation, the Rule 2 amending the Rule on Licensing of Supplementary Individual Pension Providers, dated 2 May 2002, shall be abrogated.

**Article 15**  
**Entry into force**

This Regulation shall enter into force on 5 January 2015.

Chairman of the Board of the Central Bank

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Bedri Peci