

REGULATION NO. 2001/35
UNMIK/REG/2001/35
22 December 2001

ON PENSIONS IN KOSOVO

The Special Representative of the Secretary General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999),

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo and UNMIK Regulation No. 2001/9 of 15 May 2001 on A Constitutional Framework for Provisional Self-Government in Kosovo,

Recognizing that the Provisional Institutions of Self-Government have responsibilities regarding the Kosovo Pensions for which legislation is urgently needed,

Taking into account that the Provisional Institutions of Self-Government are not able to immediately advise on this issue and that the Special Representative of the Secretary-General shall take into consideration their views when communicated,

For the purpose of regulating Mandatory Pensions and Supplementary Employer provided and Individual Pensions in Kosovo, and establishing the Pension Administration, the Kosovo Pension Savings Trust, and the Pensions Department of the Banking and Payment Authority of Kosovo,

Hereby promulgates the following:

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CHAPTER I GENERAL PROVISIONS

Section 1

Definitions

For the purposes of the present regulation, the following terms shall have the following meanings:

“Accrued Service” means the years of service and/or contributions accrued by a Participant toward Vested Rights. Years of service shall be calculated from the effective date of the Pension Bylaws or Rules or the initiation of contributions on behalf of the Employee, whichever occurs later. Service after the Employee reaches age eighteen (18) shall be counted.

“Actuarial Valuation” means a report by an independent actuary licensed by a state or professional organization in a member state of the Organization for Economic Co-Operation and Development showing the assets and liabilities of a Defined Benefit Pension Fund.

“Affiliated Entity” means in relation to any natural or legal entity hereafter denominated as the First Entity:

(a) A shareholder or group of shareholders holding more than ten (10) percent of issued and outstanding shares of stock of the First Entity or, although holding a smaller percentage than ten (10) percent, can influence, directly or indirectly, the decisions made by such entity;

(b) Any entity in which the First Entity, holds, directly or indirectly, more than ten (10) percent of the issued and outstanding shares of stock or, although holding a smaller percentage than ten (10) percent, can influence, directly or indirectly, the decisions made by such entity;

(c) Any other entity in which a shareholder (directly or indirectly) holds more than thirty (30) percent of the issued and outstanding shares of stock and concurrently holds (directly or indirectly) more than thirty (30) percent of the issued and outstanding shares of stock of the First Entity;

(d) Any natural person or legal entity able to determine, directly or indirectly, the decisions of the First Entity;

(e) Any member of the decision-making or supervisory body of the First Entity; or

(f) Any husband or wife or relative to the third degree inclusive or in law to the second degree inclusive of the persons mentioned in subparagraphs (a) through (e).

“Annuity” means an insurance policy purchased by a Participant from an insurance company licensed in Kosovo by the BPK and expressed in the form of monthly payments for the lifetime of the Participant and/or his or her Beneficiaries, as provided in this regulation.

“Asset Manager” means a Fiduciary who is a legal entity, licensed by the BPK, or other capital markets regulator in Kosovo (or its successor), or by a capital markets regulator of member states of the Organization for Economic Co-Operation and Development, and invests and manages the assets of, or provides investment advice to, the Kosovo Pension Savings Trust, a Supplementary Employer Pension Fund or for an Supplementary Individual Pension on the basis of an asset management agreement.

“Beneficiary” means a natural person designated by a Participant, or if the Participant has made no designation or if the designated Beneficiary pre-deceases the Participant, then the Participant’s heirs who are natural persons, who is (are) or may become entitled to Pension Assets on the basis of the Participant’s rights.

“BPK” means the Banking and Payments Authority of Kosovo or the authority that will assume its responsibilities.

“Bylaws” of a Pension Fund means a document setting forth the terms and conditions and procedures for making contributions and applying for benefit payments from Supplementary Employer Pension Funds. Bylaws of a Pension Fund must also contain procedures for conducting Pension Fund meetings and other management and administration functions. Bylaws must contain provisions for indexing, if any.

“CFA” means the Central Fiscal Authority of Kosovo or the authority that will assume its responsibilities.

“Central Procurement Authority” means the agency that controls procurement by government agencies of Kosovo or its successor.

“Charter” of a Pension Fund means a written legal document signed by the highest governing body of the Employer(s) establishing the Pension Fund as a not-for-profit legal entity pursuant to the provisions of this regulation.

“Collateral benefits” means any benefits such as cash incentives, or gifts of physical property other than benefits, which flow naturally and directly from being an Annuitant, for the purpose of persuading a person to purchase an Annuity.

“Custodian” means a Fiduciary that is a licensed bank and a legal entity in Kosovo, or a branch of a foreign bank that is a legal entity licensed to do business in Kosovo by the Banking and Payments Authority of Kosovo, or licensed to do business in any member state of the Organization for Economic Co-Operation and Development by that state’s banking regulatory authority, and that provides custodial and depository services to the

Kosovo Pension Savings Trust, or to Pension Funds or to Pensions providers providing Supplementary Individual pensions relating to Pension Assets on the basis of a custodial agreement.

“Defined Benefit Pension” means a Pension in which benefits are calculated based on a formula for which the Employer or an individual Participant undertakes obligations to contribute annually in an amount fixed in conformity with the Pension Fund Bylaws or Pension Rules and the Actuarial Valuation. The formula for a Defined Benefit Pension may be defined by the amount of the Participant's average wage and length of service with the Employer, as may be defined further by the Pensions Department of BPK, or otherwise set forth in the Pension Rules.

“Defined Benefit Pension Fund” means a Pension Fund that provides Defined Benefit Pensions.

“Defined Contribution Pension” means a Pension in which contributions made on behalf of Participants are calculated as a percentage of their wages or on some other regular basis and are credited to Individual Accounts and in which benefits are calculated solely on the basis of the amounts contributed and any income, expenses, gains, and losses (if any) allocated to Individual Accounts. The Employer may elect its rate of contribution, if any, on behalf of Participants and the Participants may each elect their individual rates of contribution, if any. An Employer may make a partial or full matching contribution based on the amount contributed by a Participant. A Participant may contribute solely on his or her own behalf.

“Defined Contribution Pension Fund” means a Pension Fund that provides Defined Contribution Pensions.

“DLSW” means the Transitional Department of Labour and Social Welfare or the authority that will assume its responsibilities.

“Economic and Fiscal Council” means the organization for setting economic and fiscal policy appointed by the SRSG.

“Employee” means a natural person who works for an Employer for compensation on a full-time basis, or on a part-time basis, under the control and supervision of the Employer, regardless of whether the contractual arrangement between them is entitled a labor contract, a services contract, a civil contract, some other commercial agreement, or whether there is in fact a written or an unwritten agreement.

“Employer” means any natural person or legal entity acting directly as an employer or indirectly in the interests of the employer, and includes an association or group of employers acting for an Employer in such capacity. An Employer may be state owned or controlled, socially owned or controlled, or private, or a combination of state, social or private ownership or control, and may be a for-profit or not-for-profit legal entity.

“Fiduciary” means a natural person or legal entity with responsibility to Participants and Beneficiaries as further described in Chapter VI of this regulation.

“Indexing” means adjustment to a Defined Benefit Pension to increase the payments in order to reflect increases in the cost of living or in wages.

“Individual Account” of the Kosovo Pension Savings Trust or a Defined Contribution Pension Fund or for a Supplementary Individual Pension means an account maintained by the Kosovo Pension Savings Trust or a Pension Fund or a Pensions provider providing Supplementary Individual Pensions to reflect all contributions made on behalf of a Participant and any income, expenses, gains, and losses made on behalf of or allocated to such Participant, less allowed expenses. Contributions to Individual Accounts may be made by the Employer or the Participant and must be accounted for separately.

“Kosovo Pension Administration” means an administrative unit within the Department of Labour and Social Welfare that pays Basic Pensions to persons habitually residing in Kosovo.

“Kosovo Pension Savings Trust” means a legal entity created by this regulation for the purpose of providing Savings Pensions to persons habitually residing in Kosovo as further described in Chapter III of the present regulation.

“Participant” means a natural person on whose behalf contributions are made by the Employer or the Participant to the Kosovo Pension Savings Trust, any Supplementary Employer Pension Fund or any Pensions provider licensed under this regulation to provide Pensions.

“Pension” means a regular monthly payment made to a Participant (or Beneficiary) for life, beginning at Pension Age, disability or death of the Participant under this regulation.

“Pension Age” means sixty-five (65) years.

“Pension Assets” means:

(a) For the Kosovo Pension Savings Trust, all assets that are collected as contributions on behalf of Employees and any investment income earned thereon;

(b) For Defined Contribution Pension Funds and the Kosovo Pension Savings Trust all Pension Assets that are in the Individual Accounts of Participants;

(c) For Defined Benefit Pension Funds all assets that are available to meet obligations to Participants and Beneficiaries, as set forth in the Actuarial Valuation; and

(d) For Supplementary Individual Pensions all Contributions made by individuals and any investment income earned thereon.

“Pension Rules” means a document prepared by a Pension provider setting forth the conditions and procedures for making contributions and applying for benefits.

“Pensions Department” means a Department within the BPK that has responsibilities for licensing, supervision and regulation of Pension Funds, Pension Providers, Asset Managers and Custodians according to this regulation.

“Pensions Provider” means financial institutions, banks and insurance companies providing Supplementary Individual Pensions according to this regulation (referred to jointly as “Pensions providers”).

“SRSG” means Special Representative of the Secretary-General.

“Supplementary Employer Pension Fund” (hereinafter “Pension Fund”) means a legal entity formed by an Employer or group of Employers for their Employees and former Employees and their Beneficiaries in the form of a management trust.

“Supplementary Employer Pension” means a Pension paid by a Pension Fund established by an Employer pursuant to this regulation.

“Supplementary Individual Pension” means a Pension for an individual natural person purchased from a Pensions provider such as a financial institution, a bank, asset manager or insurance company and provided according to this regulation.

“Tax Administration” means a unit within the CFA responsible for tax collection in Kosovo.

“Transfer Payment” means:

(a) A transfer of amounts of money constituting the Vested Rights of a Participant or Beneficiary from a Supplementary Employer Pension Fund to another Supplementary Employer Pension Fund or to a Pensions provider providing Supplementary Individual Pensions in conformity with this regulation; or

(b) A transfer of amounts of money constituting the Vested Rights of a Participant or Beneficiary from a Supplementary Individual Pension to another Pensions provider providing Supplementary Individual Pensions in conformity with this regulation.

“Vested Rights” means the rights of a Participant or Beneficiary to a Supplementary Employer Pension or a Supplementary Individual Pension that cannot be forfeited. A Vested Right cannot be pledged, garnished, assigned, mort gaged, or otherwise alienated. It is not to be subject to execution, shall not be part of an estate in bankruptcy of the Participant, and shall not be affected by any settlement proceedings, and any attempt to do so shall be null and void. The restriction against alienation or execution shall apply to Vested Rights not exceeding one hundred thousand Euros (100,000) per Participant. Vested Rights in excess of that amount only may be attached or alienated.

“Wage” means any amount paid by an employer, in cash or in kind, as compensation for service rendered by the employee in the course of employment, under any contract of hire, express or implied, oral or written. Wage includes salary, emolument, bonus, commission, or any other form of payment relating to employment.

Section 2

Forms of Pensions in Kosovo

2.1 This regulation defines and describes the different forms of Government and private Pension provision in Kosovo. Only the Pension Administration, the Kosovo Pension Savings Trust, Supplementary Employer Pension Funds or Pensions providers licensed to provide Supplementary Individual Pensions pursuant to this regulation, may provide a Pension in Kosovo.

2.2 The setting of economic policy with respect to Pensions, as part of budgetary and fiscal policy, remains under the direct supervision of the SRSG. The SRSG shall accomplish this policy through the Economics and Fiscal Council. The Head of the DLSW, the Managing Director of the BPK, the Head of the CFA, other relevant members of the Economic and Fiscal Council, their designees, and others appointed by the SRSG, will comprise an inter-ministerial Pension Policy Working Group. The Pension Policy Working Group will propose further rules and regulations as necessary to effectuate pension policy and will make recommendations to the SRSG with respect to the Kosovo Pension Savings Trust and the licensing, regulation and supervision of Pensions in Kosovo.

2.3 Mandatory pensions shall consist of two forms of Pension: Basic Pensions and Individual Savings Pensions. Employers may also provide Supplementary Employer Pensions to their Employees. Individuals may purchase Supplementary Individual Pensions through Pensions providers.

2.4 “Basic Pension” (hereinafter “Basic Pension”) means a Pension paid by the Pension Administration to all persons habitually residing in Kosovo and who have reached Pension Age.

2.5 “Individual Savings Pension” (hereinafter “Savings Pension”) means a Pension paid by the Kosovo Pension Savings Trust to persons of Pension Age meeting the requirements of this regulation with respect to pension contributions.

2.6 “Supplementary Employer Pension” means a pension provided to Employees by their Employer in accordance with this regulation.

2.7 “Supplementary Individual Pension” means a Pension purchased by natural persons from licensed Pensions providers in accordance with this regulation.

CHAPTER II
BASIC PENSIONS PROVIDED BY
THE TRANSITIONAL DEPARTMENT OF LABOUR AND SOCIAL WELFARE

Section 3

Powers and Responsibilities of the Pension Administration

3.1 The Kosovo Pension Administration (hereinafter “Administration”) is hereby established as an administrative unit within the DLSW.

3.2 The responsibility of the Administration is to manage and administer pension benefits in accordance with this regulation.

3.3 The Administration shall be required to:

(a) Arrange for the payment of Basic Pensions to persons meeting the applicable criteria of this regulation;

(b) Maintain records of the receipt and disposition of money and of the payment of Basic Pensions; and

(c) Keep records of all expenses with respect to the delivery of Pensions.

3.4 The Administration shall have the authority to enter into agreements concerning the delivery of Basic Pensions, subject to the final approval of such agreements by the DLSW and the CFA.

Section 4

Basic Pension

4.1 The Administration shall manage and administer the payment of a Basic Pension to all persons habitually residing in Kosovo and who have reached Pension Age. The CFA will transfer General Revenues to the Administration to finance the Basic Pension in accordance with appropriations made by the SRSG. Such transfers will take place on a monthly basis pursuant to an annual schedule prepared by the CFA and approved by the SRSG.

4.2 The amount of the Basic Pension shall be set according to the methodology to be adopted by the Assembly, such that the same rate applies to all qualified old-age pensioners, and that the rate for the following year is set during the budget process within the limits of overall funds allocated to the Provisional Institutions of Self-Government for basic old-age pensions from the Kosovo Consolidated Budget.

**CHAPTER III
INDIVIDUAL SAVINGS PENSIONS PROVIDED BY THE
KOSOVO PENSION SAVINGS TRUST**

Section 5

Establishment of Kosovo Pension Savings Trust

5.1 The Kosovo Pension Savings Trust (hereinafter “Trust”) is hereby established as an independent legal entity for the sole and exclusive purpose of administering and managing Individual Accounts for Savings Pensions, assuring the prudent investment and custody of Pension Assets, and paying the proceeds of Individual Accounts to purchase Annuities for Savings Pensions, as management trustee acting on behalf of Participants and Beneficiaries.

5.2 The Trust shall be a not-for-profit legal entity, capable of suing and being sued in its own name.

5.3 A Governing Board of seven persons shall manage the Trust. All members of the Governing Board of the Trust shall be Fiduciaries within the meaning of this regulation. Persons who are appointed to be Governing Board members must be persons of recognized integrity and must have professional expertise and experience in pension, financial, investment or insurance matters.

5.4 At least four members of the Governing Board must have a minimum of ten (10) years of professional pension expertise, as follows:

(a) An employee, owner, trustee or professional advisor of an asset management company, insurance company or a pension fund with a total value of at least fifty million (50,000,000) Euro under management;

(b) An economist or financial analyst with a major international financial institution;

(c) An employee of a state pension regulatory body that regulates funded pensions or of a state legislature working on pension legislation; and

(d) A distinguished scholar in the fields of economics or finance with a record of extensive internationally recognized academic research and writing relevant to private pension investment.

Persons appointed as Governing Board members may be international experts in their field.

5.5 At least one (1) of the members of the Governing Board must have professional experience in representing or advising Employers in Kosovo. At least one (1) of the

members of the Governing Board must have professional experience in representing or advising Employees or their representatives in Kosovo. The Head of the CFA shall be an ex officio member of the Governing Board.

5.6 The Head of the Central Fiscal Authority and the Permanent Secretary of the Ministry of Finance and Economy shall propose a list of candidates for six (6) Trustees in accordance with the criteria specified in this section. The BPK shall review and certify the suitability of the candidates. The Economic and Fiscal Council shall consider and endorse this list. Based on this endorsement, after consultations with the Presidency of the Assembly, the SRSG shall appoint six (6) of the Trustees, including the Chairperson. The term of each appointed Governing Board member shall be three (3) years, and they may be reappointed. Persons appointed as Governing Board members shall receive compensation for their services similar to that received by persons holding executive or expert positions with financial institutions or pension funds of similar size, as determined in the annual budget of the Trust.

5.7 No person shall be an appointed Governing Board member if he or she has been convicted of a crime or adjudged bankrupt or ineligible to serve as a director or manager of a financial institution in any country. No person shall be an appointed Governing Board member if he or she is an official or an Employee of an Asset Manager or Custodian of the Trust or is a beneficial owner of five (5) percent or more of an equity interest in such Asset Manager or Custodian. The persons appointed as Governing Board members are subject to removal by the SRSG for becoming ineligible pursuant to this Section, conviction of a crime, misconduct or illegal activity in office, incapacity of body or mind lasting two (2) or more months, or failure to attend three or more meetings without justification. Persons appointed members of the Governing Board must file personal income and asset disclosure statements upon appointment and annually throughout their tenure. Persons appointed members of the Governing Board may not serve in any professional capacity for any Asset Manager or Custodian of the Trust during a period of twelve (12) months immediately following their departure as Governing Board members. Persons appointed members of the Governing Board must be no more than seventy-two (72) years of age at the time of appointment to a term of three (3) years.

5.8 No member of the Governing Board shall accept any gift or credit or remuneration from any Asset Manager or Custodian of the Trust, from any service provider of the Trust or from any Affiliated Entity of the Asset Manager, Custodian or any service provider of the Trust. This prohibition shall extend to the spouse, siblings and children of the member.

5.9 The Chairperson shall preside at meetings of the Governing Board; in his or her absence another member shall preside. The Governing Board of the Trust shall meet as often as business shall require but no less than once every three (3) months during the years 2002 and 2003 and no less than every six (6) months thereafter. Each member shall have one vote. A quorum shall consist of five (5) members. In the event of a tie the Chairperson shall cast the tie-breaking vote.

5.10 The Chairperson shall direct the preparation of an annual budget for the Trust, including expenditures and income such as fees and transfers from General Revenue, and shall submit it to the SRSG and CFA. The SRSG shall approve the annual budget of the Trust upon the advice of the CFA.

5.11 The Governing Board shall adopt proposed By-laws for its proceedings and shall submit them to the SRSG for review and approval.

5.12 The activities of the Trust in accordance with this regulation shall be financed by charging reasonable fees on a cost basis to Individual Accounts as provided for in section 7 and by other transfers as may be determined by the SRSG from time to time and as reflected in the annual budget of the Trust approved by the SRSG.

Section 6

Powers and Responsibilities of the Kosovo Pension Savings Trust

6.1 The Trust shall have the authority and rights of a management trustee over Pension Assets.

6.2 The rights of the Trust with respect to Pension Assets shall include but not be limited to:

- (a) Conducting a tender for the selection of Asset Manager(s) and Custodian in accordance with this regulation;
- (b) Executing agreements with the Asset Manager(s), Custodians, Accountants, Auditors, Attorneys and other service providers of the Trust;
- (c) Demanding and receiving information from Asset Managers and Custodians and other service providers with respect to all transactions on behalf of the Trust including the voting of shares of stock held by the Trust;
- (d) Adopting investment principles for the Trust;
- (e) Removing and replacing Asset Managers, Custodians and other service providers of the Trust;
- (f) Paying the proceeds of Individual Accounts for Savings Pensions to Annuity providers for the purpose of purchasing Pensions for Participants and Beneficiaries in accordance with this regulation;
- (g) Entering into agreements for the purchase, sale, lease or rental of real property or equipment necessary for the operation of the Trust;
- (h) Hiring executive and non-executive personnel for the Trust;

(i) Entering into insurance agreements, including Fiduciary indemnity insurance for the Governing Board, with insurance companies licensed in Kosovo or in the member states of the Organization for Economic Co-Operation and Development;

(j) Preparing a budget to be approved by the SRSG; and

(k) Charging reasonable fees on a cost basis to each Participant for the administration of Individual Accounts according to a schedule established by the SRSG and withholding such amounts from contributions received prior to allocation to Individual Accounts.

6.3 The Trust shall be required to submit the following information to the BPK (with copies to the SRSG and CFA):

(a) Audited annual account statements of assets and liabilities, income and expenses, audited by an independent accounting firm and signed by a certified public accountant according to International Accounting Standards;

(b) Annual balance sheet signed by the Chairperson and chief accountant of the Trust;

(c) Quarterly statements including details of the sale and acquisition of Pension Assets including the identity of the asset, the date of the transaction, the price at which the transaction was undertaken and the broker used;

(d) Annual statements on the value and proportion of the Pension Assets invested in particular classes of assets, including details of the issuers of particular securities, as on the last Valuation Date of the last month of each annual period;

(e) Annual statements of all other fees, such as custodial fees, and other fees for services and for financial transactions;

(f) Annual statement justifying the fees charged to each Participant for the administration of Individual Accounts and setting forth a proposed schedule of fees for the next year;

(g) Annual personal income and asset disclosure statements of the appointed members of the Governing Board; and

(h) Other matters that may be designated by rules to be issued by the BPK.

6.4 The information specified in section 6.3 shall be submitted on a quarterly or annual basis as indicated and at such shorter intervals as may be specified in rules to be issued by the BPK. The BPK shall specify the period in respect of which such information shall be submitted and the time when such information must be submitted at the end of the quarterly

or annual period. The BPK shall also issue rules specifying such other information it requires and the format in which any information shall be provided.

6.5 The information provided by the Trust to the BPK pursuant to this regulation shall be made public by the Trust no later than twelve (12) months after submission. The Trust shall arrange for publication of this information.

Section 7

Collection of Contributions to Finance Individual Savings Pensions

7.1 Each Employer shall be obligated to contribute on behalf of its Employees to the Savings Pension. Employees shall be obligated to contribute on their own behalf for the Savings Pension. The Employer and Employee's obligation to contribute begins on the first day of employment with the Employer for Employees who have reached the age of eighteen (18) years.

7.2 To finance the Savings Pension:

(a) Each Employer shall pay an amount equal to five percent (5%) of the total wages of all Employees (as defined in this regulation); and

(b) Each Employee shall pay an amount equal to five percent (5%) of his or her total wages.

Employers may voluntarily contribute an additional amount up to a total of ten percent (10%) of annual salary, for a total maximum of fifteen percent (15%) of salary.

Employees may also voluntarily contribute an additional amount up to a total of ten percent (10%) of their annual salary, for a total maximum contribution of fifteen percent (15%) of salary.

7.3 The Employee's contribution shall be deducted from the Employee's wages by the Employer and shall be transmitted to the specified account of the Custodian of the Trust together with the contribution of the Employer in a timely fashion pursuant to rules to be issued and in a manner determined by the Tax Administration.

7.4 The Tax Administration shall be authorized to contract with another entity for the collection of contributions pursuant to this section, subject to approval of the CFA and the SRSB.

7.5 In cases where wages are paid substantially in kind, the Employer shall pay five percent (5%) of the market value of the payments in kind and the Employee shall pay five percent (5%) of the market value of payments in kind to the Tax Administration. In cases where wages are less than the minimum wage, the Employer shall pay five percent (5%) of the minimum wage and the Employee shall pay five percent (5%) of the minimum wage to the Tax Administration.

7.6 The Tax Administration shall have the same responsibilities and rights necessary for inspection, assessment, and enforcement of payments of contributions that they have with respect to collection of the income tax.

7.7 The Employer shall also submit to the Tax Administration or another authorized collection entity, on a quarterly basis, a listing of all Employees, together with their unique personal identifying numbers, dates of birth and addresses, dates of employment, designations of Beneficiary(s), their dates of birth and unique personal identifying numbers, and Employer and Employee contribution amounts for the Savings Pension, on a form prescribed by the Tax Administration.

7.8 The Tax Administration or another authorized collection entity shall transfer the identifying information concerning Employees and contributions made on their behalf on a quarterly basis to the Trust.

Section 8

Individual Accounts in the Kosovo Pension Savings Trust

8.1 Contributions paid monthly to the Kosovo Pension Savings Trust in accordance with section 7 shall be credited by the Trust to Individual Accounts in the names of Participants, less administration expenses as approved according to this regulation. Pension Assets allocated to Individual Accounts shall be the property of the respective Participants. This property right shall be restricted to the extent that the right to receive and use the property shall arise only at the time of Pension Age, or death or disability of the Participant, as is set forth in this regulation. This property right cannot be pledged, garnished, assigned, mortgaged, or otherwise alienated. It shall not be subject to execution, shall not be part of an estate in bankruptcy of the Participant, and shall not be affected by any settlement proceedings, and any attempt to do so shall be null and void.

8.2 The Custodian shall calculate investment income for the Trust as a whole on a monthly basis. The Custodian shall advise the Trust of the investment income and the Trust shall allocate investment income to each Individual Account reflecting the monthly increase (decrease) to each Participant's Individual Account.

8.3 The value of the Individual Account of each Participant shall be calculated as of the end of each month. The calculations shall be made by the Trust and audited annually by an independent accounting firm according to International Accounting Standards and signed by a certified public accountant, who shall not be an Affiliated Entity of any member of the Governing Board of the Trust, the Asset Manager(s), the Custodian of the Trust, or any employee of the Trust.

8.4 The Pensions Department within the BPK shall issue rules:

- (a) Relating to the computation of the return, including the principles of rounding-up those values;
- (b) Specifying the date when the Custodian is to notify the Trust of the investment returns, as well as the method of such notification;
- (c) Requirements for reports to the Pensions Department of the BPK; and
- (d) Any other matters pertaining to the investment of Pension Assets managed by the Trust and any other matters pertaining to the maintenance of Individual Accounts or the protection of the interests of Participants and Beneficiaries of Savings Pensions.

8.5 The Trust shall at regular intervals, and at least once every six (6) months, provide each Participant with written information on the assets on the Individual Account of the Participant, dates of contributions and amount of investment return.

8.6 Upon a request by a Participant, the Trust is required to provide the Participant with a statement of the value of his or her Individual Account. The Trust may impose a fee for providing such statements, other than in accordance with section 8.5, but such fee may not exceed the actual reasonable cost of providing the statement.

Section 9

Custody of the Pension Assets of the Kosovo Pension Savings Trust

9.1 The Trust 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 Assets shall be Fiduciaries of the Trust for purposes of this regulation.

9.2 The Trust shall select a Custodian by competitive international tender. The terms and procedure for conducting the tender, 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 this regulation by the Central Procurement Entity of Kosovo or its successor. The tender shall be conducted in two stages. Stage one shall consist of a pre-qualification procedure wherein all Custodians meeting specified requirements shall be pre-qualified. Pre-qualification requirements may include minimal capital, security or bonding specifications, length of experience, experience internationally and in the Kosovo market as may be considered appropriate, and other related requirements. Weighted criteria for the evaluation of bids, including evaluation of the comparative costs based on the proposed fee structure and evaluation of the financial security offered by the bidder may be used. The Trust shall enter into an agreement not to exceed three (3) years with the Custodian selected by the first tender conducted after the effective date of this regulation. Prior to the expiration of such agreement, a tender shall be conducted for the subsequent

custody agreement. Subsequent agreements shall be concluded for a period not to exceed five (5) years.

9.3 A Custodian may act as such in relation to more than one Trust but must keep the Pension Assets, operations, and records of the Trust strictly segregated from any other assets and from those of the Custodian.

9.4 A Custodian may be a bank that is a legal entity licensed in Kosovo or a branch of a foreign bank authorized to do business in Kosovo and licensed by a banking regulator of a member state of the Organization for Economic Co-Operation and Development, which in each case must satisfy conditions set by the BPK or its successor in regulating banking activity, including but not limited to the following:

(a) Is licensed by the BPK or by the relevant banking regulatory authority, is not under any enforcement action, and such license has not been suspended;

(b) Has a minimum paid up capital as specified in rules of the BPK;

(c) Does not act as Asset Manager of the Pension Assets of the Trust and is not an Affiliated Entity of the Asset Manager or any member of the Governing Board of the Trust; and

(d) Does not lend money to, or borrow from, the Asset Manager, or its Affiliates.

9.5 The functions of a Custodian shall include the following:

(a) Receive and keep paper securities that constitute Pension Assets;

(b) Keep records of paperless securities that constitute Pension Assets;

(c) Receive and keep copies of settlement documents on the transfer and issue of monetary funds constituting Pension Assets;

(d) Make entries in the correspondent accounts in the register of Pension Assets deposited with the Custodian;

(e) Provide all necessary information to the Trust to help enable it to comply with the obligations of this regulation;

(f) Ensure that agreements for the acquisition and disposal of Pension Assets are in accordance with this and other regulations and applicable rules and the investment principles issued by the Trust;

(g) Fulfill the instructions of the Trust, unless such instructions are in violation of this or other regulation or applicable rules or the investment principles;

(h) Ensure that Pension Assets are invested in accordance with this and other regulations and applicable rules and the statement of investment principles and that in the event of any breach the Trust is notified in accordance with any procedure for notification specified by the Trust in its agreement with the Custodian;

(i) Ensure that the Asset Manager(s) fulfill its legal obligations in relation to Pension Asset investment; and

(j) Fulfill other obligations specified by the custody agreement with the Trust and with other rules to be issued by the BPK.

9.6 The BPK shall issue rules in relation to Custodians specifying:

(a) The subscribed and fully paid capital;

(b) Any conditions to be satisfied for performing custody of Pension Assets;
and

(c) Such other matters as it considers appropriate pursuant to this regulation.

9.7 The custody agreement between the Trust and the Custodian shall cover in particular:

(a) Specific responsibilities of the Custodian;

(b) The manner in which these should be performed;

(c) The remuneration of the Custodian and the manner of calculating the costs and charges as a percentage of assets in custody; and

(d) Such other requirements as are provided for in rules issued by BPK.

9.8 An agreement shall not limit the Custodian's responsibilities pursuant to this regulation, and any attempt to do so shall be null and void. The Custodian shall be liable to the Trust and to the Participants and beneficiaries for improper performance of its Fiduciary obligations in conformity with this regulation and other rules and civil and criminal legislation in Kosovo. The employees of the Custodian may, in case of illegal actions, be charged with criminal or administrative liability in conformity with the regulations and civil and criminal legislation of Kosovo.

9.9 In the event of withdrawal of the Custodian's bank license by BPK or the successor of BPK in licensing banking activity, or by any bank regulator of a member state of the Organization for Economic Co-Operation and Development, any material non-performance or improper performance by a Custodian of the custodial agreement, or where a Custodian has been made bankrupt or placed in liquidation:

(a) The Trust shall forthwith serve notice to the Custodian to terminate the agreement and immediately notify the BPK Pensions Department of the fact;

(b) The Trust shall forthwith attempt to appoint a new Custodian as soon as possible pursuant to the requirements of this regulation; and

(c) If the Trust fails to take the steps at sub-paragraphs (a) and (b), BPK Pensions Department may order it to change the Custodian.

9.10 The BPK Pensions Department shall notify the Trust in writing of any instance of any credible information received concerning a material deterioration in the financial or organizational structure of a bank acting as a Custodian when such information is made available to the Department. Each change of a Custodian shall be made in a manner that ensures continuous performance of Custodian duties with respect to the Pension Assets.

9.11 When an agreement with a Custodian is dissolved, the Custodian shall release the Pension Assets in its custody and all documents relating to the performance of its duties to a new Custodian within a period agreed by the parties, but without undue delay. The Custodian shall be liable for performance of its duties until all such documents and assets have been completely transferred.

9.12 The Custodian shall immediately inform the Trust of any matter that it believes is an act or omission that is likely to breach this or other rules or cause the interests of any Participants to be threatened.

9.13 Pension Assets placed in custody in accordance with the provisions of this section are not the property of the Custodian, may not be subject to execution against a Custodian, shall not be a part of the assets of the Custodian to which the bankruptcy procedure applies, and shall not be covered by any settlement proceedings.

Section 10

Investment by the Kosovo Pension Savings Trust

10.1 The assets of the Kosovo Pension Savings Trust shall only be invested in accordance with the provisions of this regulation and in order to maximize returns on investment solely for the benefit of Participants and Beneficiaries. The goals of prudent investment for Pension Assets are:

(a) The security of Pension Assets;

(b) Diversity of investment;

(c) Maximum return consistent with security of Pension Assets; and

- (d) Maintenance of adequate liquidity.

10.2 The Governing Board of the Kosovo Pension Savings Trust shall on professional advice draw up a statement of investment principles, which shall conform with the principles set out in section 10.1 and such applicable regulations and rules as are adopted from time to time. The statement of investment principles shall set forth:

- (a) The way in which the requirements of this regulation shall be satisfied;
- (b) The types of assets in which the Pension Assets may be invested;
- (c) The parties responsible for decisions related to making and realizing investments;
- (d) The procedures for making those decisions; and
- (e) The method of revising the statement.

The Governing Board of the Kosovo Pension Savings Trust shall regularly review the statement of investment principles and, if necessary, amend it.

The Governing Board of the Kosovo Pension Savings Trust shall be empowered to include in its statement of investment principles a directive to the Asset Manager to divide the Pension Assets into separate pools for the purpose of providing different age cohorts of Participants with a risk profile appropriate to their proximity to Pension Age.

With an ancillary goal of promoting the economic development of Kosovo, the statement of investment principles may contain language to encourage a portion of investment to be made in Kosovo in assets that meet the criteria specified in this regulation and elsewhere in the Investment guidelines, to the extent that doing so will not violate the goals of prudent investment or any fiduciary duties owed to participants.

10.3 Pension Assets may only be invested in the following international classes of assets:

- (a) Monetary funds, including bank accounts and deposits with banks that are licensed by a bank regulatory authority of a member state of the Organization for Economic Co-Operation and Development, and which are not under any enforcement action and are not subject to a suspension of their license;
- (b) Securities issued by any member state of the Organization for Economic Co-Operation and Development;
- (c) Securities issued by local governments in member states of the Organization for Economic Co-Operation and Development, to the extent guaranteed by the respective state;

(d) Securities registered with the capital markets regulator of any member state of the Organization for Economic Co-Operation and Development on account of having been placed through a public offering, provided that such securities have been listed on the Stock Exchange subject to the supervision of the applicable capital markets regulator; and

(e) Mutual and investment funds subject to approval in the state of establishment within a member state of the Organization for Economic Co-Operation and Development.

10.4 Pension Assets may only be invested in the following domestic classes of assets:

(a) Monetary funds, including bank accounts and deposits with banks that are licensed by the BPK but which are not under enforcement action and are not subject to a suspension of their license;

(b) Securities issued by the competent authority in Kosovo, to the extent guaranteed by the such authority;

(c) Securities of enterprises (including but not limited to stocks and bonds) registered with the capital markets regulator of Kosovo and placed through a public offering, provided that such securities have been listed on a licensed securities exchange in Kosovo or in another jurisdiction of the of a member state of the Organization for Economic Co-Operation and Development, subject to the supervision of the applicable capital markets regulator; and

(d) Mutual and investment funds subject to regulatory approval in Kosovo.

10.5 The maximum proportion of the securities of any single issuer, including its Affiliated Entities, which may be held by the Kosovo Pension Savings Trust, is five percent (5%) for stocks and thirty percent (30%) for bonds.

10.6 The maximum proportion of total Pension Assets that may be invested in the assets of any single issuer, including in this calculation assets of Affiliated Entities, is five percent (5%).

10.7 Rules of the BPK Pensions Department may from time to time specify minimal acceptable ratings for any class of asset enumerated herein.

10.8 Pension Assets may not be invested in:

(a) Securities that are either unlisted or not publicly traded;

(b) Assets which are not capable of alienation by law;

(c) Derivative securities, options, futures, forward and other agreements with respect to securities and other financial assets;

(d) Real estate or physical assets not listed on organized markets and for which valuation is uncertain, including, for the sake of example, antiques, works of art, coins, and motor vehicles;

(e) Any property of the Asset Manager or Custodian or member of the governing Board of the Kosovo Pension Savings Trust or any Affiliated Entity of the Asset Manager or Custodian or member of the Governing Board of the Kosovo Pension Savings Trust;

(f) Securities issued by:

(i) A member of the Governing Board of the Kosovo Pension Savings Trust;

(ii) The Asset Manager;

(iii) The Custodian;

(iv) Any person who is an Affiliated Entity in relation to the entities listed in (i) to (iii) above; and

(g) Such other assets as are specified by the SRSG.

10.9 If the provisions of this section are breached as a result of:

(a) Changes in market prices constituting a basis for valuation of the assets;

(b) Changes in foreign currency rates;

(c) Changes in organizational or economic relations between entities in which assets are invested; or

(d) Any other circumstances beyond the immediate control of the Asset Manager;

Then the Asset Manager shall be obliged to take measures to adjust investment activities to the requirements specified in this regulation, while meeting the other requirements of this Section to maximize returns and preserve Pension Assets.

The adjustment of investment activities to the requirements specified in this regulation shall be completed no later than six (6) months after the date on which the breach occurred or the date when a valuation of assets indicates that there had been such a violation, whichever of the above occurs later.

10.10 Pension Assets may not be sold to:

- (a) The Custodian holding its assets;
- (b) An Asset Manager;
- (c) A member of the Governing Board of the Trust; or
- (d) Any person who is an Affiliated Entity in relation to the Asset Manager or Custodian or member of the Governing Board of the Trust.

10.11 The Asset Manager may not issue loans and guarantees of any kind to any of the entities listed in section 10.10.

10.12 The Asset Manager shall exercise all of the voting rights attaching to the relevant stock shares it holds on behalf of the Trust solely and exclusively in the interests of Participants and Beneficiaries.

Section 11

Asset Managers for the Kosovo Pension Savings Trust

11.1 Management of Pension Assets of the Trust must be performed only by Asset Managers pursuant to pension asset management agreements, entered into in conformity with this regulation and with other applicable rules. The Asset Managers and their employees who have discretion with respect to the Pension Assets shall be Fiduciaries of the Trust for purposes of this regulation.

11.2 Asset Managers of the Trust and of Supplementary Pensions regulated by this regulation shall have a license for asset management issued by the BPK or by its successor in regulating capital markets in Kosovo. The grounds and the procedure for issuance, suspension or cancellation of a license for asset management shall be specified in rules to be issued by the BPK.

11.3 The Trust shall select one or more Asset Managers by competitive international tender. The terms and procedure for conducting the tender, including pre-qualification requirements for the Asset Manager(s), the amount and composition of its equity, and any other requirements shall be established in conformity with this regulation by the Central Procurement Entity or its successor. The tender shall be conducted in two stages. Stage one shall consist of a pre-qualification procedure wherein all Asset Managers meeting specified requirements shall be pre-qualified. Pre-qualification requirements may include minimal capital, security or bonding specifications, length of experience, experience internationally and in the Kosovo market as may be considered appropriate, and other related requirements. Weighted criteria for the evaluation of bids, including evaluation of the comparative costs based on the proposed fee structure and evaluation of the financial

security offered by the bidder may be used. The Trust shall enter into an agreement not to exceed three years with the Asset Managers selected by the first tender conducted after the effective date of this regulation. Prior to the expiration of such agreement, a tender shall be conducted for subsequent asset management agreements. Subsequent agreements shall be concluded for a period not to exceed five (5) years.

11.4 An Asset Manager may be a financial institution or a bank that is a legal entity in Kosovo, or a foreign financial institution or bank licensed by a banking or capital markets regulatory body of a member state of the Organization for Economic Co-Operation and Development, which in each case must satisfy conditions set by the BPK or other regulator of capital markets in Kosovo or its successor, including but not limited to the following:

- (a) It holds a license for asset management in accordance with this regulation and other applicable rules to be issued by the BPK, it is not under enforcement action, and such license has not been suspended;
- (b) It satisfies a requirement for minimum paid up capital as specified in rules to be issued by the BPK;
- (c) It is not an Affiliated Entity of the Custodian or any member of the Governing Board of the Trust; and
- (d) It does not lend money to, or borrow from, the Custodian, or its Affiliates.

The employees of the Asset Manager must have the necessary qualifications and experience in accordance with the requirements of the BPK.

11.5 The Asset Management agreement shall provide that asset management shall only be exercised through the appointed Custodian. The asset management agreement between the Trust and the Asset Manager shall cover in particular:

- (a) Specific responsibilities of the Asset Manager;
- (b) The manner in which these should be performed;
- (c) Specific instructions for the voting of shares;
- (d) The remuneration of the Asset Manager and the manner of calculating the costs and charges as a percentage of the total amount of Pension Assets under management; and
- (e) Such other requirements as are provided for in rules to be issued by BPK.

11.6 An asset management agreement shall not limit the Asset Manager's responsibilities, and any attempt to do so shall be null and void. The Asset Manager shall

be liable to the Trust and to the Participants and Beneficiaries for improper performance of its Fiduciary obligations in conformity with this regulation and other rules and civil and criminal legislation in Kosovo. The employees of the Asset Manager may, in case of illegal actions, be charged with criminal or administrative liability in conformity with the rules and civil and criminal legislation of Kosovo.

11.7 Pension Assets under management in accordance with the provisions of this Section are not the property of the Asset Manager, may not be subject to execution against an Asset Manager, shall not be a part of the assets of the Asset Manager to which the bankruptcy procedure applies, and shall not be covered by any settlement proceedings.

Section 12.

Individual Savings Pension Payment

12.1 When a Participant reaches Pension Age he or she will use the amount on his or her Individual Account to purchase a Savings Pension in one of the forms of Annuities specified in section 12.5.

12.2 The BPK shall license insurance companies to provide Annuities for Savings Pensions and supervise their activities. The BPK shall maintain a list of licensed insurance companies. A Participant shall be free to choose from which licensed insurance company he or she purchases an Annuity.

12.3 The Trust shall notify a Participant in writing of his or her impending Pension Age six (6) to twelve (12) months prior to Pension Age and shall also provide her or him with the standard forms necessary to apply for an Annuity as well as information about insurance companies licensed to provide Annuities in accordance with this regulation.

12.4 A payment shall be made to the licensed insurance company chosen by the Participant thirty (30) days before the Participant reaches Pension Age, provided that the Participant gives the Trust at least ninety (90) days notice of the date of reaching Pension Age and the details of the licensed company from which he or she will purchase an Annuity. Payment of the annuity shall begin thirty (30) days after the transfer of the Individual Account balance to the insurance company selected by the Participant.

12.5 Each licensed insurance company shall offer and a Participant shall, subject to section 12.7, be free to select one of the following types of Annuity:

- (a) A single life Annuity payable until the death of the Participant;
- (b) A single life Annuity guaranteed for a period of at least five (5) years whereby if the Participant dies during the guarantee period, the outstanding payments which would have been paid to the Participant for that period shall be paid to Beneficiaries designated by the Participant;

(c) A survivor's Annuity payable for the life of the Participant and then to his or her spouse for the remainder of his or her life;

(d) A survivor's Annuity payable for the life of the Participant and then to his or her spouse for the remainder of his or her life with a guarantee period of at least five (5) years whereby if the Participant and his or her spouse both die within a five (5) year period (or such longer guarantee period) the outstanding payments which would have been paid to the spouse from the date of his or her death until the end of the guarantee period shall be paid to Beneficiaries designated by the Participant; and

(e) Such other types of Annuity as are specified in rules to be issued by the BPK.

12.6 Rules of the BPK shall specify the manner of making and revoking Beneficiary designations made in accordance with this section.

12.7 If a Participant has a spouse at the date of reaching Pension Age, to whom he or she has been married for at least one (1) year, he or she shall be obliged to purchase an Annuity of the type specified in section 12.5 (c) or (d).

12.8 An insurance company providing Annuities pursuant to this regulation must establish uniform annuity rates by which the Annuity purchased may vary only on the basis of the age of the annuitant, the age of his or her spouse if an Annuity specified at section 12.5 (c) or (d) is purchased, and the amount paid to the Annuity provider from the Participant's Individual Account.

12.9 The company providing Annuities shall publish its Annuity rates and make these available to any Participant who so requests it and also provide them to the BPK. The uniform rates provided by a particular company may only vary over time as determined in rules to be issued by the BPK.

12.10 A licensed insurance company providing Annuities pursuant to this regulation may not refuse an application to purchase an Annuity so long as the applicant satisfies such requirements set out in this regulation or in rules to be issued by the BPK. A company providing Annuities may not impose any special terms or rates on the grounds of health, gender, race, religion, nationality or any other similar criteria.

12.11 A company providing Annuities shall satisfy such requirements for the maintenance of technical reserves as shall be specified in rules to be issued by the BPK.

12.12 No natural person or legal entity may offer any collateral benefit to a person for the purpose of persuading that person to purchase an Annuity. No natural person or legal entity may offer any collateral benefits to an Employer or Affiliated Persons of the Employer for the purpose of inducing or rewarding that Employer to persuade or require its Employees to purchase an Annuity from a particular provider.

12.13 If a Participant is disabled prior to reaching Pension Age pursuant to a definition of disability that may be adopted by a regulation of the SRSG for the purpose of providing Basic Pensions as disability pension payments, the Participant may purchase an Annuity pursuant to this Section prior to Pension Age.

12.14 If a Participant dies prior to Pension Age and has not purchased an Annuity in accordance with this Section, the balance on the Participant's account shall be paid to a Beneficiary in accordance with this regulation within thirty days after written notice of the death to the Trust.

12.15 If the value of the Participant's Individual Account at Pension Age is two thousand (2,000) Euro or less, the Participant shall receive the amount in a lump sum payment upon notifying the Trust in accordance with the notification provisions of this regulation (sections 12.3 and 12.4).

12.16 In addition to rules specified elsewhere in this section the BPK shall issue rules relating to:

- (a) Employment of persons with actuarial qualifications by Annuity providers;
- (b) Selling and marketing of Annuities;
- (c) Segregation of pension Annuity business from any other business of the provider;
- (d) Accounts of Annuity providers;
- (e) Dissolution, merger and acquisition of Annuity providers;
- (f) Reporting obligations of Annuity providers;
- (g) Procedures to be followed to safeguard assets when an Annuity provider may be unable to satisfy its obligations under this regulation;
- (h) Method and timing of payments to Participants including those living abroad;
- (i) The consequences of the death of an Participant and the failure to notify the insurance company of the death; and
- (j) Such other matters, as the BPK deems appropriate.

CHAPTER IV SUPPLEMENTARY EMPLOYER PENSION FUNDS

Section 13

Powers and Responsibilities of the Pensions Department of the BPK

13.1 The Pensions Department (hereinafter “Department”) is hereby established as an administrative unit within the BPK.

13.2 The Department shall be required to:

- (a) License and supervise Supplementary Employer Pension Funds (“Pension Funds”);
 - (b) Suspend and revoke licenses of Pension Funds;
 - (c) Review annual reports of Pension Funds;
 - (d) Issue rules in accordance with the requirements of this regulation;
 - (e) Maintain records of submissions received from Pension Funds;
 - (f) Prepare an annual report on the status of Pension Funds in Kosovo;
 - (g) Appoint Special Managers for Pension Funds that are being terminated;
- and
- (h) Any other matters indicated as its responsibility in this regulation.

13.3 The Department shall have the authority to:

- (a) Review records of Pension Funds, their Asset Managers and Custodians to confirm the accuracy of annual reports;
- (b) Review records of Pension Funds and Employers to confirm the accuracy of payment of contributions on behalf of Employees;
- (c) Terminate Pension Funds in conformity with the requirements of this regulation; and
- (d) Propose an annual budget for its activities.

Section 14

Supplementary Employer Pension Funds

14.1 Employers may provide Supplementary Employer Pensions through the establishment of Supplementary Employer Pension Funds (“Pension Funds”). Pension Funds are not-for-profit legal entities established in the form of trusts for management of Pension Assets. A Pension Fund shall be established through a Charter signed by the highest governing body of the Employer(s) establishing the Pension Fund pursuant to this regulation. The minimum content of the Charter to establish a Pension Fund shall be specified in rules to be issued by the Department. The Department shall approve the content of each Charter. The Pension Assets of the Pension Fund are derived from contributions made by or on behalf of the Pension Fund Participants and investments made with those contributions.

14.2 The registered office of a Pension Fund shall be the same as that of its Board of Directors. The registered name of every Pension Fund shall contain the words “Pension Fund”. Only Pension Funds established in accordance with this regulation are entitled to use in their names the words “Pension Fund.” The only object of activity of Pension Funds must be the provision of Pensions as defined in this regulation and those activities directly incidental to the main activity.

14.3 A Board of Directors shall manage each Pension Fund. All members of a Board of Directors of a Pension Fund shall be Fiduciaries of the Pension Fund and shall sign a statement to that effect when appointed a member of the Pension Fund Board of Directors. The Board of Directors shall represent the Fund in relation to third parties, including Courts of competent jurisdiction. A Pension Fund shall keep, in perpetuity, in the form of an archive, all documents and other records relating to the Pension Fund.

14.4 The number of Directors shall be provided in the Charter but shall be no fewer than three (3) and no more than fifteen (15). The first Board of Directors of a Pension Fund shall be named in the Charter. The Charter of the Pension Fund shall specify the length of terms of members of the Board, procedures for their elections or appointments, and grounds for their removal. At least one third of the members of the Board of Directors shall have either a degree in administration, business, finance, economics, or law, or professional work experience in the field of financial services. A member of the Board of Directors shall not be a person who is a member of the governing body of:

- (a) Any Asset Manager managing the assets of the Pension Fund;
- (b) The Custodian holding the assets of the Pension Fund;
- (c) The actuary, auditor, accountant, or attorney of the Fund; or
- (d) Any Affiliated Person in relation to the entities listed at sub-paragraphs (a) and (b).

The prohibition referred to this section shall also apply to persons who are in a relationship of employment, agency, commission, or other relationship of a similar nature with any entities listed.

14.5 A Pension Fund may not compensate its Board of Directors, or the Employer establishing it, or any Affiliates thereof. A Pension Fund may reimburse its Board of Directors for their reasonable and actual expenses in performing their duties of administration and management and in attending meetings of the Board of Directors.

14.6 A Pension Fund Board of Directors shall adopt the Bylaws of the Pension Fund. The Bylaws of the Pension Fund shall specify terms and conditions for making contributions and applying for benefit payments as well as procedures for meetings. The Board of Directors of a Pension Fund shall meet as necessary for the business of the Pension Fund, but no less than once every six (6) months.

14.7 Employers, Employees, or both, can contribute to a Pension Fund. Participation in a Pension Fund must not be restricted to particular individuals but must be offered either to all Employees of that Employer or to all Employees within a specified occupational category, as further defined in rules to be issued by the Department. Participation in a Pension may not be limited solely to the management Employees of the Employer, as further defined in rules to be issued by the Department. Within any occupational category, all Employees or Members of a union or labor organization must participate on an equal and uniform basis. The Bylaws must also define the terms and the procedure for pension indexing, if any. Such terms and procedures for contributions and benefits may be amended on a prospective basis only, provided that any such change results in benefits that have increased or remained constant. Additional requirements with respect to the Bylaws shall be described in rules to be issued by the Department.

14.8 A Vested Right of a Participant in a Pension Fund to a Pension Benefit is the property of the Participant under trust management by the Pension Fund. This property right shall be restricted to the extent that the right to receive and use the property shall arise only at the time of the Pension Age, or death or disability, of the Participant, as is set forth in this or other regulations.

14.9 In a Defined Contribution Pension Fund the Vested Rights of a Participant or Beneficiary shall be the amount of Pension Assets on the Individual Account. The Board of Directors of a Pension Fund shall be responsible for maintaining records reflecting contributions to and investment income on Pension Assets on the Individual Accounts of Participants.

14.10 In a Defined Benefit Pension Fund the Vested Rights of a Participant shall be as provided for in the Bylaws of the Pension Fund, and may be expressed in terms of years of service. In no cases, however, shall more than five (5) years of Accrued Service be required to obtain Vested Rights to a benefit.

14.11 A Defined Benefit Pension Fund shall be required to obtain an Actuarial Valuation on a regular basis. Pension Funds with one thousand (1,000) or fewer participants may obtain one every five years. Pension Funds with more than one thousand (1,000) Participants must obtain one annually. The Department shall issue rules setting forth the requirements for an Actuarial Valuation. An Actuarial Valuation must include a funding schedule illustrating the prospective funding of all Vested Rights and of all Accrued Service of Participants of the Pension Fund within a time period of no less than twenty (20) years. The Actuarial Valuation shall indicate the required annual contribution of the Employer. The Pensions Department of BPK shall issue rules as to the actuarial standards to be used in preparing such annual actuarial valuations.

14.12 A Defined Benefit Pension Fund shall pay Pensions in accordance with its Bylaws, but in no case may benefits begin other than at Pension Age or disability. A Defined Benefit Pension Fund may provide for survivor benefits to Beneficiaries.

14.13 A Defined Contribution Pension Fund shall provide for payment of benefits in the form of Annuities in accordance with the provisions of this regulation pertaining to Savings Pensions or for payment in installments or in a lump sum, at the option of the Participant.

Section 15

Licensing and Regulation of Supplementary Employer Pensions

15.1 Each Pension Fund shall operate on the basis of a license of the Pensions Department of BPK. No Pension may be paid, advertised, or promised by any natural person or legal entity (such as a Pension Fund) unless provided by a Pension Fund licensed pursuant to this regulation.

15.2 The license is granted on the basis of an application by the Pension Fund, submitted with the following documents:

- (a) The Charter establishing the Pension Fund;
- (b) The Pension Fund's Bylaws specifying details of payment of contributions and benefits and the categories of Employees covered;
- (c) The proposed agreement with the Custodian;
- (d) The list of signers of the Charter along with information as to whether they are Affiliated Persons and as to the nature of their connections;
- (e) Pension Fund form documents for use by Participants and Beneficiaries;

(f) Statements by the members of the Board of Directors that they agree to perform these functions as Fiduciaries and to fulfill any requirements set out in this regulation; and

(g) Other documents as required by rules of the Pensions Department of BPK.

15.3 The Pensions Department may no later than ninety (90) days after receiving the application for license of the Pension Fund require the submission of such additional documents and information as it specifies. The Department may, if it considers it necessary, investigate any matters relating to the license application of the Pension Fund. The Department shall review the license application of the Pension Fund made in accordance with the preceding paragraphs and shall, within ninety (90) days of the date of the receipt of the last set of documents and information obtained in accordance with this regulation, either grant the license, subject to such terms and conditions as it may impose, or refuse the application.

15.4 The Department shall refuse to grant a license if it determines that:

(a) The application does not comply with the requirements of this or other applicable regulations or applicable rules;

(b) It appears likely that the operation and organization of the proposed Pension Fund would not comply with this or other applicable regulations or rules;

(c) Any of the documents submitted with the application contain provisions, or omit to contain provisions, with the effect of threatening the interests of the Fund Participants or Beneficiaries or failing to adequately protect their interests; or

(d) It appears likely that the activities of the Pension Fund would not be concluded in accordance with sound and prudent pension fund management practices.

15.5 If the Department refuses a license application of a Pension Fund, it shall notify the Board of Directors making the application of the grounds for refusal in writing. The refusal to grant the license application of a Pension Fund may be appealed to a competent Court.

15.6 Once a license has been granted, the Pension Fund may execute an agreement with the Custodian and any Asset Manager and start to accept contributions.

15.7 The Department shall issue rules including but not limited to:

(a) Content of Charters, Bylaws and documents setting forth contributions and benefit payments of Pension Funds;

(b) Actuarial Valuations of Defined Benefit Pension Funds and the calculation of contributions by Employers to Defined Benefit Pension Funds;

- (c) Standards and procedures for maintaining records on Individual Accounts;
- (d) Required annual reports for Pension Funds; and
- (e) Other matters needed to protect the rights of Participants and Beneficiaries.

Section 16

Investment by Supplementary Employer Pension Funds

16.1 A Pension Fund shall by resolution of its Board of Directors acting upon professional advice adopt a statement of investment principles.

16.2 A Pension Fund shall by resolution of its Board of Directors select one or more Asset Managers to manage part or all of the assets of the Pension Fund, on the basis of an agreement with the Pension Fund and according to the statement of investment principles of the Pension Fund.

16.3 The qualifications of the Asset Managers and their responsibilities, as well as the investment of Pension Assets, must meet all the requirements for Asset Managers and for the investment of Pension Assets of Savings Pensions set forth in this regulation, with the exception of the requirement of conducting a tender for the selection of an Asset Manager. The Pensions Department shall issue additional rules with respect to Asset Managers, including the procedure for obtaining a license for Asset Management.

16.4 The Asset Manager shall not be liable to the Participants or Beneficiaries for the obligations of the Pension Fund or the Employer.

Section 17

Custody of Supplementary Employer Pensions Funds

17.1 A Pension Fund shall by resolution of its Board of Directors select a Custodian for Pension Assets.

17.2 The custody of Pension Assets and the Custodian of Pension Assets must meet all the requirements for custody of Pension Assets of Savings Pensions set forth in this regulation, with the exception of the requirement for conducting a tender for the selection of a Custodian. Pension Assets must be held in separate accounts segregated from the assets of the employer, the assets of the Custodian, the assets of the Kosovo Pension Savings Trust, and any other assets. The BPK shall issue additional rules with respect to Custodians, including the procedure for obtaining a license for Custody.

17.3 The Custodian shall not be liable to the Participants or Beneficiaries for the obligations of the Pension Fund or the Employer.

Section 18

Transfer from a Supplementary Employer Pension Fund

18.1 All Pension Funds must provide for Transfer Payments in accordance with this Section.

18.2 A Participant in a Supplementary Employer Pension Fund established in accordance with this regulation may transfer his or her Vested Right upon termination of his or her employment with the Employer or the liquidation or bankruptcy of the Employer.

18.3 If the Participant wishes to transfer his or her Pension, he or she is obliged to notify the Transferor Pension Fund in writing that he or she has agreed to be a Participant in a Transferee Pension Fund (or to purchase a Supplementary Individual Pension from a Pensions provider) and to provide the Transferor Pension Fund with a copy of that document.

18.4 Participation in the Transferor Pension Fund shall terminate ten (10) days after receipt of a notification made in accordance with this section. On that date, a Transfer Payment shall be made between the Transferor Pension Fund and the Transferee Pension Fund or Pensions provider. With respect to Defined Contribution Pension Funds, the Transfer Payment shall comprise the amount in the Individual Account of the Participant as of the previous valuation date. With respect to Defined Benefit Pension Funds, the Transfer Payment shall be calculated in accordance with rules to be issued by the Department. The Transferor Pension Fund shall notify the Transferee Pension Fund or Pensions provider of the contributions made by or on behalf of the Participant, and any Transfer Payments received with respect to that Participant.

18.5 The Department shall issue rules specifying:

(a) The procedure for enrolling with the Transferee Pension Fund or a Pensions provider providing a Supplementary Individual Pension; and

(b) The procedure by which a Participant notifies the Transferor Pension Fund of the fact that he or she will transfer his or her Vested Rights.

Section 19

Supplementary Employer Pension Fund Termination

19.1 The Pensions Department may revoke a license of a Pension Fund if it is satisfied that there have been serious or persistent breaches of this regulation or that having regard

to the investment performance of the Pension Fund or otherwise it is in the interests of Participants and Beneficiaries to do so.

19.2 Before revoking a license under the preceding paragraph, the Department shall give not less than thirty (30) days notice in writing of its intention to do so to the Board of Directors of the Pension Fund together with its reasons, unless it considers that giving such notice would be prejudicial to the interests of Participants and Beneficiaries. At the time such notice is issued, the Department may also suspend the license and may freeze the Pension Assets under management by the Pension Fund by providing appropriate notice to the Custodian. If the Department gives such notice, the Board of Directors of the Pension Fund shall have thirty (30) days in which to reply in writing and, if appropriate, to propose a plan for remedying its breaches of this regulation or other problems.

19.3 If the Department does not receive a reply from the Pension Fund within thirty (30) days or if it is not satisfied with the reply or the proposed plan, it may proceed to revoke the license previously granted or to change a suspension of a license to a revocation. The Pension Fund Board of Directors may appeal to a Court of competent jurisdiction against the Department's suspension or revocation of the license.

19.4 The Board of Directors of a Pension Fund may commence the termination of the Fund by giving ninety (90) days written notice to each Participant and to the Department. Immediately upon providing such notice, the Pension Fund Board of Directors shall prepare a valuation of Pension Assets and take all appropriate steps to protect the interests of the Participants and Beneficiaries.

19.5 If the Department suspends the license of a Pension Fund, the following procedures shall apply:

(a) As of the date of suspension, no further contributions may be accepted;
and

(b) If within thirty (30) days the Pension Fund does not remedy the breaches causing the suspension, the Pension Fund license shall be revoked.

19.6 If the Department revokes the license of a Pension Fund, the following procedures shall apply:

(a) As of the date of termination, no further contributions may be accepted;

(b) The Division shall notify the Custodian of the Pension Fund as to the freezing of Pension Assets;

(c) The Division shall appoint an appropriately qualified Special Manager, who is not an Affiliated Person of the Employer contributing to the Pension Fund or any of the Pension Fund Board of Directors or the Pension Fund employees, to act as a

Special Manager of the Pension Fund. The requirements for the Special Manager and the procedures to be employed in selecting and compensating a Special Manager shall be set forth in rules to be issued by the Department. The Special Manager shall be a Fiduciary of the Pension Fund;

(d) Within ninety (90) days of his or her appointment, the Special Manager shall prepare a valuation of Pension Fund assets, including claims against third parties, and liabilities of the Pension Fund together with preliminary accounts and shall give copies to each Participant and to the Department;

(e) The Special Manager shall pursue all legitimate claims on behalf of the Pension Fund. In particular, the Special Manager shall pursue claims against the Employer pursuant to this regulation;

(f) The Special Manager shall report at one hundred eighty (180) day intervals to the Participants and to the Department on the progress of the liquidation;

(g) If, pursuant to the accounting, there are sufficient liquid assets to make full payment of all account balances of the Participants, they may be given the option of immediately transferring their accounts to another Supplementary Individual Pension provided by a Pensions Provider licensed in accordance with this regulation;

(h) The Special Manager shall file a proposal for complete liquidation no later than one year after appointment. The proposal for liquidation shall set forth the proposed disposition of Pension Assets, the full justification for the proposed distribution, and the timetable for such disposition. The proposal for liquidation must be reviewed by the Department and approved or rejected within thirty (30) days. In the event that the proposal for liquidation is rejected, the Special Manager shall propose an alternative proposal within ninety (90) days. Each Participant and the Department must be notified in writing of the proposed distribution giving at least thirty (30) days in which to raise queries or objections;

(i) Interim distributions can be made using the same procedure. No distribution shall take place without the prior approval of the Department;

(j) Pending any such transfer or the liquidation of the Pension Assets, the Special Manager shall manage the assets and may retain or remove the current Asset Manager or Custodian or appoint new ones in their place;

(k) The reasonable fees and expenses of the Special Manager shall, subject to the prior approval of the Department, be paid out of the assets of the Pension Fund;

(l) If the proposal for liquidation is approved, the Special Manager shall proceed to liquidate the Pension Fund and shall certify to the Department when he or she has made a final distribution of all assets; and

(m) Distribution of Pension Assets shall consist of using the Pension Assets to purchase Supplementary Individual Pensions licensed in accordance with this regulation.

19.7 If a Pension Fund Board of Directors decides to terminate a Pension Fund, the following procedures shall apply:

(a) The Pension Fund Board of Directors shall prepare an accounting of the Pension Fund, setting forth all assets and liabilities, within ninety (90) days after providing notice of termination. The accounting shall be filed with the Department and shall be made available to all Participants;

(b) If, pursuant to the accounting, there are sufficient liquid assets to make full payment of all Vested Rights of the Participants, they may be given the option of immediately transferring their accounts to a licensed Pension Fund. If there are insufficient liquid assets to make full payment of all Vested Rights of the Participants, the Pension Fund Board of Directors shall, together with the filing of the accounting, make a liquidation proposal to be approved by the Department. The proposal shall be made available to all Participants;

(c) This liquidation proposal shall include details as to all efforts made to collect contributions from the Employer pursuant to this regulation;

(d) The Pension Fund Board of Directors shall, unless the Department deems it inappropriate, continue to perform its activity of managing the Pension Fund under a procedure established by rules of the Department. This process shall continue until the liquidation is complete or the assets and liabilities are transferred to another Pension Fund; and

(e) The Department may reject the liquidation proposal of the Pension Fund Board of Directors and in such cases may determine that a Special Manager needs to be appointed pursuant to the provisions of this regulation.

19.8 The Special Manager or the Pension Fund Board of Directors may, subject to the prior approval of the Department, transfer the assets and liabilities of the Pension Fund to a Pensions provider licensed in accordance with this regulation to purchase Supplementary Individual Pensions. Prior to this action there must be thirty (30) days written notice given to the Participants.

19.9 No Pension Assets of any Pension Fund may revert to the Employer that founded the Pension Fund.

19.10 Nothing in this regulation precludes the right of a Participant to pursue claims for recourse against the Special Manager, the Pension Fund Board of Directors, the Asset Manager, the Custodian, any Fiduciary, or any Affiliated Person of such persons.

19.11 The Department may issue rules in further implementation of the provisions of this section.

CHAPTER V SUPPLEMENTARY INDIVIDUAL PENSIONS

Section 20

Powers and Responsibilities of the Department

20.1 The Department shall be required to:

- (a) License and supervise Supplementary Individual Pensions provided by financial institutions, banks and insurance companies (hereafter referred to jointly as “Pensions providers”) in Kosovo;
- (b) Suspend and revoke licenses for Supplementary Individual Pensions;
- (c) Review annual reports of Supplementary Individual Pensions providers;
- (d) Issue rules in accordance with the requirements of this regulation;
- (e) Maintain records of submissions received from Supplementary Individual Pensions providers;
- (f) Prepare an annual report on the status of Supplementary Individual Pensions in Kosovo;
- (g) Appoint Special Managers for providers of Supplementary Individual Pensions that are being terminated in accordance with this regulation; and
- (h) Any other matters indicated as its responsibility in this regulation.

20.2 The Department shall have the authority to:

- (a) Review records of providers of Supplementary Individual Pensions, to confirm the accuracy of annual reports;
- (b) Determine the need for termination of Supplementary Individual Pensions in conformity with the requirements of this regulation; and
- (c) Propose an annual budget for its activities.

Section 21

Forms of Supplementary Individual Pensions

21.1 A natural person may establish a Supplementary Individual Pension for himself by contracting with a licensed bank or other financial institution for a trust management of a Defined Contribution Pension or by contracting with a licensed insurance company for a Defined Benefit Pension. All Pensions providers, such as financial institutions, banks and insurance companies offering Supplementary Individual Pensions are Fiduciaries of the Participants purchasing pensions.

21.2 Financial institutions offering Supplementary Individual Pensions must describe such Pensions in Pension Rules. Pension Rules containing terms and procedures for contributions and benefits may be amended on a prospective basis only, provided that any such change results in benefits that have increased or remained constant. Additional requirements with respect to the Pension Rules shall be described in rules to be issued by the Department.

21.3 If a Defined Contribution Pension is established by a bank or other financial institution for the purpose of providing defined contribution pensions to natural persons, the bank or financial institution shall not refuse participation to any person between the ages of eighteen (18) years and Pension Age so long as that person agrees to contribute the minimum level of contributions and fees assessed by that institution. A financial institution or bank providing Pensions shall be free to determine the minimum level of contributions required from a Participant, provided that such minimums apply uniformly to all prospective Participants.

21.4 A financial institution or bank providing Defined Contribution Pensions to natural persons shall establish Individual Accounts for all Participants.

21.5 The amount in the Individual Account of a Participant shall immediately constitute a “Vested Right” of a Participant or Beneficiary that cannot be forfeited. A Vested Right to an Individual Account is the property of the Participant under trust management by the financial institution. This property right shall be restricted to the extent that the right to receive and use the property shall arise only at the time of the Pension Age, or death (or disability, as may be provided for in subsequent regulations), of the Participant, as is set forth in this regulation.

21.6 A Participant may at any time reduce, suspend, or terminate his or her contributions to a Defined Contribution Pension provided by a bank or financial institution. The bank or financial institution may set forth a penalty or charge for such action in its Pension Rules. Such penalty or charge must be communicated in writing to the Participant prior to the receipt of any contributions. The Department may issue rules with respect to such fees for such reduction, suspension or termination of contributions.

21.7 Licensed insurance companies may provide Defined Benefit Pensions to Participants in accordance with this regulation and with other rules applicable to

insurance companies generally. The Supplementary Individual Pensions provided by insurance companies must have Pension Rules setting forth the terms and conditions of the Pension purchase as well as any fees or penalties for termination of contributions.

21.8 Pensions providers may serve as Asset Manager or Custodian to the Supplementary Individual Pensions they offer if they meet the requirements set forth for Asset Managers and Custodians under this regulation and if this activity is consistent with their other licensed activity. Otherwise, they must provide for separate Asset Management and Custody for Supplementary Individual Pensions. The Department may issue rules specifying such conditions.

21.9 Pension Assets must be held in separate accounts segregated from the assets of the bank, insurance company or financial institution establishing the Pension. Pension Assets must be held in separate accounts segregated from the assets of the Asset Manager, the Custodian, the Kosovo Pension Savings Trust, and any other assets.

Section 22

Licensing and Regulation of Supplementary Individual Pensions

22.1 Pensions providers may offer Supplementary Individual Pensions only on the basis of a license of the Department. No Pension may be paid, advertised, or promised by any natural person or legal entity (such as a bank, any financial institution, or an insurance company) unless it is licensed pursuant to this regulation.

22.2 The license is granted on the basis of an application filed by a prospective Pensions Provider, such as a bank, an insurance company or a financial institution, together with the following documents:

- (a) The Charter establishing the legal entity providing the Pension;
- (b) The Pension Rules specifying details of payment of contributions and benefits and the rules for termination or premature cancellation, if any;
- (c) Proposed agreement with the Custodian or Asset Manager, if any;
- (d) The list of signatories of the Charter along with information as to whether they are Affiliated Persons and as to the nature of their connections;
- (e) Pension forms for use by Participants and Beneficiaries;
- (f) Statements by the members of the governing body of the Pensions provider that they agree to act as Fiduciaries and to fulfill any requirements set out in this regulation; and

(g) Such other documents as are required by rules to be issued by the Department.

22.3 The Department may no later than ninety (90) days after receiving the license application for the Supplementary Individual Pension require the submission of such additional documents and information as it specifies. The Department may, if it considers it necessary, investigate any matters relating to the license application. The Department shall review the license application of the Pensions provider made in accordance with the preceding paragraphs and shall, within ninety (90) days of the date of the receipt of the last set of documents and information obtained in accordance with this regulation, either grant the license, subject to such terms and conditions as it may impose, or refuse the application, in a written statement.

22.4 The Department shall refuse to grant a license application if it determines that:

(a) The application does not comply with the requirements of this or other applicable regulations or rules;

(b) It appears likely that the operation and organization of the proposed Supplementary Individual Pension would not comply with this or other applicable regulations or rules;

(c) Any of the documents submitted with the application in accordance with contain provisions, or omit to contain provisions, which have the effect of threatening the interests of the Participants or Beneficiaries or fail to adequately protect their interests; or

(d) It appears likely that the activities of the Pensions provider would not be concluded in accordance with sound and prudent pension and asset management practices.

22.5 If the Department refuses a license application for a Supplementary Individual Pension, it shall notify in writing the governing body of the entity making the application of the grounds for refusal. The refusal to grant the license application for a Supplementary Individual Pension may be appealed to a competent Court.

22.6 Once a license has been granted, the Pensions provider of the Supplementary Individual Pension may execute an agreement with the Custodian and any Asset Manager (if any) and thereafter start to accept contributions.

22.7 The Department shall issue rules including but not limited to:

(a) Content of Charters, Rules and documents relating to Pensions setting forth contributions and benefit payments of Supplementary Individual Pensions ;

(b) Actuarial Valuations of Defined Benefit Pensions and the calculation of contributions by to Defined Benefit Pensions;

- (c) Standards and procedures for maintaining records on Individual Accounts;
- (d) Required annual reports for provider of Supplementary Individual Pensions; and
- (e) Other matters needed to protect the rights of Participants and Beneficiaries.

Section 23

Transfer of a Supplementary Individual Pension

23.1 All providers of Supplementary Individual Pensions must provide for Transfer Payments in accordance with this section.

23.2 A Participant in a Supplementary Individual Pension established in accordance with this regulation may transfer his or her Vested Right, subject to the Pension Rules. In any case, a Participant may transfer his or her Vested Right in the event of the loss of license, liquidation or bankruptcy of the Pensions provider providing the Supplementary Individual Pension.

23.3 If the Participant wishes to transfer his or her Pension, he or she is obliged to notify the Transferor institution in writing that he or she has agreed to purchase a Supplementary Individual Pension Fund from another Pensions provider and to provide the Transferor institution with a copy of that document.

23.4 Participation with the Transferor Pensions provider shall terminate ten (10) days after receipt of a properly completed notification made in accordance with this section. On that date, a Transfer Payment shall be made between the Transferor Pensions provider and the Transferee Pensions provider. With respect to Defined Contribution Pensions, the Transfer Payment shall comprise the amount in the Individual Account of the Participant as of the previous valuation date. With respect to Defined Benefit Pension Funds, the Transfer Payment shall be calculated in accordance with rules to be issued by the Department. The Transferor Pensions provider shall notify the Transferee Pensions provider of the contributions made by or on behalf of the Participant, and any Transfer Payments received with respect to that Participant.

23.5 The Department shall issue rules specifying:

- (a) The procedure for enrolling with the Transferee Pension Fund or Pensions provider providing a Supplementary Individual Pension; and

- (b) The procedure by which a Participant notifies the Transferor Pension Fund of the fact that he or she will transfer his or her Vested Rights.

Section 24

Termination of a Supplementary Individual Pension

24.1 The Department may revoke a license of a Pensions provider to provide Supplementary Individual Pensions if it is satisfied that there have been serious or persistent breaches of this regulation or that having regard to the investment performance or otherwise it is in the interest of Participants and Beneficiaries to do so.

24.2 Before revoking a license under the preceding paragraph, the Department shall give not less than thirty (30) days notice of its intention to do so to the governing body of the Pensions provider together with its reasons, unless it considers that giving such notice would be prejudicial to the interest of Participants and Beneficiaries. At the time such notice is issued, the Department may also suspend the license and may freeze the Pension Assets under management by providing appropriate notice to the Custodian and/or the Pensions provider. If the Department gives such notice, the governing body shall have thirty days in which to reply in writing and, if appropriate, to propose a plan for remedying its breaches of this regulation or other problems.

24.3 If the Department does not receive a reply from the governing body within thirty (30) days or if it is not satisfied with the reply or the proposed plan, it may proceed to revoke the license previously granted or to change a suspension of a license to a revocation. The governing body of the Pensions provider may appeal to a Court of competent jurisdiction against the Department's suspension or revocation of the license.

24.4 The governing body of a Pensions provider may commence the termination of a Supplementary Individual pension it provides by giving ninety (90) days written notice to each Participant and to the Department. Immediately upon providing such notice, the Pensions provider shall prepare a valuation of Pension Assets and take all appropriate steps to protect the interests of the Participants and Beneficiaries.

24.5 If the Department suspends the license of a Pensions provider to provide Pensions, the following procedures shall apply:

- (a) As of the date of suspension, no further contributions may be accepted;
- and
- (b) If within thirty (30) days the Pension provider does not remedy the breaches causing the suspension, the license shall be revoked.

24.6 If the Department revokes the license of a Pensions provider to offer Supplementary Individual Pensions, it shall proceed to supervise the liquidation of the Pension provider's Supplementary Individual Pensions in accordance with its asset management, banking or insurance licensing procedures, as the case may be. The Department shall notify the Pensions provider or the Custodian, as the case may be, as to the freezing of Pension Assets.

24.7 If the governing body of a Pensions Provider decides to terminate a Supplementary Individual Pension, it shall do so in accordance with the terms of its asset management, insurance or banking license, as the case may be.

24.8 Notwithstanding any provision to the contrary in the Pension Rules, no Pension Assets resulting from Contributions of Individuals may revert to the Pension provider in the event of termination of a license in accordance with this section.

24.9 The Department may issue rules for the implementation of the provisions of this section.

CHAPTER VI FIDUCIARY BREACHES AND RESOLUTION OF DISPUTES

Section 25

Fiduciary Breaches

25.1 A natural person or legal entity is a Fiduciary with responsibility to Participants and Beneficiaries pursuant to this regulation to the extent that he or she:

(a) Exercises any discretionary authority or control with respect to the management of the Kosovo Pension Savings Trust, a Supplementary Employer Pension Fund, a Pensions provider providing Supplementary Individual Pensions, or exercises any discretionary authority or control with respect to the management or disposition of the Pension Assets under the control or in the possession of any of these entities;

(b) Exercises any discretionary authority or control with respect to the preparation, calculation or issuance of a Pension Fund's Actuarial Valuation, if a Defined Benefit Pension Fund;

(c) Provides any investment advice to the Kosovo Pension Savings Trust, a Supplementary Employer Pension Fund, or a Pensions provider providing Individual Supplementary Pensions or has the responsibility to do so, without regard to whether such advice is actually provided and without regard to whether a fee was charged; and

(d) Has discretionary authority or control or responsibility in the transaction processing, record keeping, or maintenance of records for Participants or other administration of the Kosovo Pension Savings Trust, a Supplementary Employer Pension Fund or a Pensions provider providing Supplementary Individual Pensions.

25.2 A Fiduciary must perform his or her duties with the prudence, skill, and expertise of a person reasonably familiar with such financial and other matters; in the event that he or she lacks such expertise, he or she must obtain expert services.

25.3 A Fiduciary shall be liable for the breach of a co-fiduciary if he or she knew or should have known of the breach. The legal entity employing a natural person committing a Fiduciary breach shall be absolutely liable for the breach.

25.4 A Fiduciary's liability for breach may be determined by a civil or criminal action according to this or other applicable law. Any Fiduciary breach in violation of this regulation shall be a civil liability of the natural person or legal entity or both responsible for the breach.

25.5 It shall be a Fiduciary breach for any Fiduciary to deal with Pension Assets for his or her own account or for his or her own benefit, or for the benefit of his or her own Affiliated Entities. It shall be a Fiduciary breach for any Fiduciary to enter into transactions with respect to Pension Assets where the other entity is an Affiliated Entity of the Fiduciary.

Section 26

Fiduciary Breaches with respect to the Trust

26.1 A Fiduciary breach with respect to the Trust shall include but shall not be limited to the following:

- (a) Authorizing, making or allowing the making of investments or other expenditures of money in violation of this regulation;
- (b) Entering into agreements for materials or services in violation of this regulation; and
- (c) Failure to discharge responsibilities pursuant to an agreement with the Trust.

26.2 In the event of a Fiduciary breach, the court must award the Trust and require the Fiduciary to pay:

- (a) Triple the amount of damages to the Trust caused by the breach; and
- (b) The cost of filing the action or lawsuit to recover the damages.

26.3 A natural person or legal entity found guilty of a Fiduciary breach shall be barred from providing any services to the Trust for a minimum of ten (10) years.

Section 27

Fiduciary Breaches with respect to Supplementary Employer Pension Funds

27.1 Each member of the Pension Fund Board of Directors shall be liable to the Fund and to the Participants and Beneficiaries for damages resulting from any failure to perform, or from negligent or wrongful performance of, his or her Fiduciary duties relating to the administration of the relevant Pension Fund. Members of the Pension Fund Board of Directors will not be liable if they exercised the highest due diligence and if failure to perform or inadequate performance is due to events that cannot be not imputed to them. Entrusting a third party with the performance of certain obligations of a Pension Fund Board of Directors shall not limit the liability of the members of the Board of Directors.

27.2 Asset Managers and Custodians and their Employees with discretionary authority are Fiduciaries. Employers are Fiduciaries of Pension Funds established for their Employees. Failure by an Employer to pay contributions as required by the Bylaws of the Pension Fund and if applicable, in accordance with the Actuarial Valuation, is a Fiduciary breach.

27.3 A Fiduciary breach shall include but not be limited to the following:

(a) Authorizing, making or allowing the making of investments or other expenditures of money in violation of this regulation or of the instructions of the Pension Fund;

(b) Entering into agreements for materials or services in violation of this regulation and with other applicable rules;

(c) Failure to discharge responsibilities pursuant to an agreement with the Pension Fund, including, for the Employer, failure to pay contributions in accordance with the Pension Fund Bylaws and if applicable, in accordance with the Actuarial Valuation; and

(d) Acting in the interest of the Fiduciary contrary to the interests of the Pension Fund and its Participants and Beneficiaries.

27.4 A Fiduciary's liability for breach may be determined by a civil or criminal action according to this or other applicable law. The Pensions Department of BPK, the Pension Fund, or the Participant or Beneficiary may sue for Fiduciary breach. In case of finding of a breach, the Fiduciary shall be liable for:

(a) The amount of damages to the Pension Fund or to the Participant or Beneficiary;

(b) The amount of unpaid Employer contributions, plus interest from date due until date paid, in cases of Employer's failure to make timely contributions; and

- (c) The cost of filing the action or lawsuit to recover the damages.

27.5 A natural person or legal entity found guilty of a Fiduciary breach shall be barred from providing any services to any Pension Fund for a period of ten (10) years.

Section 28

Fiduciary Breaches with Respect to Supplementary Individual Pensions

28.1 Each member of the governing body of the Pensions provider providing Supplementary Individual Pensions shall be liable to the Participants and Beneficiaries for damages resulting from any failure to perform, or from negligent or wrongful performance of, his or her Fiduciary duties relating to the administration of the relevant Pension. Members of the governing bodies will not be liable for events if they exercised the highest due diligence and if failure to perform or inadequate performance is due to events that cannot be imputed to them. Entrusting a third party with the performance of certain obligations of a Fiduciary shall not limit the liability of the members of the governing bodies.

28.2 All Pension providers, Asset Managers and Custodians and their Employees with discretionary authority are Fiduciaries.

28.3 A Fiduciary breach shall include but shall not be limited to the following:

- (a) Authorizing, making or allowing the making of investments or other expenditures of money in violation of this regulation or of the Pension Rules;
- (b) Entering into agreements for materials or services in violation of this regulation and with other applicable rules;
- (c) Failure to discharge responsibilities pursuant to an agreement with a Participant; and
- (d) Acting in the interest of the Fiduciary contrary to the interests of the Participants and Beneficiaries.

28.4 A Fiduciary's liability for breach may be determined by a civil or criminal action according to this or other applicable law. The Pensions Department of BPK or the Participant or Beneficiary may sue for Fiduciary breach. In the event that a Fiduciary breach is found, the Fiduciary shall be liable for:

- (a) The amount of damages to the Participant or Beneficiary; and
- (b) The cost of filing the action or lawsuit to recover the damages.

28.5 A natural person or legal entity found guilty of a Fiduciary breach shall be barred from providing any services to any Pensions provider with respect to Supplementary Individual Pensions provided by Pensions providers for a period of ten (10) years.

Section 29

Resolution of Disputes with Respect to Basic and Savings Pensions

29.1 Any complaint by a Participant or Beneficiary concerning a Basic Pension payable by the Administration shall first be made in writing to the Appeal Council of the Administration. The Appeal Council of the Administration must consider such complaints within ninety (90) days of receipt and must advise the Participant or Beneficiary of its decision and of the grounds for this decision in writing. The Participant or Beneficiary or his or her representative must be allowed to be present at any hearing of the matter.

29.2 After receipt of a written decision from the Appeal Council of the Administration, or after the passage of ninety (90) days after the filing of a written complaint, whichever is earlier, the Participant or Beneficiary may seek resolution of the dispute in a court of competent jurisdiction.

29.3 In cases where Participants or Beneficiaries file suit for benefits and the court finds that the Administration is liable for benefits, the court must award the prevailing Participant or Beneficiary:

(a) The amount of unpaid benefits owed by the Administration, plus interest from date due until date paid; and

(b) The cost of filing the action or lawsuit to recover the damages.

29.4 Any complaint by a Participant or Beneficiary concerning a Savings Pension payable by the Kosovo Pension Savings Trust shall first be made in writing to the Governing Board of the Trust. The Governing Board of the Trust must consider such complaints within ninety (90) days of receipt and must advise the Participant or Beneficiary of its decision and of the grounds for this decision in writing. The Participant or Beneficiary or his or her representative must be allowed to be present at any hearing of the matter by the Trust.

29.5 The Participant or Beneficiary may seek resolution of the dispute in a court of competent jurisdiction after receipt of a written decision from the Governing Board of the Trust, or after the passage of ninety (90) days after the filing of a written complaint, whichever is earlier.

29.6 In cases where Participants or Beneficiaries sue for benefits and the court finds that the Trust is liable for benefits, the court must award the prevailing Participant or Beneficiary:

(a) The amount of unpaid benefits owed by the Pension Fund, plus interest from date due until date paid; and

(b) The cost of filing the action or lawsuit to recover the damages.

29.7 In cases where the Trust has transferred funds from a Participant's Individual Account to an insurance company for payment of an Annuity pursuant to this regulation, any dispute with respect to the payment of the Annuity shall be resolved pursuant to section 31 of this regulation.

Section 30

Resolution of Disputes with Respect to Supplementary Employment Pensions

30.1 Any complaint by a Participant or Beneficiary concerning a benefit promised by a Pension Fund shall first be made in writing to the Board of Directors of the Pension Fund. The Board of Directors must consider such complaints within ninety (90) days of receipt and must advise the Participant or Beneficiary of its decision and of the grounds for this decision in writing. The Participant or Beneficiary or his or her representative must be allowed to be present at any hearing of the matter by the Board of Directors.

30.2 The Participant or Beneficiary may seek resolution of the dispute in a court of competent jurisdiction after receipt of a written decision from the Board of Directors, or after the passage of ninety (90) days after the filing of a written complaint, whichever is earlier.

30.3 In cases where Participants or Beneficiaries sue for benefits and the court finds that the Pension Fund is liable for benefits, the court must award the prevailing Participant or Beneficiary:

(a) The amount of unpaid benefits owed by the Pension Fund, plus interest from date due until date paid; and

(b) The cost of filing the action or lawsuit to recover the damages.

Section 31

Resolution of Disputes with Respect to Supplementary Individual Pensions

31.1 Any complaint by a Participant or Beneficiary concerning a Supplementary Individual Pension promised by a Pensions provider pursuant to this regulation shall first be made in writing to the governing body of the Pensions provider. The governing body must consider such complaints within ninety (90) days of receipt and must advise the Participant or Beneficiary of its decision and of the grounds for this decision in writing.

The Participant or Beneficiary or his or her representative must be allowed to be present at any hearing of the matter.

31.2 The Participant or Beneficiary may seek resolution of the dispute in a court of competent jurisdiction after receipt of a written decision from the governing body, or after the passage of ninety (90) days after the filing of a written complaint, whichever is earlier.

31.3 In cases where Participants or Beneficiaries sue for benefits and the court finds that the Pensions provider is liable for benefits, the court must award the prevailing Participant or Beneficiary:

(a) The amount of unpaid benefits owed by the Pensions provider, plus interest from date due until date paid; and

(b) The cost of filing the action or lawsuit to recover the damages.

CHAPTER VII DEFINITIVE AND TRANSITIONAL PROVISIONS

Section 32

Entitlement to Basic and Savings Pensions

32.1 The dates for the commencement of the right to receive the Basic Pension for various age groups above pension age in 2002 shall be set by the Assembly, such that the overall expected expenditure level shall be within the limits of overall funds allocated to the Provisional Institutions of Self-Government for basic old-age pensions from the Kosovo Consolidated Budget. No pensions shall be paid until the Assembly determines these dates.

32.2 Employers must make contributions for a Savings Pension for all persons habitually residing in Kosovo who were born in the year 1946 or later. Both Employers and Employees may choose to make contributions to a Savings Pension Individual Account regardless of the birth year of the Employee. Employees shall be entitled to a Savings Pension if either the Employer or the Employee will make contributions on their behalf.

32.3 The provisions of section 7 requiring Employers to contribute on behalf of their Employees in order to fund Savings Pensions shall have the following effective dates:

(a) Employers that are agencies of the state, or state or socially owned enterprises, or large employers with five hundred (500) or more Employees, March 1, 2002;

- (b) All other Employers March 1, 2003;
- (c) Self-employed persons, who shall be required to contribute as Employers and as Employees, March 1, 2003;
- (d) Employers of agricultural workers and self-employed agricultural workers, March 1, 2003; and
- (e) Voluntary contributions may begin prior to the effective dates indicated herein.

If the SRSG determines that required contributions by Employers cannot begin on the above-indicated dates, he may change such dates.

32.4 Except as provided in this section, the effective date of this regulation shall be March 1, 2002 unless otherwise set by the Assembly.

32.5 Effective on January 1, 2005, persons habitually residing in Kosovo can choose an alternative trust management option to the Kosovo Pension Savings Trust, provided that the BPK has licensed alternative Pensions providers of Individual Saving Pensions and has issued rules for the asset management, custody and marketing of such alternative arrangements. The BPK Pensions Department shall be authorized to license such providers beginning in 2005 pursuant to any additional rules adopted by the SRSG.

Section 33

Transitional Provisions with Respect to Supplementary Employer Pensions and Supplementary Individual Pensions

33.1 All Employers providing Supplementary Employer Pensions and all Pensions Providers providing Supplementary Individual Pensions at the time of the adoption of this regulation shall have four (4) months to conform to the requirements of this regulation.

33.2 No new Pension contributions may be made, and Employers and Pensions providers may give no new Pension entitlements or promises, after the effective date of this regulation, until such time as the Supplementary Employment Pension or Supplementary Individual Pension has been brought in conformity with this regulation.

33.3 The Pensions Department of BPK shall issue rules concerning the required procedure for presenting compliance plans and licensing applications with respect to this regulation and for determining the Vested Rights of Employees and Participants and Beneficiaries under this regulation with respect to existing pension promises.

33.4 Termination of a Supplementary Employer Pension by an Employer because it is not in compliance with this regulation shall not be a Fiduciary Breach by the Employer

under this regulation. No assets of Supplementary Employer Pensions can revert to employers in the event of termination under this section.

Section 34
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 35
Applicable Law

The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 36
Entry into Force

The present regulation shall enter into force on 22 December 2001.

Hans Haekkerup
Special Representative of the Secretary-General