



**Republika e Kosovës**  
**Republika Kosovo - Republic of Kosovo**  
**Kuvendi - Skupština - Assembly**

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**Law No. 04/L-101**

**ON PENSION FUNDS OF KOSOVO**

**Assembly of Republic of Kosovo,**

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

Approves:

**LAW ON PENSION FUNDS OF KOSOVO**

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# CHAPTER I GENERAL PROVISIONS

## Article 1 Definitions

Terms used in this Law shall have the following meaning

**Accrued Service** - 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 By-laws or Rules or the initiation of contributions on behalf of the Employee, whichever occurs later. Service shall be counted after the Employee creates working relations.

**Actuarial Valuation** - a report by an independent actuary licensed by a state or professional organization in a member state of the OECD showing the assets and liabilities of a Defined Benefit Pension Fund.

**Affiliated Entity** - 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) of this paragraph.

**Annuity** - an insurance policy purchased by a Participant from an insurance company and expressed in the form of monthly payments for the lifetime of the Participant and/or his or her Beneficiaries, as provided in this Law.

**Asset Manager** - a Fiduciary who is a legal entity, licensed by the CBK, or other capital markets regulator in Kosovo (or its successor), or by a capital markets regulator of member states of the OECD, and invests and manages the assets of, or provides investment advice to, the Kosovo Pensions Savings Trust, a Supplementary Employer Pensions Fund or for an Supplementary Individual Pension on the basis of an asset management agreement.

**Beneficiary** - 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.

**CBK** - the Central Bank of the Republic of Kosovo that is responsible as an independent institution under Article 140 of the Constitution for licensing, supervision and regulation of Pension Funds, Pensions Providers, Asset Managers Open-end Vehicles, and Custodians according to this Law, and has responsibilities for supervision of the Kosovo Pensions Savings Trust.

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

**Charter of a Pension Fund** - 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 Law.

**Collateral Benefits** - 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** - 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 CBK, or licensed to do business in any member state of the OECD by that state's banking regulatory authority, and that provides custodial and depository services to the Kosovo Pensions 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** - 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 By-laws 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 CBK, or otherwise set forth in the Pension Regulations.

**Defined Benefit Pension Fund** - a Pension Fund that provides Defined Benefit Pensions.  
**Defined Contribution Pension** - 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.

**Employee** - 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** - any natural person or legal entity acting directly 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** - a natural person or legal entity with responsibility to Participants and Beneficiaries as further described in Chapter VI of this Law.

**Government Securities of Kosovo** - debt obligations issued by Ministry of Finance on behalf of the Government of Kosovo.

**Indexing** - 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 Pensions Savings Trust or a Defined Contribution Pension Fund or for a Supplementary Individual Pension** - an account maintained by the Kosovo Pensions 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** - an administrative unit within the Ministry of Labor and Social Welfare that pays Basic Pensions to residents of Kosovo.

**Kosovo Pensions Savings Trust- (Trust)** - a legal entity created by this Law for the purpose of providing Savings Pensions to residents of Kosovo as further described in Chapter III of the present Law.

**MLSW** - the Ministry of Labor and Social Welfare.

**Minimum wage** - the minimum wage for full time monthly work, as set by the Economic and Social Council of the Republic of Kosovo.

**OECD** - Organization for Economic Co-Operation and Development.

**Open-end Vehicle** - an investment through entities organized and operating as investment companies and authorized to issue an unlimited number of equity shares (in fractional or whole units) representing proportional equity ownership in such entities by the shareholder or to insurance policies where underlying assets are pooled for investment purposes. The term includes mutual funds, investment funds, unit trusts, insurance policies and other investment vehicles operated on a pooled basis.

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

**Pension** - a regular monthly payment made to a Participant (or Beneficiary) for life, beginning at Pension Age, disability or death of the Participant under this Law.

**Pension Age** - sixty-five (65) years.

**Pension Assets:**

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

(b) For Defined Contribution Pension Funds and the Kosovo Pensions 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 Defined Contribution Supplementary Individual Pensions, all Contributions made by individuals and any investment income earned thereon, and for Defined Benefit Supplementary Individual Pensions, all funds available to meet obligations to Participants and Beneficiaries as set forth in the Actuarial Valuation.

**Pension Rules** - a document prepared by a Pension provider setting forth the conditions and procedures for making contributions and applying for benefits.

**Pensions Provider** - financial institutions, banks, Open-end Vehicles, and insurance companies providing Supplementary Individual Pensions according to this Law (referred to jointly as “Pensions providers”).

**Self-employed Persons** - persons who (a) receive income from the sale of goods (including technological, commercial, agricultural, artistic, educational, or intellectual goods) or from providing services; and (b) perform such sales or services not under the control or supervision of an Employer and are therefore not Employees.

**Significant losses** - actual realized loss of pension assets of ten percent (10%) or more, during calendar year.

**Supplementary Employer Pension Fund (hereinafter “Pension Fund”)** -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** - a Pension paid by a Pension Fund established by an Employer pursuant to this Law.

**Supplementary Individual Pension** - a Pension for an individual natural person purchased from a Pensions provider such as a financial institution, a bank, asset manager, Open-end Vehicle, or insurance company and provided according to this Law.

**Tax Administration of Kosovo** - a unit within the Ministry of Finance responsible for collecting taxes and pension contributions in Kosovo.

**Transfer Payment:**

(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 Law; 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 Law.

**Vested Rights** - 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, mortgaged, 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 euro (€100,000) per Participant. Vested Rights in excess of that amount only may be attached or alienated.

**Wage** - 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.

**Basic Pension (hereinafter Basic Pension)** - a Pension paid by the Pension Administration to permanent residents of Kosovo and who have reached Pension Age.

**Individual Savings Pension (hereinafter Savings Pension)** - a Pension paid by the Kosovo Pensions Savings Trust to persons of Pension Age meeting the requirements of this Law with respect to pension contributions.

**Supplementary Employer Pension** - a pension provided to Employees by their Employer in accordance with this Law.

**Supplementary Individual Pension** - a Pension purchased by natural persons from licensed Pensions providers in accordance with this Law.

## **Article 2**

### **Forms of Savings Pensions in Kosovo**

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

2.2. The setting of economic policy with respect to Pensions, as part of budgetary and fiscal policy, shall be the responsibility of the Government. The Government shall accomplish this policy through the Ministry of Labour and Social Welfare in coordination with the Ministry of Finance. The Minister of Labour and Social Welfare, the Minister of Finance and the Governor of the CBK, 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 Government with respect to the Kosovo Pensions 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.

**CHAPTER II**  
**BASIC PENSIONS PROVIDED BY THE MINISTRY OF LABOUR AND SOCIAL WELFARE**

**Article 3**  
**Basic Pension**

3.1. Any person who is a permanent resident of the Republic of Kosovo and who has reached Pension Age is eligible to receive a Basic Pension.

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

3.3. A person intending to apply for a Basic Pension shall apply to the Administration on forms issued by the MLSW and shall provide such proof of age, residency and eligibility as may be prescribed by the MLSW.

3.4. The responsibility of the Administration is to manage and administer pension benefits.

3.5. The Administration shall be required to:

- (a) arrange for the payment of Basic Pensions to persons meeting the applicable criteria;
- (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.

3.6. 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 MLSW and the Ministry of Finance.

3.7. The Administration shall manage and administer the payment of a Basic Pension to residents of Kosovo and who have reached Pension Age.

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

**Article 4**  
**Institution of Kosovo Pensions Savings Trust**

4.1. The Kosovo Pensions Savings Trust (hereinafter “Trust”) is an independent legal entity under the supervision of the CBK established 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.

4.2. The Trust is a not-for-profit legal entity, capable of suing and being sued in its own name, its operations function in accordance with the Laws of Kosovo including the Law on Public Procurement.

4.3. A Governing Board manages the Trust consisting of eight (8) members, one of them shall be a non-voting member. All members of the Governing Board of the Trust shall be Fiduciaries within the meaning of this Law. 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 and insurance matters.

4.4. At least five (5) 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 euro (€50,000,000) under management;

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

(c) an expert in the fields of economics or finance with a record of extensive internationally recognized academic research and writing relevant to private pension investment.

(d) persons appointed as Governing Board members may be international experts in their field.

4.5. 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. One official of the Government

shall be appointed by the Prime Minister as a non-voting member representing Government on the Governing Board.

4.6. A Selection Committee shall propose candidates to the Assembly for vacancies in the membership or re-appointment of members of the Governing Board. The Selection Committee shall consist of the Governor of CBK -Chairperson, the Auditor-General and the Minister of Finance. The term of each appointed Governing Board member shall be three (3) years, with the possibility of reappointment, if a Board Members term has expired and no new member has been appointed, then the existing Board Member will continue their mandate for ninety (90) days. International Civilian Representative shall appoint one (1) voting representative as a member of the Governing Board that meets criteria as defined in paragraph 4.4 of this Article, and shall serve concurrently as long as International Civilian Representative remains in Kosovo. Upon departure of the International Civilian Representative member, the Selection Committee shall fill this position as defined in Article 4 of this Law.

4.7. Persons appointed as Governing Board members, with the exception of the non-voting Government representative, shall receive monthly compensation for their services.

4.8. Procedures for the nomination and selection of candidates for the appointment or re-appointment of Governing Board members shall be further specified and adopted by the Selection Committee, including procedures for first deciding whether or not to re-appoint a sitting member, and second, if a sitting member is not re-appointed, for organizing an open competitive process to choose a candidate. For each open position on the Governing Board for professional members chosen according to paragraph 4.4 of this Article, the Selection Committee shall recruit internationally and in Kosovo, including placing advertisements in at least one major world financial publication. For each open position for representative members chosen according to paragraph 4.5 of this Article, the Selection Committee shall consider individual applications submitted in an open competitive process. For each position, the Committee shall consider no less than three (3) candidates, first preparing a list of selection criteria, and, based on that list, reviewing the proposed candidates and selecting its preferred candidate(s) by a majority vote, taking into account all relevant professional skills.

4.9. No person may be proposed as a candidate who is a husband or wife or relative to the third degree inclusive or in law to the second degree inclusive of any persons sitting on the Selection Committee, on the KPST Governing Board, or in the Government in a position of Minister or higher.

4.10. The CBK shall assist the Selection Committee by reviewing and certifying the eligibility of candidates.

4.11. The Assembly shall appoint Member(s) of the Governing Board, including the Chairperson, based on the recommendations of the Selection Committee, after consulting the Government. The Government shall submit its opinion to the Assembly within fifteen (15) days from the day it has received the Assembly's request for consultation.

4.12. 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 Assembly for becoming ineligible pursuant to this Article, 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, with the exception of the Government representative to 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.

4.13. No member of the Governing Board shall accept any gift or favorable 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.

4.14. 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. 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.

4.15. 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 Governing Board for approval.

4.16. The Governing Board shall adopt proposed By-laws for its proceedings and shall submit them to the CBK for review and approval. All subsequent amendments to the by-laws adopted by the Governing Board shall also be approved by the CBK.

4.17. The activities of the Trust in accordance with this Law shall be financed by charging reasonable fees on a cost basis to Individual Accounts as provided for in Article 5.2 paragraph (k) of this law.

4.18. The Governing Board shall present an annual report to the Assembly which includes the information contained in Article 5.3 of this Law not later than five (5) months after the end of each calendar year. In addition the Governing Board shall report to the Assembly any Significant Losses of pension assets and the Assembly shall take what ever remedial action deemed necessary or appropriate, including referral to the CBK for enforcement actions provided for in Article 33 of this Law.

**Article 5**  
**Powers and Responsibilities of the Kosovo Pensions Savings Trust**

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

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

(a) conducting a selection of Asset Manager(s), Custodians, or Open-end Vehicles in accordance with this Law;

(b) executing agreements with the Asset Manager(s), Custodians, Open-end Vehicles, Accountants, Auditors, Attorneys and other service providers of the Trust;

(c) demanding and receiving information from Asset Managers, Open-end Vehicles 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, Open-end Vehicles, 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 Law;

(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 OECD;

(j) preparing a budget to be approved by the Governing Board;

(k) charging reasonable fees on a cost basis to each Participant for the administration of Individual Accounts as approved by the Assembly on annual basis. Such fees shall not exceed 0.30% per annum, pro-rated over the year depending on the frequency of unit price calculation, and shall only be applied on invested pension assets; and

(l) reimbursing all other actual expenses related to the investment of pension assets, including but not limited to: transfer charges, asset management fees and performance fees from Participant funds;

5.3. The Trust shall be required to submit the following information to the Assembly, the CBK and one copy to the Government, except for sub-paragraph (e) for which it shall be reported to the CBK.

(a) audited annual account statements of assets and liabilities, income and expenses, audited by an independent accounting firm approved by the CBK and signed by a certified public accountant according to International Accounting Standards, or by other standards as may be adopted by the CBK in accordance with the applicable law. The CBK may direct additional inquiries to the auditor or other providers of professional services;

(b) 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;

(c) 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;

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

(e) upon appointment, personal income and asset disclosure statements of the appointed members of the Governing Board, and subsequent annual statements indicating only material changes; and

(f) other matters that may be designated by regulations to be issued by the CBK.

5.4. The information specified in Article 5.3 of this law shall be submitted on a quarterly or annual basis as indicated and at such shorter intervals as may be specified in regulations to be issued by the CBK. The CBK 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 CBK shall also issue regulations specifying such other information it requires and the format in which any information shall be provided. The CBK may appoint independent auditors or other providers of professional services to conduct surveys, actuarial evaluations, or examine the accounts, books, documents and other records of the Kosovo Pensions Savings Trust.

5.5. The information provided by the Trust to the CBK pursuant to this Law, except for disclosure statements submitted in accordance with paragraph 5.3 (e) of this article, shall be made public by the Trust no later than twelve (12) months after submission. The Trust shall arrange for publication of this information.

**Article 6**  
**Collection of Contributions to Finance Individual Savings Pensions**

6.1. 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 Employees obligation to contribute begins on the first day of employment with the Employer for Employees who have created working relations and ends when the Employee reaches Pension Age.

6.2. 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 Law); and

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

(c) employers may voluntarily contribute an additional amount up to a total of ten percent (10%) of monthly 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. Voluntary contributions may be made beyond Pension Age, except that no contributions may be made on behalf of a Participant who is receiving benefits from the Trust in the form of an Annuity or phased withdrawal or has already received a lump sum payment.

6.3. 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 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 of Kosovo.

6.4. The Tax Administration of Kosovo shall be authorized to contract KPST or another entity for the collection of contributions pursuant to this Article, subject to approval of the Government following consultations with the CBK.

6.5. 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.

6.6. In cases where full time wages, whether paid in kind or otherwise, 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 his or her full time wage.

6.7. The Tax Administration of Kosovo shall have the same responsibilities and rights necessary for inspection, assessment, and enforcement of payments of contributions that it has with respect to collection of the income tax. This includes without limitation the



right to assess penalties, attach assets, examine records and all other enforcement powers granted to it in accordance with the applicable law.

6.8. The contributions collected by commercial banks must be transferred to KPST account at CBK within twenty four (24) hours of collection;

6.9. The KPST must reconcile collected contributions in the individual accounts within five (5) days of obtaining both the information and the payment.

6.10. Employers must submit a list of all employees to the Tax Administration of Kosovo on forms and in the manner prescribed by the Tax Administration of Kosovo. The Employer shall list all its employees with their personal identifying numbers, and the amounts of the employer and employee contributions to be paid. Such reporting shall be done prior to the payment of contributions. Self-employed persons shall submit such information on their own behalf.

6.11. The Tax Administration of Kosovo shall transfer within twenty four (24) hours to KPST all the information on reporting and contributions collected.

6.12. Self-employed persons paying income tax based on gross income less allowable deductions (before deduction of pension contributions), shall contribute a minimum of ten percent 10% of that net amount (with a maximum limit of thirty percent 30% of that net amount). Self-employed persons paying income tax on a presumptive basis shall contribute a minimum contribution of one-third of the presumptive tax amount (with a maximum limit of three times that amount). For all categories of Self-employed persons, the minimum quarterly contribution shall be 30% of the Minimum Wage. Self-employed persons classifying some or all of their business income as wages shall contribute on behalf of both their Employees and themselves as Employees earning income from the same business. Such Self-employed persons remain obliged to pay and report on pension contribution on any additional non-wage part of their income as specified herein. The Tax Administration of Kosovo shall be authorized to promulgate regulations concerning the timing and manner of contributions by Self-employed persons.

6.13. Payment of contributions is mandatory for all resident employees of Kosovo up to Pension Age.

6.14. With exception of paragraph 6.13 of this Article, contributions by foreign employees with temporary stay in Kosovo, are not permitted.

## **Article 7**

### **Individual Accounts in the Kosovo Pensions Savings Trust**

7.1. Contributions paid to the Kosovo Pensions Savings Trust in accordance with Article 6 of this law shall be credited by the Trust to Individual Accounts in the names of Participants, less administration expenses as approved according to this Law. 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 Law. 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.

7.2. The Custodian, or if there is more than one Custodian, the Trust, shall calculate investment income for the Trust as a whole based on daily unit price calculation. The Trust shall allocate investment income to each Individual Account reflecting the daily increase (decrease) to each Participant's Individual Account. If the trust calculates investment income, the Trust's independent auditors shall confirm the calculations.

7.3. The value of the Individual Account of each Participant shall be calculated at least monthly. 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.

7.4. The CBK shall issue regulations:

- (a) relating to the computation of the return, including the principles of rounding-up those values;
- (b) setting out the requirements for reports to the CBK; and
- (c) on any other matters pertaining to the investment of Pension Assets and any other matters pertaining to Individual Accounts or the protection of the interests of Participants and Beneficiaries.

7.5. The Trust shall, at regular intervals, and at least once every twelve (12) 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.

7.6. 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 paragraph 7.5 of this Article, but such fee may not exceed the actual reasonable cost of providing the statement.

7.7. In crediting contributions to Individual Accounts, the Trust shall rely on the records and information provided by the Tax Administration of Kosovo.

7.8. The contributions invested in KPST as well as transfer payments received from Supplementary Employer Pension Funds and Supplementary Individual Funds shall be

converted into units for accounting purposes. Each unit shall represent a proportionate ownership share in each of the pension fund's assets. The CBK shall issue regulations concerning the timing and method of converting contributions into units.

7.9. If the Trust determines that an Employer, Employee or Self-employed person made excess contributions, the Trust may refund such excess contributions in accordance with Rules of the Tax Administration of Kosovo. No payment of investment return shall to be made for refunds. No refunds shall be made with respect to any contributions for which a payment has been made to the Participant or Beneficiary in accordance with provisions of Article 12 of this law.

7.10. In the event contributions are not attributed to Individual Accounts after two (2) years, the Trust shall allocate them to a special account together with any income or loss; the unclaimed account shall be liquidated, as approved by the CBK.

## **Article 8**

### **Custody of the Pension Assets of the Kosovo Pensions Savings Trust**

8.1. The Trust must appoint a single Custodian to whom it shall delegate the custody of Pension Assets under investment by an Asset Manager 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 Law.

8.2. The Trust shall select a Custodian by competitive international bid. The terms and procedure for conducting the bid, 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 Law.

8.3. 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.

8.4. A Custodian that is a legal entity in Kosovo must satisfy conditions set by the CBK including but not limited to the following:

- (a) is licensed by the CBK 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 regulations of the CBK;
- (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.

8.5. An agreement shall not limit the responsibilities of a Custodian that is a legal entity in Kosovo pursuant to this Law, and any attempt to do so shall be null and void. Such Custodian shall be liable to the Trust and to the Participants and beneficiaries for improper performance of its Fiduciary obligations in conformity with this Law and other rules and civil and criminal legislation in Kosovo. The employees of such Custodian may, in case of illegal actions, be charged with criminal or administrative liability in conformity with the Laws and civil and criminal legislation of Kosovo.

8.6. A Custodian located outside Kosovo must be licensed by a banking, financial services or capital markets regulator of a member state of the OECD, and must be in good standing and not under enforcement action or suspension, and satisfy conditions set by the CBK.

8.7. 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) receiving and keeping 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 Law;
- (f) ensure that agreements for the acquisition and disposal of Pension Assets are in accordance with this and other Laws 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 Law or applicable rules or the investment principles;
- (h) ensure that Pension Assets are invested in accordance with this and other Laws 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 CBK.

8.8. The CBK shall issue regulations 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 Law.

8.9. 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 regulations issued by CBK.

8.10. In the event of withdrawal of the Custodian's bank license by CBK or by any bank regulator of a member state of the OECD, 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 CBK of the fact;
- (b) the Trust shall forthwith attempt to appoint a new Custodian as soon as possible pursuant to the requirements of this Law; and
- (c) if the Trust fails to take the steps at sub-paragraphs (a) and (b), the CBK may order it to change the Custodian.

8.11. The CBK 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 CBK. Each change of a Custodian shall be made in a manner that ensures continuous performance of Custodian duties with respect to the Pension Assets.

8.12. 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.

8.13. 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 regulations or risks the interests of any Participants.

8.14. Pension Assets placed in custody in accordance with the provisions of this Article 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.

8.15. In the event the Governing Board determines that for Pension Assets in Kosovo the single Custodian is not appropriate, a second Custodian may be appointed for the purpose of holding Pension Assets in Kosovo. In such case, the Custodian appointment must be approved by the CBK and otherwise meet the requirements of this Law.

8.16. Assets invested through an Open-end Vehicle pursuant to Article 11 of this law are not subject to the requirements of this Article.

## **Article 9** **Investment by the Kosovo Pensions Savings Trust**

9.1. The Pension Assets of the Kosovo Pensions Savings Trust shall only be invested in accordance with the provisions of this Law 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.

9.2. The Governing Board of the Kosovo Pensions Savings Trust shall on professional advice draw up a statement of investment principles, which shall conform to the principles set out in paragraph 9.1 of this Article and such applicable Laws 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 Law shall be satisfied;

(b) the types of assets in which the Pension Assets may be invested including the maximum exposure to each asset class and the maximum exposure to a single issuer or group of related issuers in each asset class;

(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.

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

9.4. The Governing Board of the Kosovo Pensions Savings Trust shall be empowered to include in its statement of investment principles an instruction 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.

9.5. With an ancillary goal of promoting the economic development of Kosovo, the statement of investment principles may encourage a portion of investment to be made in Kosovo in assets that meet the criteria specified in this Law 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.

9.6. Assets of Pension Fund 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 OECD, 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 OECD;

(c) securities issued by local governments in member states of the OECD, to the extent guaranteed by the respective state;

(d) securities registered with the capital markets regulator of any member state of the OECD 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, a state that is a member state of the Organization for Economic Cooperation and Development.

9.7. Pension Assets may only be invested in the following classes of assets:

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

(b) government Securities of Kosovo;

(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 OECD, subject to the supervision of the applicable capital markets regulator; and

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

9.8. The maximum proportion of the securities of any single issuer, including its Affiliated Entities, which may be held by the Kosovo Pensions Savings Trust, is five percent (5%) for stocks and thirty percent (30%) for bonds. No such limitation shall apply for Government Securities of Kosovo.

9.9. 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%) for stocks, ten percent (10%) for AA and above rated bonds, and up to thirty percent (30%) of the total assets may be invested in Government Securities of Kosovo

9.10. Notwithstanding the provisions of this Law, to the contrary, KPST shall, in any given calendar year, invest more than an amount or amounts equal to (50%) percent of its gross contribution revenue from the preceding calendar year in securities issued by the Government of the Republic of Kosovo

9.11. The Rules set out in Article 8 and Article10 of this law, regarding the Custodian and Asset Managers respectively, shall not apply to Government Securities of Kosovo.

9.12. Regulations of the CBK may from time to time specify minimal acceptable ratings for any class of asset enumerated herein.

9.13. Pension Assets may not be invested in:

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

(b) assets that are not capable of alienation by law;

(c) securities instruments, options, futures, forward and other agreements with respect to securities and other financial assets, except that derivatives may be used



as a hedging strategy to reduce risk, provided that the Trust will have no uncovered selling position;

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

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

(f) securities issued by:

(i) a member of the Governing Board of the Kosovo Pensions Savings Trust;

(ii) the Asset Manager;

(iii) the Custodian of assets;

(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 CBK in consultation with the Government.

9.14. If the provisions of this Article 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 Law, while meeting the other requirements of this Article to maximize returns and preserve Pension Assets

9.15. The adjustment of investment activities to the requirements specified in this Law 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.

9.16. 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.

9.17. The Asset Manager may not issue loans and guarantees of any kind to any of the entities listed in paragraph 9.13, point f of this Article.

9.18. 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.

## **Article 10**

### **Asset Managers for the Kosovo Pensions Savings Trust**

10.1. Asset Managers must manage Pension Assets of the Trust pursuant to pension asset management agreements, entered into in conformity with this Law and with other applicable regulations. The Asset Managers and their employees who have discretion with respect to the Pension Assets shall be Fiduciaries of the Trust for purposes of this Law.

10.2. Asset Managers of the Trust or of Supplementary Pensions that are legal entities in Kosovo shall have a license for asset management issued by the CBK or any regulator 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 regulations by the CBK. An Asset Manager must satisfy the following conditions:

(a) it is not under enforcement action and the license should not be suspended;

(b) it satisfies a requirement for minimum paid up capital as specified in regulations issued by the CBK;

(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.

10.3. An Asset Manager of the Trust or of Supplementary Pensions located outside Kosovo must

(a) be licensed by a banking, financial services or capital markets regulator of a member state of the OECD;

- (b) be in good standing and not under enforcement action or suspension; and
- (c) satisfy all conditions set by the CBK and be approved by the CBK.

10.4. The Trust selects one or more Asset Managers by international bid. The terms and procedure for conducting the bid, including pre-qualification requirements for the Asset Managers, the amount and composition of its capital and other requirements established in conformity with this Law.

10.5. 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 regulations to be issued by CBK.

10.6. Pension Assets under management in accordance with the provisions of this Article 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.

## **Article 11**

### **Open-end Vehicle Investment by the Kosovo Pensions Savings Trust**

11.1. The Governing Board of the Trust may determine in the exercise of its fiduciary duty that the optimal investment for some or all Pension Assets of the Trust is an Open-end Vehicle.

11.2. The Trust shall select one or more Open-end Vehicles by competitive international bid. The terms and procedure for conducting the bid, including pre-qualification requirements for the Open-end Vehicle, and any other requirements shall be established in conformity with this Law.

11.3. Open-end Vehicles used for Trust investments must be licensed by a financial market authority of an OECD country where they are located, or by the financial market

authority in Kosovo. The CBK may also promulgate Regulations applicable specifically to investments in Open-end Vehicles.

11.4. The Governing Board of the Trust must review the custodial arrangements of Open-end Vehicles used for Trust investments and determine that they are appropriate for safeguarding Trust Pension Assets. The Custodial requirements of Article 8 of this law are not applicable to Pension Assets placed in Open-end Vehicles.

11.5. The Trust may execute the standard subscription document of the Open-end Vehicle, which must specify the remuneration of the Open-end Vehicle and the manner of calculating the costs and charges as a percentage of the total amount of Pension Assets placed in such vehicle.

11.6. The limitations on investment in a single issuer set forth in Articles 9.8 and 9.9 of this law shall not apply to investment in a single Open-end Vehicle, provided the Open-end Vehicle investment policy requires diversification as to generally conform to Articles 9.8 and 9.9 of this law.

## **Article 12**

### **Individual Savings Pension Payment**

12.1. When a Participant reaches Pension Age he or she will purchase a Savings Pension in one of the forms of Annuities specified in paragraph 12.6. of this Article with the whole or part of the amount in his or her Individual Account. The CBK shall issue regulations from time to time specifying the minimum monthly Savings Pension that must result from the purchase of the annuity.

12.2. The CBK shall license insurance companies to provide Annuities for Savings Pensions and supervise their activities. The CBK 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. In the event that there are less than two insurance companies in Kosovo licensed to provide Annuities, the Trust is authorized to conduct an international selection process for an appropriate Annuity provider or providers licensed in a country of the OECD, using due diligence to assure best possible services and pricing. In the event that one or more licensed Annuity provider is licensed in Kosovo, but the Trust determines that such services and pricing provided in Kosovo are not competitive with the terms available on international markets, the Trust is likewise authorized to select an Annuity provider or providers licensed in an OECD country, with approval of the CBK. The CBK may issue regulations concerning the minimal rating of such Annuity providers.

12.4. 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 Law and the

applicable regulations of the CBK. The Trust shall also notify the Participant in writing that he or she must request payment of Annuity from the Trust with notice at least ninety (90) days prior to the date of reaching Pension Age, along with the details of the licensed company from which he or she will purchase an Annuity (if choice of Annuity providers is available). A Participant may decide to defer receipt of the Annuity, and can initiate receipt at any time by providing ninety (90) days of notice to the Trust.

12.5. The Trust shall transfer the balance standing to the Participant's Individual Account no later than thirty (30) days before payment of the Annuity is to begin, provided the Participant has given ninety (90) days notice. As the case may be, the Trust shall Transfer the Individual Account balance to the single Annuity provider, or to the Annuity provider selected by the Participant. In either case, the transferred amount shall be based on the amount standing to the Individual Account at the time of transfer. Any additional amount due after calculation of the reconciled balance that is determined by the Trust to be allocated to the Participant's Individual Account after the initial payment shall be transferred to the Participant within ninety (90) days of any subsequent reporting date when it is determined that a reconciled balance is due. The Trust may seek to reclaim any amount determined to be erroneously attributed to the Participant.

12.6. Each licensed insurance company shall offer and a Participant shall, subject to paragraph 12.8 of this Article, 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 regulations of the CBK.

12.7. Regulations of the CBK shall specify the manner of making and revoking Beneficiary designations made in accordance with this Article. Designations of Beneficiaries must include their dates of birth and unique identifying numbers. The Trust shall also specify the forms and manner of making and revoking designations of

representatives for Participants and Beneficiaries and the necessary findings and procedures to recognize Guardians appointed for Participants and Beneficiaries who cannot manage their own financial affairs, as approved by CBK.

12.8. 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 paragraph 12.6(c) or (d) of this Article.

12.9. An insurance company providing Annuities pursuant to this Law 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 paragraph 12.6 (c) or (d) of this Article is purchased, and the amount paid to the Annuity provider from the Participant's Individual Account.

12.10. 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 CBK. The uniform rates provided by a particular company may only vary over time as determined in regulations of the CBK.

12.11. A licensed insurance company providing Annuities pursuant to this Law may not refuse an application to purchase an Annuity so long as the applicant satisfies such requirements set out in this Law or in regulations to be issued by the CBK. 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.

12.12. A company providing Annuities shall satisfy such requirements for the maintenance of technical reserves as shall be specified in regulations to be issued by the CBK.

12.13. 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.

12.14. If a Participant is determined to be eligible for a Disability Pension prior to reaching Pension Age pursuant to the laws of Kosovo, the Participant will purchase a Disability Pension in one of the forms of Annuities specified in paragraph 12.6 of this Article with the whole or part of the amount in his or her Individual Account. The CBK at least once a year shall issue regulations specifying the minimum monthly Savings Pension that must result from the purchase of the annuity. MLSW will issue regulations specifying the conditions under which a person is entitled to a Disability Pension, the proof required and the process for applying for such a pension.

12.15. If a Participant dies prior to Pension Age and has not purchased an Annuity in accordance with this Article, the balance on the Participant's account shall be paid to a

Beneficiary or Beneficiaries. Payment can be made in the form of a lump sum or transfer to the Individual Account of the Beneficiary. Persons claiming to be Beneficiaries shall have up to six months after the death of the Participant to submit claims to the Trust. The Trust may determine that a Beneficiary who is a legal spouse is entitled to the entire Individual Account and may pay this amount immediately upon such determination. The Trust shall ascertain the reconciled amount standing to the Participant's Individual Account at the time of payment and shall send any amount determined to be due after the payment is made based on a subsequent reconciliation within ninety (90) days of any subsequent reporting date when it is determined that a reconciled balance is due. Upon receipt of all claims by potential Beneficiaries, the Trust shall make a determination as to eligibility of the applying Beneficiaries and the appropriate disposition of the Pension Assets in accordance with the Regulations issued by CBK. Any disputes as to the Trust's decision with respect to Beneficiary payments shall be resolved according to Article 29 of this law. The Trust may seek to reclaim any amount determined to be erroneously attributed to the Beneficiaries.

12.16. If the value of the Participant's Individual Account at Pension Age is less than a threshold level determined by the Governing Board, with approval of the CBK, to be sufficient to purchase a cost-effective Annuity, the Participant shall receive the amount standing to the Individual Account in a lump sum payment upon notifying the Trust in accordance with the notification provisions of this Law (paragraphs 12.4 and 12.5 of this article). The Governing Board, with the approval of the CBK, may arrange for phased withdrawals for amounts below such threshold level.

12.17. In addition to rules specified elsewhere in this Article the CBK shall issue Regulations 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 Law;
- (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 CBK deems appropriate.

12.18. A person who is emigrating permanently from the Republic of Kosovo is entitled to redeem the units in his or her Individual Accounts at the value which was established when the units in KPST were last valued. The CBK shall issue regulations governing the proof necessary to establish that a person is permanently emigrating.

## **CHAPTER IV SUPPLEMENTARY EMPLOYER PENSION FUNDS**

### **Article 13 Powers and Responsibilities of the CBK**

13.1. The CBK 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 Law;
- (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 Law.

13.2. The CBK shall have the authority to:

- (a) review data 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) appoint independent auditors or other providers of professional services to conduct surveys, actuarial evaluations, or examine the accounts, books, documents and other records of Supplementary Pension Funds and Individual Pension Funds;

(d) close Pension Funds in conformity with the requirements of this Law; and

(e) propose an annual budget for its activities.

13.3. Pension Funds and Pension Providers shall submit to the CBK audited annual account statements of assets and liabilities, income and expenses, audited by an independent accounting firm approved by the CBK and signed by a certified public accountant according to International Accounting Standards, or by other standards as may be adopted by the CBK. The CBK may direct additional auditing to the auditor or other providers of professional services.

#### **Article 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 Law. The minimum content of the Charter to establish a Pension Fund shall be specified in regulations to be issued by the CBK. The CBK 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 name of every Pension Fund shall contain the words “Pension Fund”. Only Pension Funds established in accordance with this Law 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 Law 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 or Open-end Vehicle 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 prohibitions referred to this Article 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 By-laws of the Pension Fund. The By-laws 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 regulations to be issued by the CBK. Participation in a Pension may not be limited solely to the management Employees of the Employer, as further defined in regulations to be issued by the CBK. Within any occupational category, all Employees or Members of a union or labour organization must participate on an equal and uniform basis. The By-laws 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 By-laws shall be described in regulations to be issued by the CBK.

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 Laws.

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 By-laws 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 (5) years. Pension Funds with more than one thousand (1,000) Participants must obtain one annually. The CBK shall issue regulations 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 CBK shall issue regulations 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 By-laws, 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 Law pertaining to Savings Pensions or for payment in installments or in a lump sum, at the option of the Participant.

## **Article 15**

### **Licensing and Law of Supplementary Employer Pensions**

15.1. Each Pension Fund shall operate on the basis of a license of the CBK. No Pension may be paid, advertised, or promised by any natural person or legal entity, unless provided by a Pension Fund licensed pursuant to this Law.

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 By-laws 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 Law; and

(g) other documents as required by regulations or requests of the CBK.

15.3. The CBK 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 CBK may, if it considers it necessary, investigate any matters relating to the license application of the Pension Fund. The CBK 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 Law, either grant the license, subject to such terms and conditions as it may impose, or refuse the application.

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

(a) the application does not comply with the requirements of this or other applicable Laws 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 Laws 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 CBK 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 or Open-end Vehicle and start to accept contributions.

15.7. The CBK shall issue regulations including but not limited to:

- (a) content of Charters, By-laws 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 for Individual Accounts;
- (d) required annual reports for Pension Funds; and
- (e) other matters needed to protect the rights of Participants and Beneficiaries.

#### **Article 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. No part of the funds of a Supplementary Employer Pension Fund can be invested in any securities issued by the sponsoring Employer or a related party of the Employer or make a loan to or issue a guarantee on behalf of the sponsoring Employer or a related party of the Employer.

16.3. In addition to paragraph 2. of this Article the CBK may issue regulations specifying the classes of assets in which a fund may invest and including the maximum exposure to each asset class and the maximum exposure to a single issuer or group of related issuers in each asset class.

16.4. A Pension Fund shall by resolution of its Board of Directors select one or more Asset Managers or Open-end Vehicles 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.

16.5. The qualifications of the Asset Managers and Open-end Vehicles and their responsibilities, as well as the investment of Pension Assets, must meet all the requirements for Asset Managers and Open-end Vehicles for the investment of Pension Assets of Savings Pensions set forth in this Law, with the exception of the requirement of conducting a tender for the selection of an Asset Manager or Open-end Vehicle. The CBK shall issue additional regulations with respect to Asset Managers and Open-end Vehicles, including the procedure for obtaining a license for Asset Management.

16.6. The Asset Manager or Open-end Vehicle shall not be liable to the Participants or Beneficiaries for the obligations of the Pension Fund or the Employer.

### **Article 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 under investment by an Asset Manager. With respect to assets invested through an Open-end Vehicle, the Pension Fund Board must review the adequacy of custody arrangements and determine that they are appropriate for safeguarding 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 Law, 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 Pensions Savings Trust, and any other assets. The CBK shall issue additional regulations 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.

### **Article 18**

#### **Transfer from a Supplementary Employer Pension Fund**

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

18.2. A Participant in a Supplementary Employer Pension Fund established in accordance with this Law, or previously established in Kosovo, or established outside Kosovo, may transfer Pension Assets constituting his or her Vested Rights upon termination of his or her employment with the Employer, or the liquidation or bankruptcy of the Employer, or liquidation or suspension of such Pension Fund, subject to the Pension Regulations issued by the CBK.

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 Article. 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 Kosovo Pensions Savings Trust may be a Transferee Pension Fund but cannot be a Transferor Pension Fund.

18.6. The CBK shall issue regulations 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.

### **Article 19** **Supplementary Employer Pension Fund Termination**

19.1. The CBK may revoke a license of a Pension Fund if it is satisfied that there have been serious or persistent breaches of this Law 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 CBK 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 CBK 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 CBK 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 Law or other problems.

19.3. If the CBK 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 CBK'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 CBK.

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 CBK 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 CBK 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 CBK shall notify the Custodian of the Pension Fund as to the freezing of Pension Assets;
- (c) the CBK 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 regulations to be issued by the CBK. 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 CBK;
- (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 Law;
- (f) the Special Manager shall report at one hundred eighty (180) day intervals to the Participants and to the CBK 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 Law;



(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 CBK 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 CBK;

(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 CBK, 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 CBK 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 Law.

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 CBK 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 CBK. 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 Law;

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

(e) the CBK 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 Law.

19.8. The Special Manager or the Pension Fund Board of Directors may, subject to the prior approval of the CBK, transfer the assets and liabilities of the Pension Fund to a Pensions provider licensed in accordance with this Law 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 Law 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 CBK may issue regulations in further implementation of the provisions of this Article.

## **CHAPTER V SUPPLEMENTARY INDIVIDUAL PENSIONS**

### **Article 20 Powers and Responsibilities of the CBK**

20.1. The CBK 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 regulations in accordance with the requirements of this Law;

- (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 Law; and
- (h) any other matters indicated as its responsibility in this Law.

20.2. The CBK 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 Law; and
- (c) propose an annual budget for its activities.

## **Article 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, Open-end Vehicle 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, Open-end Vehicles, 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 regulations to be issued by the CBK.

21.3. If a Defined Contribution Pension is established by a bank, Open-end Vehicle 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, Open-end Vehicle 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, Open-end Vehicle 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. 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 Laws), of the Participant, as is set forth in this Law.

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, Open-end Vehicle or financial institution. The bank, Open-end Vehicle 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 CBK may issue regulations 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 Law 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 Law 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 CBK may issue regulations 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 Pensions Savings Trust, and any other assets.

21.10. The CBK may issue regulations specifying the classes of assets in which a fund may invest and including the maximum exposure to each asset class and the maximum exposure to a single issuer or group of related issuers in each asset class;

## **Article 22**

### **Licensing and Law of Supplementary Individual Pensions**

22.1. Pensions providers may offer Supplementary Individual Pensions only on the basis of a license of the CBK. No Pension may be paid, advertised, or promised by any natural person or legal entity unless it is licensed pursuant to this Law.

22.2. The license is granted on the basis of an application filed by a prospective Pensions Provider, 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 Law; and
- (g) such other documents as required by regulations shall be issued by the CBK.

22.3. The CBK 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 CBK may, if it considers it necessary, investigate any matters relating to the license application. The CBK 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 Law, 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 CBK 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 Laws 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 Laws 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 CBK 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 and thereafter start to accept contributions.

22.7 The CBK shall issue regulations 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.

### **Article23**

#### **Transfer of a Supplementary Individual Pension**

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

23.2. A Participant in a Supplementary Individual Pension established in accordance with this Law, or previously established in Kosovo, or established outside Kosovo, may transfer Pension Assets constituting his or her Vested Rights in the event of the loss of license, liquidation or bankruptcy of the Pensions Provider providing the Supplementary Individual Pension, subject to the Pension Regulations issued by the CBK.

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 Article. 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 regulations to be issued by the CBK. 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 Kosovo Pensions Savings Trust may be a Transferee Pension Fund but cannot be a Transferor Pension Fund.

23.6. The CBK shall issue regulations 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.

## **Article24**

### **Termination of a Supplementary Individual Pension**

24.1. The CBK 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 Law 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 CBK 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 CBK 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 CBK 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 Law or other problems.

24.3. If the CBK 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 CBK'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 CBK. 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 CBK 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 CBK 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 CBK 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 Article.

24.9. The CBK may issue regulations for the implementation of the provisions of this Article.

## **CHAPTER VI**

### **FIDUCIARY BREACHES AND RESOLUTION OF DISPUTES**



## **Article 25**

### **Fiduciary Breaches**

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

(a) exercises any discretionary authority or control with respect to the management of the Kosovo Pensions 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 Pensions 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 Pensions 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 Law 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 and Affiliated Entity of the Fiduciary.

**Article 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 Law;
- (b) entering into agreements for materials or services in violation of this Law; 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 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.

**Article 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 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 By-laws 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 Law or of the instructions of the Pension Fund;

(b) entering into agreements for materials or services in violation of this Law 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 By-laws 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 CBK, 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.

## **Article 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 Law or of the Pension Rules;
- (b) entering into agreements for materials or services in violation of this Law 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 CBK 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.

## **Article 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 Pensions 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 Law, any dispute with respect to the payment of the Annuity shall be resolved pursuant to Article 31 of this Law.

### **Article 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.

### **Article 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 Law 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 ENFORCEMENT**

### **Article 32**

#### **Enforcement Authority of the CBK - Supplementary Employer or Individual Pensions**

32.1. The CBK may take one or more of the following actions with respect to any Fiduciary of Supplementary Employer or Individual Pensions, such as a Supplementary Employer Pension Fund, Employer(s) sponsoring a Pension Fund, provider of Supplementary Individual Pensions, Custodian of Pension Assets, or Pension Asset Manager, or any Affiliated Entity of such Fiduciary, if the CBK determines that such entity or person, or any of its directors or officers, have violated a provision of this Law or any rule or order of the CBK, or have engaged in unsafe or unsound practices in the management and administration of the Pensions they provide and the Pension Assets of which they are a Fiduciary:

- (a) issue written warnings;
- (b) require the Fiduciary to increase the frequency of financial reporting;
- (c) prohibit the enrolment of any new Participants;
- (d) impose limits and/or place restrictions on the operations of a Supplementary Employer Pension Fund or Supplementary Individual Pension Provider;
- (e) issue a cease and desist order against the Fiduciary and its affiliated Entities;
- (f) impose fine penalties;
- (g) order the Fiduciary to take supplementary measures in order to preserve Pension Assets or to appoint an independent Asset Manager;
- (h) require any Asset Manager or asset Custodian to report directly to the CBK;
- (i) issue a “Freeze Order” on the Pension Assets;
- (j) take control of the Pension Assets and appoint a Special Manager to preserve them;
- (k) require the dismissal of the person from his or her position as Fiduciary;
- (l) prohibit such person from serving in or engaging in the pension business for a stated period or for life;

(m) prohibit the person from direct or indirect exercise of any discretion as Fiduciary with respect to Pension Assets;

(n) require the Fiduciary to dispose of all or any part of his or her direct or indirect ownership interest in the Supplementary Employer providing the Pension Fund, the Provider of Supplementary Individual Pensions, Asset Manager or Custodian, or other provider of pension services, as the case may be, or cease to hold a significant interest in it; and

(o) require such Fiduciary to reimburse any losses to Pension Assets or to specific Participants or Beneficiaries caused by such violations.

32.2. If the CBK determines that any Fiduciary with respect to Pension Assets, or any of its directors, officers or employees, or any of its Affiliated Entities, or any Special Manager appointed in accordance with this Law, has violated this Law or any regulation or order issued by the CBK, the CBK may assess a civil penalty against that entity or person:

(a) the CBK may assess a civil penalty against any person who hinders, intimidates, harasses, impedes, delays, or exerts undue influence, or any person who attempts to do any of these acts, on the CBK its staff in the exercise of supervisory and regulatory oversight functions;

(b) the CBK may assess a civil penalty against any person who willfully interferes with the duty and authority of a Special Manager to have full access and control over the Pension Assets, books or accounts and other records relating to the pension for which the special manager or the administrator has been appointed;

(c) a civil penalty imposed under this Article shall not preclude application of other civil remedies or criminal penalties that are available under the provisions of other applicable laws;

(d) the CBK may issue regulations or orders setting out specific penalties to be imposed for such violations. The penalties may range from five hundred (€500) to five thousand euro (€5,000) for individual persons and from one thousand (€1,000) to fifty thousand euro (€50,000) for violations of legal entities such as Employers, Asset Managers, Custodians and Providers of Individual Pensions or other service providers. If there is a continuing violation, each day of violation may be considered a separate violation with separate civil penalty assesses;

(e) the CBK shall notify in writing the Fiduciary (whether an individual or entity) against whom a civil penalty is assessed specifying the reasons or its determinations supporting the civil penalty;

(f) the individual or entity against whom the civil penalty is assessed shall be entitled to challenge the civil penalty; and



(g) the civil penalty assessed under this Article shall be due and payable upon service of written notice by the CBK.

32.3. This Article applies with equal force to any individual or entity, its directors, officers and employees that provides or maintains Pensions, advertises Pension services, and/or pays out Pensions without being authorized by a license issued by the CBK. It also applies to any person promoting, participating in, or abetting the activities of any such unauthorized Pension Provider. In addition, the CBK may apply the provisions of Articles 18 and 23 of this Law in enforcing the termination of unauthorized and unlicensed Pensions.

### **Article33**

#### **Enforcement Authority of the CBK – Kosovo Pensions Savings Trust**

33.1. The CBK may take one or more of the following actions with respect to the Trust or its Fiduciaries if the CBK determines that such entity or person, or any of its directors, officers or employees, have violated a provision of this Law or any regulation or order of the CBK, or have engaged in unsafe or unsound practices in the management and administration of the Trust or in management of Pension Assets of which they are a Fiduciary:

- (a) issue written warnings;
- (b) require the Trust to increase the frequency of financial reporting;
- (c) issue a cease and desist order against the Trust;
- (d) order the Fiduciaries to take supplementary measures in order to preserve Pension Assets or to appoint an independent Asset Manager;
- (e) require any Asset Manager or asset Custodian to report directly to the CBK;
- (f) recommend to the Assembly that he suspend or dismiss members of the Governing Board of the Trust; and
- (g) recommend to the Assembly that no new contributions be made to the Trust.

33.2. Under no circumstances can action be taken pursuant to this Article to challenge the investment practices of the Trust if the Trust is meeting the requirements of this Law and its own investment policy.

33.3. This Article applies with equal force to any individual or entity, its directors, officers and employees.

**Article34**  
**Request for Review of Enforcement Actions**

34.1. Any person aggrieved by an enforcement order or civil penalty issued by the CBK pursuant to this Law may petition a court of competent jurisdiction for review. The petition must be filed within thirty (30) days after the order or civil penalty has been issued and served to the person. The court may affirm, modify or set aside such order or civil penalty in whole or in part.

34.2. In a proceeding concerning an order or civil penalty issued by the CBK:

(a) the court of competent jurisdiction may set aside an order or civil penalty if it determines that such order or civil penalty was issued in violation of this Law, of any applicable law, of any applicable procedural requirements, or was issued beyond the authority of the CBK, or it is not supported by substantial evidence;

(b) the CBK or any present or former officer, employee, representative or agent of the CBK shall not be liable for damages for acts or omissions performed in good faith in the course of his/her duties; and

(c) the order or civil penalty issued by the CBK, unless stayed by a court of competent jurisdiction, shall continue without restriction during the proceedings, and/or during any appeal or judicial review thereof.

**CHAPTER VIII**  
**OTHER PROVISIONS**

**Article 35**  
**Entitlement to Basic and Savings Pensions**

35.1. The dates for the commencement of the right to receive the Basic Pension for various age groups above pension age shall be set by the Assembly, such that the overall expected expenditure level shall be within the limits of overall funds allocated from the Budget of Republic of Kosovo.

35.2. Employers must make contributions for a Savings Pension for all Kosovo residents 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.

**Article 36**  
**Provisions with Respect to Supplementary Employer Pensions and Supplementary Individual Pensions**

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

36.2. 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 Law, until such time as the Supplementary Employment Pension or Supplementary Individual Pension has been brought in conformity with this Law.

36.3. The CBK shall issue regulations concerning the required procedure for presenting compliance plans and licensing applications with respect to this Law and for determining the Vested Rights of Employees and Participants and Beneficiaries under this Law with respect to existing pension promises.

36.4. Termination of a Supplementary Employer Pension by an Employer because it is not in compliance with this Law shall not be a Fiduciary Breach by the Employer under this Law. No assets of Supplementary Employer Pensions can revert to employers in the event of termination under this Article.

**Article 37**  
**Tax Treatment**

37.1. Contributions made by an employer to KPST for the benefit of its employees shall be deemed an operating expense and will correspondingly reduce the operating result of the employer subject to earnings tax set out according to the Article 6 of this Law.

37.2. Contributions made by an employee to KPST shall not be subject to personal income tax.

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

37.4. The income of KPST shall be free of income tax.

**CHAPTER IX  
FINAL PROVISIONS**

**Article38  
Applicable Law**

The present Law shall supersede Regulation no.2005/20 on amending the UNMIK Regulation no.2001/35 on Pension in Kosovo, Law no.03/L-084 on amending the UNMIK Regulation no.2005/20 on amending the UNMIK Regulation no.2001/25 on Pension in Kosovo and any provision in the applicable law which is inconsistent with it.

**Article39  
Entry into Force**

The Law shall enter into force on 30 March 2012.

**Law No. 04/L-101  
06 April 2012**

**President of the Assembly of the Republic of Kosovo**

\_\_\_\_\_  
**Jakup KRASNIQI**