



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

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**Law No. 04/L-093**

**ON BANKS, MICROFINANCE INSTITUTIONS AND NON BANK  
FINANCIAL INSTITUTIONS**

**Assembly of Republic of Kosovo,**

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

Approves:

**LAW ON BANKS, MICROFINANCE INSTITUTIONS AND NON  
BANK FINANCIAL INSTITUTIONS**

**CHAPTER ONE**  
**BANKS AND BANKING**

**PART 1**  
**GENERAL PROVISIONS**

**Article 1**  
**Purpose**

The purpose of this Law is to foster and maintain a stable financial system through promoting the sound and prudent management of banks, microfinance institutions and other non bank financial institutions and providing an appropriate level of protection for depositors' interests.

## **Article 2**

### **Scope**

This Law shall apply to all entities exercising banking and financial activities, their shareholders, Board of Directors and Senior Managers, employees, agents and affiliates as well as to the operation of microfinance institutions and other non bank financial institutions.

## **Article 3**

### **Definitions**

Terms used in this Law shall have the following meanings:

**Affiliate** - a subsidiary of a bank, a legal entity of which such bank is a subsidiary or a legal entity that is under common control with such bank;

**Bank**- a shareholder company engaged in the business of banking, including a subsidiary or a branch of a foreign bank;

**Bank- Related Person** - any person that maintains with the bank at least one of the following relationships:

- (1) any Senior Manager or Director of the bank and any principal shareholder of the bank;
- (2) any person who is related to a Senior Manager or Director or principal shareholder of the bank by marriage or consanguinity to the second degree;
- (3) any legal entity in which a Senior Manager or Director or principal shareholder of the bank is also a principal shareholder;
- (4) any person that has a significant interest in a legal entity in which the bank has a significant interest;
- (5) any affiliate of the bank; and
- (6) any other person involved in a relationship with the bank similar to those identified in sub-paragraphs 1-5 above, that the CBK determines by regulation or order to be a bank-related person;

**Banking group** - a bank and its affiliates and any other entities that the CBK determines by regulation or order should be taken into account for purposes of consolidated supervision;

**Branch office** - a place of business which forms a legally dependent arm of a bank that is not separately incorporated, through which a bank may be permitted to engage in the business of banking;

**Business of Banking** - the business of accepting deposits from the public and employing such funds either in whole or in part for the purpose of granting credit or making investments at the bank's own risk;

**Capital distribution** - a distribution of cash or other properties by a bank to its owners made on account of that ownership, but not including any dividend consisting only of shares of the institution or rights to purchase such shares;

**Control** - a relationship where a person or group of persons, directly or indirectly: (i) owns a majority of the shares of a legal entity; (ii) has the power to appoint or remove the majority of the Board of Directors of the legal entity; or (iii) has the ability to exert a significant influence on the management or policies of a legal entity;

**CBK** - the Central Bank of the Republic of Kosovo;

**Deposit** - a sum of money paid by a person or legal entity to a Bank, which is accepted by that Bank on condition that it is to be repaid in full, with or without interest or premium either on demand or at an agreed time to that person or legal entity;

**Director** - any person appointed by the shareholders to serve as a member of a bank's Board of Directors;

**Equity interest** - any ownership right with respect to a legal entity;

**Exposure** - any asset or off-balance sheet item, including without limitation a loan or direct or indirect commitment to disburse money in exchange for a right to repayment of the amount disbursed and outstanding and to the payment of interest or other charges on such amount, any deferment of the due date of a debt, any guarantee or letter of credit issued, debt securities, and similar forms of credits or credit commitments granted by a bank to a client, as well as shares, participation in the capital, and other types of investments in a legal entity by a bank;

**Financial Institutions** - all banks, Non Bank Financial Institutions and Microfinance Institutions regulated under this Law;

**Non Bank Financial Institution (NBFI)** - a legal entity that is not a bank and not a microfinance institution that is licensed by the CBK under this Law to be engaged in one or more of the following activities: to extend credit, enter into loans and leases contracts financial-leasing, underwrite, trade in or distribute securities; act as an investment company, or as an investment advisor; or provide other financial services such as foreign exchange and money changing; credit cards; factoring; or guarantees; or provide other financial advisory, training or transactional services as determined by CBK

**Financial activity** - an activity identified in Article 44 of this Law;

**Foreign bank** - a person that is organized, has its head office and holds a license to engage in the business of banking in a jurisdiction other than Kosovo;

**Home country supervisor** - the foreign supervisory authority responsible for the prudential supervision of the foreign bank;

**Islamic Bank** - a type of bank, including an Islamic banking window that undertakes the business of banking according to Shariah principles and subject to the provisions of this Law and regulations promulgated by the CBK; “Islamic banking window” refers to a department or division of a non-Islamic bank that provides financing services according to principles of Shariah;

**Large exposure** - any exposure to a single person or group of connected persons that exceeds the proportion of Tier 1 capital specified by the CBK under Article 46 of this Law;

**Legal Entity** - a general term meaning any organization, including a business organization that has, as a matter of law, a legal identity that is separate and distinct from its members, owners, or shareholders;

**License** - an authorization issued by the CBK granting the right to engage in activities specified by that authorization;

**Microfinance Institution** - a legal entity organized as either an NGO under the NGO Law or as a joint stock company under the Law on Business Organizations which provides as its primary business loans and a limited number of financial services to micro and small legal entities, low-income households and low-income persons;

**Order** - a written directive issued by the CBK implementing this Law or a regulation adopted by the CBK;

**Paid-in capital** - funds received by the bank from shareholders in exchange for their equity interest;

**Person** - refers only to, a natural person;

**Principal shareholder** - a person that owns, directly or indirectly, alone or in concert with another person, ten percent or more of any class of voting shares of a bank or company or ten percent of the equity interest in a bank or company;

**Regulation** - a sub-legal act adopted by the CBK in implementation of this Law;

**Regulatory capital** - the total capital of the bank as prescribed by the CBK for the purposes of Article 16 of this law;

**Related Individuals** - the spouse of a person, the children of a person, whether they are adults or minors, and whether or not they reside with the person, mother, father, step-parents, brothers, step-brothers, sisters, step-sisters, aunts, uncles, first cousins, whether by blood or marriage, or other persons with whom there is familiar relationship, or other persons as defined by the CBK with special regulation;

**Representative office** - a place of business that forms a legally dependent arm of a bank, and that is not separately incorporated, where activities are limited to the provision of information and liaison activities and studying markets and investment opportunities, and where a bank is not permitted to engage in the business of banking;

**Senior Manager** - the chief executive officer, chief financial officer, chief operating officer, and chief risk officer of a bank and any person, other than a director, who (i) reports directly to the board or participates or has authority to participate in major policymaking functions of the bank, whether or not such person has an official title or receives compensation for such actions, and (ii) is designated as a senior manager by the CBK. In the case of a foreign bank licensed to operate one or more branches in Kosovo, the manager of the principal branch in Kosovo and any other manager or deputy manager of a branch in Kosovo will be deemed to be a member of senior management;

**Significant interest** - a direct or indirect holding of an interest in a legal entity, alone or in concert with another person, that represents five percent or more of its outstanding voting shares, or, in the opinion of the CBK, based on the facts and circumstances of that holding makes it possible for the holder to exercise control over the legal entity in which such shares are held;

**Subsidiary** - any legal entity in which another person or group of persons acting in concert holds directly or indirectly (i) the equivalent of fifty percent or more of any class of voting shares or (ii) a significant interest that permits such person or group of persons to exercise control over the legal entity in which such shares are held;

**Tier 1 capital** - have the meaning prescribed by the CBK in a separate regulation for the purposes of Article 16 of this law;

**Voting shares** - common shares in the capital of the person and any other shares of any designation or description that carry the right to vote on any resolution at a general or extraordinary meeting of the issuer.

## **Article 4**

### **Licensing Responsibility of the CBK**

1. The CBK shall have sole responsibility for the issuance of licenses to all banks and registration of all Microfinance Institutions and NBFIs and for the issuance of permits to foreign banks with respect to the establishment of representative offices.

2. A central register shall be kept by the CBK for inspection by the public that shall record for all Financial Institutions the name, the head office and branch office addresses, and current copies of its charter or equivalent establishing documentation and by-laws. A list of all Financial Institutions the licenses or registration of which have been revoked, shall also be maintained in the register, but their chartering documentation and by-laws shall be removed.

## **Article 5**

### **Prohibitions and Exemptions**

1. No person shall engage in the business of banking or conducting any financial activity without an effective license issued by CBK under Part II of this law.

2. No person shall use the word “bank” or derivatives of the word “bank” in respect of a business, product, or service or in promotional business without having a license issued by the CBK to engage in the business of banking, unless such usage is established or recognized by this Law, an international agreement or where the context in which the word “bank” is used does not concern the conduct of any financial activity as set forth under Article 44 of this Law. No representative office shall use the word “bank” in their name, except in cases where the word “bank” forms an integral part of the name of the foreign bank to which they belong, provided that, in such cases, the words “representative office” shall be added.

3. No bank shall use words in its title that are misleading concerning its financial condition, legal status or connection with government or international institutions.

4. No foreign bank shall be permitted to engage in the business of banking in Kosovo unless the foreign bank has obtained a license issued by the CBK to conduct such activity through a branch office in Kosovo or has established a subsidiary bank in Kosovo for which a license has been issued by the CBK.

5. No person shall make a misstatement of material fact or a false or misleading representation or do anything to create a false or misleading appearance or engage in any manipulative device or practice in relation to taking deposits.

## **Article 6**

### **Foreign Banks Licensed to Operate a Branch in Kosovo**

In the case of a foreign bank that is licensed to operate in Kosovo through one or more branches, the provisions of this Law apply to the foreign bank directly, except where the provisions of this Law expressly provides for application solely to the branch or branches of the foreign bank operating in Kosovo, individually or collectively, or where the CBK determines that the context so requires.

## **PART II**

### **LICENSING OF BANKS**

#### **Article 7**

##### **License Applications**

1. Applications for a license to establish and operate a bank or a branch of a foreign bank shall be in such form as prescribed by the CBK and shall be accompanied by the following information:

1.1. the constituent documents of the proposed bank or the foreign bank, including an original document or a notarized copy under which it was formed, and the proposed address of the main office;

1.2. the name, nationality, place of residence, qualifications and experience of the Director or Senior Manager of the proposed bank or the foreign bank, including business and professional history for the past ten (10) years;

1.3. the amount of the authorized and subscribed capital of the proposed bank or the foreign bank, including the amounts that have been paid in and the legal source of the capital;

1.4. a business plan setting out, inter alia, the organizational structure of the proposed bank or the foreign bank, the types of banking activities envisaged, projected financial statements for three years and, if applicable, audited financial statements and annual reports for the past two (2) years;

1.5. a list of shareholders that hold or would hold five (5%) percent or more of the proposed bank or the foreign bank's shares, and the ultimate beneficial owners of those shares, stating their name, address and respective shareholdings;

1.6. the name, nationality, place of residence, business and professional history for the past ten (10) years, and audited financial statements for the past three (3) years (if applicable), of each principal shareholder of the proposed bank or the foreign bank;

1.7. for each Director or Senior Manager or principal shareholder of the proposed bank or the foreign bank, an official statement from the Court disclosing any convictions for offenses by a criminal Court, personal bankruptcy filings, disqualifications from practicing a profession, or past or present involvement in a managerial function of a body corporate or other undertaking subject to insolvency proceedings, if any;

1.8. in any case where the applicant is a foreign bank proposing to establish a subsidiary bank or branch office in Kosovo, a statement from the home country

supervisor that it has no objection to the proposed establishment of operations in Kosovo, and exercises global consolidated banking supervision over the foreign bank;

1.9. such additional information as the CBK reasonably deems appropriate.

## **Article 8**

### **Preliminary Approval**

1. Within three (3) months from the date of its receipt of a complete application for a license, the CBK shall preliminarily approve or deny it, and notify the applicant of its decision in writing; notifications of the denial of a license shall state the grounds on which the license was denied.

2. The CBK shall deny a license if, in its reasonable judgment, issuing such license would:

2.1. jeopardize the financial soundness of the proposed bank or the banking system more generally;

2.2. endanger the interests of the proposed bank's depositors; or

2.3. substantially lessen competition.

3. The CBK shall preliminarily approve a license only if it is satisfied that:

3.1. the business plan is based on sound analysis under reasonable assumptions;

3.2. the organizational structure of the proposed bank and its affiliates will permit CBK to effectively exercise supervision on a consolidated basis;

3.3. the proposed bank or the foreign bank will comply with all provisions of this Law;

3.4. the qualifications, experience and integrity of its Director or Senior Manager are appropriate for the proposed bank's business plan and banking activities;

3.5. the principal shareholders of the proposed bank or the foreign bank are fit and proper as determined by the CBK under Article 35 and 37 of this Law; and

3.6. the ownership structure of the bank will not hinder effective supervision.



4. In addition to the conditions set forth in paragraph 3. of this Article, preliminary approval of licenses concerning a subsidiary or branch office of a foreign bank shall be granted only if:

4.1. the foreign bank is authorized to engage in the business of receiving deposits or deposit-like funds in the jurisdiction where its head office is located;

4.2. the competent authorities that supervise the foreign bank at its headquarters have given their written consent to the granting of such license; and

4.3. the CBK determines that the foreign bank is adequately supervised on a global consolidated basis by its home country supervisor. The Home Country Supervisor must acknowledge in writing that is aware of the granting of a new license and agrees to provide information to the CBK upon request.

5. In the case of preliminary approval of an application for a license, the CBK shall enumerate any conditions for the bank to receive the license and to commence its operations. Such conditions may include:

5.1. the payment by shareholders to the bank of its minimum paid-in capital;

5.2. the hiring and training of the staff of the bank;

5.3. the lease or purchase of operations equipment and the establishment of operations systems, including internal audit and controls;

5.4. the lease, purchase or occupancy of bank premises;

5.5. the engagement of an external auditor in accordance with Article 54 of this law; and

5.6. any other condition that the CBK deems appropriate.

6. If a bank fails to comply within one (1) year with the conditions to receive the license to commence operations, the preliminary approval of the application shall be revoked.

## **Article 9**

### **Issuance of a License**

1. If the CBK determines that the conditions in this Chapter have been satisfied, it shall issue a license and the bank shall become member of Fund for Ensuring the Kosovo Deposits.

2. A license shall be granted in writing for an indefinite period of time and shall not be transferable. The license or permit shall specify the terms and conditions under which it has been issued, including the activities in which the bank is permitted to engage, subject to the restrictions on bank activities set forth in Article 45 of this Law. Subsequent to initial licensing, banks properly entitled may apply to the CBK to engage in additional activities in accordance with Article 44 of this Law.

## **Article 10**

### **Representative Offices Permits**

1. No foreign bank may establish or operate a representative office in Kosovo without a permit from the CBK.
2. The CBK may grant a permit for a representative office in Kosovo, provided that the CBK is satisfied that the foreign bank will limit the activities of the representative office to the provision of information and liaison activities and studying markets and investment opportunities, and that the foreign bank will not engage in the business of banking in Kosovo through the representative office.
3. Applications by a foreign bank for a permit to establish and operate a representative office shall be in such form as prescribed by the CBK and shall be accompanied by such information as the CBK shall require.

## **Article 11**

### **Additional Branches and Offices**

1. A bank shall obtain prior written approval of the CBK before closing or relocating a branch or office in Kosovo or establishing or acquiring an additional branch or office in Kosovo.
2. A bank other than a foreign bank shall obtain prior written approval of the CBK before establishing or acquiring a branch or a subsidiary in another jurisdiction.
3. The CBK shall prescribe by regulation the procedure for obtaining prior written approval and the form and content of the application.

## **Article 12**

### **Requirement to Form Subsidiary**

1. The CBK may require a foreign bank that is licensed to operate one or more branches in Kosovo to convert the branch to a subsidiary of the foreign bank if:

1.1. there is a material change in the ownership or management of the foreign bank for which CBK has reasonable grounds for concern.

1.2. there is a material decline in the financial condition of the foreign bank or the foreign bank is subject to sanctions by its home country supervisor for material violations of law or regulations or unsafe or unsound practices,

1.3. the CBK considers that the operations of the branch might endanger financial stability of the banking sector or be detrimental to the interest of the depositors, or

1.4. the CBK considers the supervision of the home country supervisor to be inadequate.

### **Article 13**

#### **Voluntary Termination of Operations**

No bank may terminate its activities in Kosovo without presenting first to the CBK a plan to satisfy its liabilities in Kosovo and obtaining prior approval of such plan from the CBK. Provisions of Article 78 shall apply to any voluntary liquidation.

### **Article 14**

#### **Revocation of a License**

1. The license of a bank may be revoked by decision of the CBK on one or more of the following grounds:

1.1. the CBK has approved a plan for the bank to terminate its operations in Kosovo, and the bank has complied with such plan;

1.2. the bank has violated any provision of this Law, any order or regulation of the CBK, or any condition or restriction attached to an authorization issued by the CBK;

1.3. the bank has engaged in unsafe or unsound practices in the judgment of the CBK;

1.4. the license has been obtained on the basis of false information submitted by or concerning the applicant;

1.5. the bank has not commenced operations within ninety days after the receipt of the license, or such further period as may be determined by the CBK, or has

ceased for more than three (3) months to engage in the business of receiving deposits;

1.6. another bank that holds a significant interest in the bank has had its license revoked;

1.7. a merger, amalgamation or sale of substantially all of the assets of the bank has occurred;

1.8. the activities of the bank differ substantially from those presented in the application for a license and, in the opinion of the CBK, such difference is not justified nor approval for such changes has been granted by CBK;

1.9. if the licensee is a foreign bank, the foreign bank has lost the authority to engage in the business of banking in the country of its head office; or

1.10. there has been a significant change in the ownership as provided in Article 37 of this law, without approval of the CBK.

2. The license of a bank shall be revoked by a decision of the CBK if the CBK determines that the bank is insolvent or that it may reasonable be expected to become insolvent.

3. For purposes of this Article “insolvent” means the bank is not paying its obligations as they fall due or the value of its liabilities exceeds the value of its assets. The value of a bank’s assets, liabilities and regulatory capital shall be determined in accordance with valuation standards and procedures prescribed by the CBK. In determining the value of a bank’s assets and liabilities for a future date, the bank’s reasonably anticipated future income and expenses until that date shall be taken into account.

4. A decision by the CBK to revoke or not to revoke a license shall be communicated in writing to each bank and shall give the grounds for the decision and shall be effective on the date of such communication.

5. A decision to revoke a license shall be published in one or more newspapers of general circulation wherever the offices of the bank are located.

## **PART III**

### **CAPITAL AND LIQUIDITY REQUIREMENTS**

#### **Article 15**

##### **Minimum Paid-in Capital for Domestic Banks**

1. Each bank shall at all times maintain paid-in capital of not less than seven million (7.000.000) Euro, or such higher amount as specified by regulation or order of the CBK.
2. Paid-in Capital cannot be treated as such if the funds originate from:
  - 2.1. loans granted by the bank into which capital payment is being made; or
  - 2.2. loans where the bank receiving capital is a guarantor;
  - 2.3. loans from other banks in Kosovo, except if they are collateralized 100% with approved securities held by third party as
3. Shares issued in exchange for services shall not be treated as paid-in capital.
4. Existing banks must satisfy this minimum paid-in capital requirement within 6 (six) months of the effective date of this Law.

#### **Article 16**

##### **Minimum Regulatory Capital for Domestic Banks**

1. Each bank shall at all times maintain regulatory capital determined on a risk-adjusted basis as specified by regulation or order of the CBK.
2. The CBK may specify by regulation or order additional regulatory capital requirements, including establishment of a leverage ratio.
3. The CBK shall prescribe by regulation or order the manner in which the regulatory capital requirements of this Article shall be applied on a group-wide basis to a banking group.

**Article 17**  
**Requirements for Branches of Foreign Banks**

1. Each foreign bank operating in a branch in Kosovo shall maintain claims on residents of Kosovo in excess of its liabilities to residents of Kosovo by such amount as specified by regulation or order of the CBK.
2. Each foreign bank operating in a branch in Kosovo, if so directed by the CBK, shall maintain a capital equivalency deposit with the CBK, in such amount as specified by regulation or order of the CBK. The deposit must remain in the custody of the CBK while the foreign bank operates a branch in Kosovo unless the CBK has approved another arrangement.
3. The minimum regulatory capital requirements for banks set forth in Article 16 of this law shall not apply to foreign banks that are licensed to operate one or more branches in Kosovo.

**Article 18**  
**Dividends and Other Capital Distributions**

1. No bank shall pay a dividend or make any other capital distribution without the approval of the CBK. In no event will approval be granted if, in the opinion of the CBK, after making such distribution, the bank would have less than the minimum paid-in or regulatory capital required by this Law or by regulation or order of the CBK.
2. Paragraph 1. of this Article shall not apply to a foreign bank that is licensed to operate one or more branches in Kosovo unless the bank has been required by the CBK to hold a capital equivalency deposit under paragraph 2. Article 17 of this Law and the payment of the dividend or capital distribution would leave the bank unable to meet its capital equivalency deposit requirement.

**Article 19**  
**Liquidity Requirements**

1. The CBK should prescribe liquidity requirements for banks and banking groups by regulation or order.
2. Such liquidity requirements should include a minimum aggregate amount of liquid assets or specific categories of such assets to be held by the bank.
3. Each bank and each banking group shall develop written policies and procedures for management of liquidity risk. A copy of these policies and procedures shall be reviewed by the Directors annually and must be submitted to the CBK. Updated versions of the policies and procedures must also be provided to the CBK.

**Article 20**  
**Specific Risk Management Policies and Procedures**

1. As part of its overall policies and procedures for risk management, each bank at a minimum shall develop and maintain written policies and procedures regarding:

1.1. the maximum aggregate amount of real estate and fixed assets, or specific categories thereof to be held by the bank; and

1.2. prohibitions, restrictions or conditions concerning:

1.2.1. the types or forms of exposures made, and liabilities assumed (contingent or otherwise);

1.2.2. matching as to maturity and interest rate in respect of assets and liabilities (contingent or otherwise);

1.2.3. unhedged positions in foreign currencies, precious metals or precious stones, exchange and interest rate instruments; stocks and other transferable securities; and

1.2.4. forward contracts, swap agreements, futures, options, and other derivatives relating to currencies, stocks, bonds, precious metals or interest rates.

1.3. management of all types of operational risks including but not limited to plant security, technology and personnel.

**PART IV**  
**GOVERNANCE AND OWNERSHIP OF BANKS**

**Article 21**  
**Organization of Banks**

All banks shall be firstly organized as joint stock companies and registered at the Ministry of Trade and Industry or its successor Ministry with all shares registered in the name of their beneficial owners, the shareholders. A share in the joint stock company is the property of the shareholders. However in order to operate as a bank, evidence of the registration shall first be presented to CBK and thereafter the joint stock company shall be regulated solely by the CBK under this Law.

## **Article 22**

### **Charter and Statute**

1. All banks operating in Kosovo must have a Charter and/or statute, a copy of which has been approved by the CBK. No bank, other than a foreign bank licensed to operate one or more branches in Kosovo, may amend its charter or by-laws without the prior written approval of the CBK.
2. A foreign bank with a licensed branch or subsidiary in Kosovo shall provide notice to the CBK of any amendment to its charter or equivalent establishing documentation or statute within thirty (30) days of the effective date of any such change.
3. Each bank shall maintain on file with the CBK a duly certified copy of its charter or equivalent establishing documentation, its statute, and a list of the officials of the bank who are currently authorized to obligate the bank, together with their specimen signatures and a description of the limits of their authority.

## **Article 23**

### **Bank Bodies**

1. Bodies of the bank are:
  - 1.1. General Meeting of Shareholders;
  - 1.2. Board of Directors; and
  - 1.3. Senior Management.

## **Article 24**

### **General Meeting of Shareholders**

1. The General Meeting of Shareholders of the bank shall be composed of shareholders:
  - 1.1. the General Meeting of Shareholders shall normally be held at the place of the bank's headquarter;
  - 1.2. the General Meeting of Shareholders shall be chaired by its Chairman, who shall be elected at the beginning of the General Meeting of Shareholders session;
  - 1.3. upon proposal of the Chairman, General Meeting of Shareholders shall appoint a person in charge of the minutes and appoint members of the General Meeting of Shareholders' Voting Committee;



1.4. chairman and members of the Board of Directors and at least one member of Senior Management shall be present during General Meeting of Shareholders session;

1.5. members of the Board of Directors in a bank consisting of five shareholders or less are not obliged to be present at General Meeting of Shareholders session; and

1.6. in a bank with a single shareholder the authorities of the General Meeting will be carried out by the shareholder.

2. A General Meeting of Shareholders shall be held at least once a year:

2.1. the Board of Directors, except for the cases otherwise provided by this Law, shall convene a General Meeting of Shareholders;

2.2. any Shareholder who was placed on the list of shareholders at the Registry thirty (30) days before the date of the General Meeting of Shareholders session shall have voting rights in the General Meeting of Shareholders; and

2.3. bank shall cover expenses of the General meeting of Shareholders session.

3. Convening the General Meeting of Shareholders:

3.1. notification of a summary of the items to be discussed, place, date and time of the General Meeting of Shareholders session shall be published in at least one of the daily newspapers published within Kosovo, no later than ten (10) days before the date determined for the General Meeting of Shareholders session;

3.2. if the General Meeting of Shareholders session was convened at a place located outside of headquarters of the bank, notification provided by paragraph 1. of this Article shall within the same time period be sent to each of the shareholders by registered mail, fax or electronic mail.

4. Convening an Emergency General Meeting of Shareholders:

4.1. a majority of members of the Board of Directors may vote to hold an Emergency General Meeting of the Shareholders and may vote to hold this Emergency General Meeting of the Shareholders in less than the ten (10) days required in paragraph 3. of this Article. However, every shareholder must be notified of the emergency General Meeting of the Shareholders, including its purpose and the proposed Agenda in the manner provided in Paragraph 3 of this Article. The Emergency General Meeting of the shareholders may only be held if

shareholders holding an aggregate total of seventy-five percent (75%) of the outstanding shares are represented and are available to vote. Further, any action taken at the Emergency General Meeting of the Shareholders must be approved by two thirds (2/3) of the number of shares represented.

5. Decision Making at General Meetings of Shareholders:

5.1. shareholder or group of shareholders with at least five percent (5%) of the total number of shares with voting rights, shall have right to propose in writing amendments to the agenda and the proposal of the decisions of the General Meeting of Shareholders not later than eight days from the day of publication of notification provided by paragraph 3. of this Article.

6. A request for convening the General Meeting of shareholders may be submitted by:

6.1. shareholder or group of shareholders with more than ten percent (10%) of the total number of shares with voting rights:

6.1.1. two (2) members of the Board of Directors; or

6.1.2. the Board Audit Committee.

6.2. a request for convening the General Meeting of Shareholders with proposal on its agenda shall be submitted to the Board of Directors in written form;

6.3. if the Board of Directors within thirty (30) days from the day the request was submitted, fails to publish notification on convening the General Meeting of Shareholders session in a manner provided by paragraph 3. of this Article, the person who submitted the request is authorized directly to convene the General Meeting of Shareholders session in the same manner and shall inform the CBK about it in writing;

6.4. persons provided by paragraph 1. of this Article are authorized directly to convene the General Meeting of Shareholders session where the General Meeting of shareholders had not been convened six months after expiration of the period for making of the annual report;

6.5 General Meeting of Shareholders may make decisions only if shareholders with more than fifty percent (50%) of the shares with voting rights are represented in person or through proxies;

6.6. if upon expiration of sixty (60) minutes from the set time of commencement of General Meeting of Shareholders a quorum is not reached for decision making provided by Paragraph 1. of this Article, General Meeting of Shareholders shall be postponed, and the Board of Directors shall not earlier than fifteen (15) and no later than thirty (30) days from initially set up date for convening it publish notification on reconvening the General Meeting of Shareholders.

7. General Meeting of Shareholders of bank shall make decision on:

7.1. establishment of bank's Paid in Capital through the issuance or increase of Common Shares and the issuance or increased of Preferred Shares;

7.2. appointment of external auditor;

7.3. annual financial report, with the reports of external auditor and the Board of Directors;

7.4. distribution of profit and payment of dividend;

7.5. manner of loss coverage;

7.6. consolidation with other enterprises and merger of other enterprises with the bank, including consolidation or merger of subsidiaries;

7.7. division and termination of the bank;

7.8. purchase, sale exchange, leasing and other transactions with property, directly or through subsidiaries within a business year, to the extent that exceeds one third of the bookkeeping value of property of the bank;

7.9. sale and purchase of property with accounting value between fifteen percent (15%) and thirty three (33%) of the total existing property of the bank if such a transaction is not previously approved by unanimous decision of the Board of Directors;

7.10. election and removal of the members of the Board of Directors on an individual basis;

7.11. establishment, reorganization and liquidation of subsidiaries, and approval of their respective charters;

- 7.12. compensations for the members of the Board of Directors and external members of the Board Committees;
- 7.13. adoption, changes and amendments to the charter;
- 7.14. approving the issuance of new shares of the existing class in an amount of up to one third of the nominal sum value of the existing shares and determine the amount, time of sale and price of these shares, that may not be less than the average market value of the existing shares of the same class in the thirty (30) consecutive days prior to the day of decision making; and
- 7.15. other issues important for business operation of the bank, in accordance with Law and charter of the bank.
8. A Shareholder shall have the right, from the day of publication of notification on convening the General Meeting of Shareholders in the bank premises, to review the financial statement, with the reports of external auditors, the Board of Directors as well as other documents that concerned proposal of the decisions placed on the agenda of General Meeting of Shareholders.
9. Voting at General Meetings of Shareholders:
- 9.1. the General Meeting of Shareholders shall make decisions by majority of shares with voting rights;
- 9.2. voting at the General Meeting of Shareholders shall be conducted through ballot papers that shall contain name or company name of the shareholder and the number of votes at his/her disposal;
- 9.3. the Voting Committee shall determine results of voting; and
- 9.4. minutes shall be signed by the chairman of the General Meeting of Shareholders and the person in charge of minutes.
10. Decision Making Through Proxies:
- 10.1. shareholders' proxy shall have authorization for representation by shareholders signed by a shareholder who is a natural person or representatives of the shareholder who is a legal person;
- 10.2. the Proxy holders shall deliver to the Voting Committee a written authorization for representation by the shareholders;

10.3. voting Committee shall check validity of authorization and identity of the proxy;

10.4. if a shareholder or his proxy, within five (5) days from the day of General Meeting of Shareholders, deliver certified statement of the shareholders to the Voting Committee, public document or other verifiable evidence that denies validity of authorization to the Voting Committee, it shall declare votes based upon such authorization to be invalid and inform the Board of Directors about in writing.

10.5. the Board of Directors shall suspend enforcement of the decision, passing of which was decisively influenced by invalid votes and it shall convene the General Meeting of Shareholders for repeated decision making on these issues no later than thirty (30) days from the day of receipt of notification of the voting Committee on invalid votes.

#### 11. Minutes of General Meeting of Shareholders:

11.1. minutes shall be made of the work of the General Meeting of Shareholders and it shall contain:

11.1.1. company name and address of the headquarters of the bank;

11.1.2. place and time of the General Meeting of Shareholders;

11.1.3. first name and family name of the Chairman, person in charge of minutes and members of voting committee;

11.1.4. agenda;

11.1.5. decisions;

11.1.6. data about voting; and

11.1.7. objections of shareholders and members of Board of Directors to the General Meeting of Shareholders decisions.

11.2. minutes shall be accompanied with proposals in writing and the reports submitted to the General Meeting of Shareholders.

11.3. the Board of Directors shall ensure that the minutes be made no later than thirty (30) days from the day of organizing the General Meeting of Shareholders.

**Article 25**  
**Contest of the General Meeting of Shareholders Decisions**

1. A decision of the General Meeting of Shareholders shall be null and void if:
  - 1.1. General Meeting of Shareholders was not convened in a manner determined under Article 24 of this Law;
  - 1.2. was not entered into the minutes;
  - 1.3. nullity is determined by a court decision.
2. A procedure to contest and annul the decision of the General Meeting of Shareholders, with the Court, may be initiated by:
  - 2.1. a shareholder representing minimum of thirty three (33%) ownership and who attended the General Meeting of Shareholders, whose objection to the decision was entered into the minutes, or was not entered correctly; or
  - 2.2. a shareholder who was not present at the General Meeting of Shareholders due to convening the General Meeting of Shareholders contrary to the provisions under the Article 24 of this Law.
  - 2.3. the Board of Directors and Senior Management and each member of the Board of Directors and Senior Management, if enforcement of the decision would constitute an economic offense or crime or create damage to the bank.
3. Procedures provided under Paragraph 1 and 2. of this Article may be initiated no later than sixty (60) days from the day of General Meeting of Shareholders.
4. According to the Procedures provided under Paragraph 1 and 2. of this Article, bank shall be represented by Chief Executive Officer or other member of the Senior Management, upon authorization issued by Chief Executive Officer.

**Article 26**  
**Board of Directors**

1. Each bank shall be administered by a Board of Directors, and subject to the following requirements:
  - 1.1. the Board of Directors shall consist of an uneven number of not less than five (5) members. All board members have a right to vote. Majority of these members should be independent, non-executive directors and at least one of them should be resident in Kosovo;

1.2. the Board of Directors shall be elected by the bank's shareholders at a General Meeting of Shareholders and shall be responsible for establishing its policies, including risk management policies, and for supervision of their implementation;

1.3. the Board of Directors will elect a Chairman from amongst its members, except that the Chief Executive Officer of the bank can not be the Chairman.

1.4. members of the Board of Directors other than the Chief Executive Officer shall be appointed for terms of not more than four (4) years and may be reelected for subsequent terms;

1.5. the chief executive officer serves on the board according to the official duty and without right to vote so long as he or she holds office;

1.6. the Board of Directors may not delegate its responsibilities to others; and

1.7. the names of the members of the Board of Directors shall be entered into a Registry maintained at the CBK.

2. The meeting of shareholders may establish remuneration for Board members provided, however, that remuneration of the Board Members and Senior Management of a bank shall be taken into account as part of the CBK's examination of the condition of the bank pursuant to Article 57 below to consider whether the remuneration arrangements constitute an unsafe and unsound practice.

3. A Director is independent for purposes of this Article if they are independent of management and shareholders and their judgment will be exercised for the sole benefit of the bank and there is no perceived or actual conflict of interest arising from his or her relationships with the bank and with bank-related parties, whether present, past or future, and other relevant facts and circumstances. An independent Director may hold shares in the bank directly subject to such limitation on holdings as the CBK may determine.

4. This article shall not apply to a foreign bank that is licensed to operate one or more branches in Kosovo.

5. The following person may not be Chairman or member of Board of Directors of a bank:

5.1. person convicted of crime or found to be liable for an economic offence within the Penal Code;

- 5.2. person who, pursuant to the court decision was denied ability to conduct activities within competence of Board of Directors; and
- 5.3. person older than seventy (70) years of age on the day of appointment.
6. Elected officials, Ministers and Deputy Ministers of State and Municipal Governments and their respective Institutions may not serve as members of the Board of Directors of any bank while they are so employed and for a period of one (1) year thereafter.
7. All employees of the State, Municipal Governments and their respective Institutions who serve as members of a Board of Directors of any bank must rescue themselves and refrain from involvement in any discussions or decisions within the government having to do with the bank for which they are a member of the Board of Directors.
8. A shareholder of a group of shareholders with at least five percent (5%) of the shares with voting rights may nominate a candidate for member of the Board of Directors, or file a resolution at a shareholder meeting for the removal of a member of the Board of Directors.
9. Each proposal provided under Paragraph 1. of this Article shall be submitted in writing no later than eight (8) days from the day of publication of notification on convening the General Meeting of Shareholders that has on its agenda election of the members of the Board of Directors.
10. Candidates for members of the Board of Directors shall before voting give statement in writing on their acceptance of nomination.
11. In the election of or removal of the members of the Board of Directors each shareholder may cast one vote for each share with voting rights. Each shareholder with voting rights may cast all votes for one person or distribute their votes to more than one person.
12. The Members of the Board of Directors shall enter into employment contracts with the bank that are subject to approval by the General Meeting of Shareholders.

## **Article 27**

### **Meetings of the Board of Directors**

1. A session of the Board of Directors shall be held when necessary, and at least once a quarter. At least once a year one of the quarterly meetings must be held in Kosovo. Other than the annual meeting held in Kosovo, all other meetings may be held via teleconferencing or other electronic means.



2. Chairman of the Board of Directors shall convene the sessions upon request of the Chief Executive Officer of the bank or two (2) members of the Board of Directors no later than fourteen (14) days from the day of submission of the request, otherwise person who submitted the request shall be authorized for convening the session. However, provided that all members of the Board of Directors are invited and the invitation is accompanied by an Agenda, a majority of members of the Board of Directors may convene an emergency session within three (3) days of the vote to convene such emergency session of the Board of Directors. All provisions of this Article apply to emergency meetings of the Board of Directors.

3. Decision of the Board of Directors shall be valid when majority of its members are present and vote.

4. Decisions shall be taken by simple majority of votes of the members present, excluding the case when in the bank Statute is foreseen a higher majority.

## **Article 28**

### **Competences of the Board of Directors**

1. The Board of Directors of the bank shall be competent to:

1.1. supervise business operation of the bank;

1.2. supervise work of Senior Management;

1.3. adopt a report of Senior Management on the business operations based upon the semi-annual balance sheet, profit and loss statement, annual balance sheet and internal and external audit reports;

1.4. submit an annual report to the General Meeting of Shareholders on business operations of the bank, which shall include internal and external audit reports, report on work of the Board of Directors as well as the plan for business operations for the following business year;

1.5. appoint Senior Management of the bank;

1.6. propose distribution and manner of use of profit and manner of loss coverage;

1.7. approve all purchase, sale, exchange, leasing and other property transactions directly or through Subsidiaries during the business year that are equal to or exceed ten percent (10%) of the capital of the bank;

- 1.8. ensure that appropriate internal controls for the bank are established and maintained;
  - 1.9. ensure that appropriate internal and external audits are performed;
  - 1.10. establish provisions for loan losses to be expensed; establish necessary reserves out of the net profit of the bank and declare dividends;
  - 1.11. appoint chairmen and members of the committee for compensation and the committee for appointment;
  - 1.12. establish ad hoc commissions and determine their compositions and tasks;
  - 1.13. convene the General Meeting of Shareholders;
  - 1.14. approve internal acts, business and other policies and procedures as the Board of Directors deems appropriate; and
  - 1.15. decide on issues not specifically directed under the Law or its charter to some other decision making body of the bank.
2. Chairman and members of the Board of Directors shall carry out their commitments and responsibilities in accordance with the interest of the shareholders and bank and may not perform any activity that would compete with activities of the bank without advice and consent of other members of the Board of Directors.
  3. Chairman and members of the Board of Directors shall each be required to disclose and report to the Board of Directors any personal or financial interest with the legal person with which bank has or intends to enter into business relationship. In such a case that Director may not take part in the discussions or make a decision on issues that concern relations of bank and any legal persons in which Chairman and member of the Board of Directors shall have direct or indirect financial interest.
  4. Chairman and members of the Board of Directors may be held either individually or jointly and severally liable for damages caused by failure to comply with the provisions of this article.
  5. Chairman and members of the Board of Directors shall have right to request all the data on business operations and the presence of members of the Senior Management to the sessions of the Board of Directors.

## **Article 29**

### **Board Committees**

1. Board of Directors of each bank shall establish an Audit Committee, the members of which are selected from among the non-executive directors and external experts. A majority of the members of the Audit Committee shall be non-executive directors. At least one member of the Audit Committee shall be an outside expert in the field of accounting or audit who meets the criteria for independence of directors in Article 26, Paragraph 3. of this law. The Audit Committee shall:

- 1.1. meet at least quarterly and at such other times as provided for in the by-laws;
- 1.2. recommend appropriate accounting, operational and administrative internal controls;
- 1.3. supervise the bank's compliance with policies and procedures;
- 1.4. request and review reports from the bank's chief internal auditor;
- 1.5. recommend compensation for the chief internal auditor;
- 1.6. monitor compliance with this Law and applicable regulations or orders;
- 1.7. recommend the appointment of an external auditor pursuant to Article 54 of this law;
- 1.8. monitor the performance of the external auditor, review the external auditor's report on the bank's financial statements and report any findings to the Board of Directors; and
- 1.9. deliver opinions to the Board of Directors on any matters submitted to it by the Board of Directors, or that the committee wishes to address.

2. Each bank, other than a foreign bank, shall establish a Risk Management Committee that shall consist only of members of the Board of Directors. The Risk Management Committee shall:

- 2.1. meet at least quarterly and at such other times as provided for in the by-laws;
- 2.2. monitor implementation of the bank's policies and procedures for risk management, including the effectiveness and independence of risk management functions within the bank;

2.3. monitor the risk profile of the bank, including the credit, market, liquidity, operational, compliance, reputation, legal and other risks of the bank;

2.4. monitor compliance with this Law and regulations and orders there under;  
and

2.5. deliver opinions to the Board of Directors on any matters submitted to it by the Board of Directors or that the committee wishes to address.

3. The CBK may require all or some Banks to have additional Board Committees. Each bank may also decide to have other board committees and such operational committees as the Board of Directors or Senior Managers consider necessary or appropriate.

4. Committee meetings may be held by means of telecommunications equipment so long as the committee members participating in the meeting can simultaneously hear all other committee members participating in the meeting.

5. This article shall not apply to a foreign bank that is licensed to operate one or more branches in Kosovo, so long as comparable requirements satisfactory to the CBK are applicable under the law under which the foreign bank is licensed in its home jurisdiction.

### **Article 30**

#### **Senior Management**

1. The Chief Executive Officer will be appointed by the Board of Directors of the bank. The Deputy Chief Executive Officer and other Senior Managers will be appointed by the Board of Directors on the recommendation of the Chief Executive Officer.

2. The term in office for the Chief Executive Officer shall be four (4) years, which may be renewed without any limitations as to the number of terms.

3. The position, authorities, responsibilities, rights and remuneration shall be regulated by contract between Chief Executive Officer and Deputy Chief Executive Officer.

4. The Chief Executive Officer and Deputy Chief Executive Officer cannot be appointed without the prior approval of the CBK.

5. The Chief Executive Officer of a bank shall:

5.1. be responsible for the legality of the bank's operation and implementation of the established business strategy of the bank;

- 5.2. represents the bank and acts as its agent;
  - 5.3. execute decisions of the General Meeting of Shareholders, the Audit Board and the bank's Board of Directors;
  - 5.4. organize and manage the bank's operations;
  - 5.5. make decisions about all matters which are not in the jurisdiction of the General Meeting of Shareholders, the Audit Board or the Board of Directors of a Bank; and
  - 5.6. perform other functions in accordance with the law, the bank's charter and its general acts.
6. The Director may delegate part of his powers to others.
7. Individuals appointed as members of Senior Management of a bank cannot be older than sixty five (65) years old and must meet all requirements set by the CBK regulations and general acts of the bank.
8. If the CBK rejected a request to approve an individual, in accordance with Article 34 of this Law, the bank cannot file another request for the appointment of that individual for the same position until the reasons stated in the CBK decision on rejection are eliminated.

### **Article 31**

#### **Senior Managers**

1. Deputy Chief Executive Officer shall substitute for the Chief Executive Officer in case of his/her absence, and if the bank has no Deputy Chief Executive Officer appointed, the Chief Executive Officer shall authorize in writing one of the other Senior Managers to substitute for him and determine his/her authorities.
2. Salary and other material rights of the Senior Managers shall be regulated by contract between the Chief Executive Officer and the Senior Managers, upon prior approval of the Board of Directors.
3. Chief Executive Officer, Deputy Chief Executive Officer and the Senior Managers shall report to the Board of Directors each direct or indirect interest with Related Individuals or any the legal person with which bank has or intends to enter into business relationship.

4. In case provided under Paragraph 1 of this Article, the Senior Manager may participate in such a business relation based upon written consent of the Board of Directors.

5. In any case when the Chief Executive Officer is released of duty, resigns, dies or is ill or otherwise absent from his/her duties without the prior approval of Board of Directors for a period of more than thirty (30) consecutive calendar days, the Board of Directors must confirm the Deputy Chief Executive Officer in this position or appoint an interim Chief Executive Officer to serve until such time as the Board of Directors appoints a new Chief Executive Officer.

## **Article 32**

### **Internal Auditor**

1. The Board of Directors of a bank shall appoint an Internal Auditor, unless exempted from this requirement by the CBK. The bank shall provide that the Internal Auditor reports directly to the Audit Committee of the Board of Directors.

2. Salary and other material rights of the Internal Auditor shall be determined by contract signed by the Board of Directors and the Internal Auditor.

3 The Internal Auditor is responsible for identifying, monitoring and assessing risks in the operation of a bank and determining whether the system of internal control is in place that insure that those risks are managed in the manner so that the risks are mitigated in an acceptable measure. The bank shall provide the Internal Auditor with sufficient resources to enable him/her to carry out his/her responsibilities.

4. In performing his/her responsibilities, the Internal Auditor shall have authorities for unrestricted and unimpeded work and he/she is obliged to report to the Audit Committee of the bank.

5. Individuals appointed as Internal Auditor cannot be related by marriage or blood to the third degree of consanguinity to any member of the Board of Directors, Senior Management or any person who holds a significant Ownership Interest.

## **Article 33**

### **Conflict of Interest**

1. Each Director and Senior Manager, on assuming office, shall be required to provide an annual notice in writing to the Board of Directors disclosing the names, addresses and particulars of such Director and Senior Manager's then-current material commercial, financial, agricultural, industrial or other business or family interests.

2. In addition, on a continuing basis, and prior to the execution of any material contract with the bank that comes or ought reasonably to come to the attention of the Board of Directors, Senior Managers shall disclose in writing to the Board of Directors, any material interest in, or a material relationship to, any person who is a party to a material contract or a proposed material contract with the bank.
3. Any Director or Senior Manager who has a material interest or a material relationship within the scope of this section shall leave any meeting at which the matter is discussed while the matter is under consideration or subject to vote, and shall refrain from voting on any matter related thereto that comes before the Board of Directors.
4. An interest shall be material if it is Significant Interest with reference to the financial, or business interests of the person or to a Related Individual of that person having the interest, and a person has a material interest in any company if the person owns, directly or indirectly, a Significant Interest in the company, or is an Director or Senior Manager of the company and has a Significant Interest in any partnership if the person is a partner.
5. Where a Director and Senior Manager fails to disclose a material interest or relationship in accordance with this section a court of competent jurisdiction may, on the application of the bank, a bank shareholder, or the CBK, set aside the contract, if any, on such terms as it thinks fit. In addition, the CBK may, by written order, suspend the Director and Senior Manager from office for any period not exceeding one year, remove the Director and Senior Manager from office permanently, or impose any other sanctions provided for under this Law.
6. Banks shall introduce suitable arrangements and procedures so that they and their Directors, Senior Managers and employees are not placed in a situation where their duty to one customer conflicts with their duty to another, or where their own interest conflicts with their duty to a customer.
7. Directors, Senior Managers and employees of banks have a fiduciary duty of independence, loyalty and diligence to the bank that they serve and to the bank's depositors to place the bank's interests before their own interest.
8. No Director or Senior Manager may enter into a contractual relationship as a person or on behalf of a bank with a Related Individual unless the contractual agreement is approved by the CBK.

### **Article 34**

#### **Appointment or Replacement of Directors and Senior Managers**

1. Except as provided below, no person shall become a Director or Senior Manager of a bank without obtaining the prior approval of the CBK.

2. Paragraph 1. of this Article shall apply to a foreign bank licensed to operate one or more branches in Kosovo only with respect to the appointment of the branch manager or other Directors and Senior Managers of the branch or branches operating in Kosovo.

3. Following receipt of preliminary approval from the CBK of an application for a license to operate a branch or branches in Kosovo, a foreign bank must notify the CBK of any replacement of Directors and Senior Managers of the foreign bank.

### **Article 35**

#### **Qualification of Directors and Senior Managers**

1. Each Director and Senior Manager of a bank must be fit and proper and of good repute and must meet the criteria established by the CBK regarding qualifications, experience and integrity; provided, however, that no person shall be regarded as a fit and proper person if the person:

1.1. has been removed from an office at a bank by the CBK; or has been convicted by a criminal court of an offense for which the person was or could have been sentenced to imprisonment for a term of one year or more without the option of a fine;

1.2. has been a debtor in a bankruptcy or insolvency proceeding within the past ten (10) years;

1.3. has been disqualified or suspended by a competent authority from practicing a profession on grounds of personal misconduct; or

1.4. has been a Director or Senior Manager of a bank whose license has been revoked or whose insolvency or other involuntary liquidation has been initiated during the Director's or Senior Manager's term of office.

2. In exceptional circumstances, having been satisfied as to the qualifications, professional experience and conduct of a person, the CBK may exempt a Director or a Senior Manager from the provisions of sub-paragraph 1.4. of this Article after the expiration of an appropriate period following the relevant event, and from the provisions of sub-paragraph 1.1. of this Article after the expiration of ten (10) years following the relevant event.

3. A person may not be appointed or elected as a Director or Senior Manager of a bank if, at any time during the immediately preceding six (6) months, the person has served in a position with the CBK.



4. Any bank becoming aware of circumstances that indicate that any of the Directors or Senior Managers may not be a fit and proper person shall notify the CBK. Failure to comply with this requirement may result in administrative sanctions under Article 58 of this Law.

### **Article 36**

#### **Removal of Directors and Senior Managers**

1. Upon determining that a Director or Senior Manager does not satisfy the criteria set forth in Article 26 of this law, the CBK shall provide a notice of disqualification of the Director or Senior Manager to the bank and directly to the Director or and Senior Manager.

2. If ten (10) days from the date of the notice of the disqualification from the CBK, the Director or Senior Manager has not resigned or been removed from office by the bank, the CBK shall order the removal or resignation of the Director or Senior Manager and may impose sanctions on the bank and on the Director or Senior Manager for non-compliance in accordance with Article 58 of this Law.

### **Article 37**

#### **Approval of Principal Shareholders**

1. No person, acting directly or indirectly, alone or in concert with another person, shall become a principal shareholder in a bank without obtaining prior written authorization from the CBK.

2. No principal shareholder, acting directly or indirectly, alone or in concert with another person, shall increase their ownership interest in a bank above 10, 20, 33, 50 or 75 percent (%) of the equity without obtaining prior authorization from the CBK.

3. Applications for the acquisition of equity interest in a bank or increases in holdings of equity interests in a bank shall be in such form as prescribed by the CBK and shall include:

3.1. the name, nationality, place of residence, and business or professional history for the past ten (10) years of the applicant, and any ultimate beneficial owner of the applicant that, as a result of the transaction, would indirectly acquire five percent (5%) or more of the equity interests of the bank;

3.2. a list of undertakings in which the proposed owners, including the ultimate beneficial owners (as described above), holds participations, specifying the size of such participations and the registered address of those undertakings;

- 3.3. for each natural person applicant, an official statement from the Court disclosing any convictions for offenses by a criminal court, personal bankruptcy filings, disqualifications from practicing a profession, or past or present involvement in a managerial function of a body corporate or other undertaking subject to insolvency proceedings, if any;
  - 3.4. for each legal entity applicant, audited financial statements for the past three (3) years;
  - 3.5. the terms and conditions of the proposed acquisition;
  - 3.6. the source and amount of the funds to be used in making the acquisition;
  - 3.7. any plans or proposals regarding a major change in the bank's business, corporate structure or management;
  - 3.8. in any case where the acquisition would cause the bank to become a subsidiary of a foreign bank, a statement that the foreign supervisory authority responsible for the prudential supervision of the foreign bank in its home country has no objection to the proposed establishment of operations in Kosovo, and exercises global consolidated banking supervision over the foreign bank; and
  - 3.9. such other information as the CBK may require.
4. Each bank shall notify the CBK of any acquisition of shares within five (5) days after the acquisition if the amount of shares acquired equals or exceeds five percent (5%) of the equity but does not exceed ten percent (10%). The notification shall be in such form and contain such information as the CBK may require.
5. The restrictions of paragraphs 1. and 2. of this law shall not apply to acquisitions of shares in a foreign bank that is licensed to operate one or more branches in Kosovo, so long as the foreign bank notifies the CBK of any acquisition where the amount of shares acquired equals or exceed five percent (5%) of the equity of the foreign bank.

### **Article 38**

#### **Approval or Disapproval of Acquisitions of Equity Interests in a Bank**

In making a determination whether to approve an application to acquire an equity interest in a bank, the CBK shall assess the proposed acquisition with regard to the same criteria that apply in determining preliminary or final approval of an application for a license under Article 7 of this law, including but not limited to the expected effects of the proposed acquisition on the financial soundness of the bank, the resulting ownership

structure of the bank and its effect on the CBK's ability to conduct both solo and consolidated supervision, and the suitability of the proposed shareholders and their standing in the financial markets.

## **PART V**

### **MERGERS, CONSOLIDATIONS AND ACQUISITIONS**

#### **Article 39**

##### **Bank Mergers, Consolidations & Acquisitions**

1. No bank shall merge or consolidate with any other bank or acquire, either directly or indirectly, all or substantially all of the assets of, or assume the liabilities of, any other bank, except with the prior approval of the CBK.
2. Applications to merge, consolidate, and acquire all or substantially all of the assets of or assume the liabilities of a bank shall be in such form as prescribed by the CBK and shall be accompanied by such information as the CBK shall require.
3. For purposes of making a determination on an application filed under this Article, the criteria for preliminary approval of an application for a banking license, as set forth in Article 7 of this chapter shall apply mutatis mutandis.

#### **Article 40**

##### **Acquisitions by Banks of Equity Interests in Financial Institutions**

1. No bank shall, without the prior approval of the CBK,
  - 1.1. establish or acquire, directly or indirectly, a significant interest in a financial institution;
  - 1.2. increase its equity interest in a financial institution; or
  - 1.3. accept as collateral a significant interest in a financial institution.
2. The CBK shall prescribe regulations governing the acquisition by banks of equity interest in financial institutions.

## **Article 41**

### **Acquisitions by Banks of Equity Interests in Non-Financial Companies**

1. No bank shall, directly or indirectly hold an equity interest in a legal entity that is engaged in activities other than financial activities if such interests:

1.1. represents a greater than five percent (5%) interest in such legal entity;

1.2. exceeds fifteen percent (15%) of the bank's regulatory capital; or

1.3. when aggregated with all such equity interests held by the bank in non-financial companies, exceeds twenty five percent (25%) of the bank's regulatory capital.

2. Notwithstanding paragraph 1. above, no authorization shall be required for:

2.1. equity interests that have been acquired by a bank in foreclosure on or in lieu of repayment of a loan granted by the bank, in which case the bank shall dispose of such equity interests within one year from the date they are acquired or within such longer period as the CBK may permit; or

2.2. equity interests held by a bank as an agent or trustee.

3. The CBK shall prescribe by regulation the manner in which the requirements of this Article shall be applied on a group-wide basis to a banking group.

## **Article 42**

### **Application of Law on Business Organizations**

All provisions pertaining to the governance and ownership of Joint Stock Company contained in the Law of Business Organizations that do not otherwise conflict with the provisions of this Law, shall apply to banks. This Law shall prevail in any determination of which provisions are to be applied to banks.

## **PART VI**

### **REQUIREMENTS FOR FINANCIAL ACTIVITIES**

#### **Article 43**

##### **General Principles**

Banks shall conduct their activities in accordance with sound policies and procedures, the requirements of this Law and of applicable regulations and orders.

#### **Article 44**

##### **Permitted Financial Activities**

1. Banks may be authorized in their licenses to engage in the following financial activities and subject to limits on exposures specified by Regulation or Order of the CBK:

1.1. receiving deposits (in the form of demand deposits, time deposits, or other forms of deposit), whether bearing interest or not, in any convertible currency;

1.2. buying and selling for a bank's own account debt securities issued or guaranteed by governments or central banks of the Republic of Kosovo or the European Union that are denominated and payable in the currency of the bank's deposits;

1.3. providing payment and collection services;

1.4. issuing and administering means of payment (including payment cards, travelers' checks and bankers' drafts);

1.5. buying and selling foreign exchange for cash for the account of a customer;

1.6. providing for safekeeping of securities and other valuables; and

1.7. extending credit, including: consumer and mortgage credit; factoring with or without recourse; and financing of commercial transactions and buying and selling assets from another bank or financial institutions;

1.8. borrowing funds and buying and selling for a bank's own account or for the account of customers (excluding underwriting) of money market instruments (including notes, bills of exchange and certificates of deposit); debt securities; futures and options relating to debt securities or interest rates; or interest rate instruments;

- 1.9. acting as intermediary between borrowers and lenders (money brokering);
- 1.10. financial leasing;
- 1.11. providing credit information services;
- 1.12. providing services as a financial agent or consultant (not including services described in sections;
- 1.13. dealing in gold or one or more currencies other than the currency in which the bank's balance sheet is denominated, including contracts for the future purchase or sale of foreign currencies;
- 1.14. providing trust services, including, the investment and administration of funds received in trust and administration of securities;
- 1.15. providing services as an investment portfolio manager or investment adviser;
- 1.16. underwriting and distribution of debt and equity securities and dealing in equity securities;
- 1.17. islamic finance or Islamic banking, with the consent of the CBK and subject to such conditions and in compliance with such regulations as the CBK may prescribe;
- 1.18. any other activity that the CBK shall determine by regulation is related to a financial activity and that does not conflict with the provisions of this Law.

2. No bank may engage directly in industry, commerce, or activities other than the financial activities identified above.

3. No bank or financial institution shall engage in financial activities that exceed those specifically authorized by its license. Banks seeking to engage in activities beyond those authorized by its license must obtain the prior approval of the CBK.

**Article 45**  
**Prohibited Transactions and Practices**

1. Banks shall refrain from entering into transactions or engaging in practices of any kind that would provide them, alone or together with others, a position of dominance in the money, capital or foreign exchange markets, and from engaging in manipulative devices or predatory pricing practices that could result in an unfair advantage for themselves or for third parties.
2. No bank shall require any person to contract to receive any financial service or any goods or other service from an affiliate as a condition of being permitted to contract with the bank to receive any other financial service from the bank.
3. No bank shall have an exposure secured by its own equity securities.
4. No bank shall purchase its own equity securities or any other instrument that qualifies as regulatory capital without prior authorization from the CBK.

**Article 46**  
**Limitations on Lending Exposures and Deposit Concentration for Banks**

1. The maximum aggregate principal amount of credit exposures, expressed as a percentage of its tier 1 capital, that a bank shall be permitted to have committed or outstanding to or for the benefit of any single person or to group of connected persons shall be fifteen percent (15%) or such other percentage as specified by regulation of CBK.
2. The maximum aggregate principal amount of large credit exposures, expressed as a percentage of its tier 1 capital that a bank shall be permitted to have committed or outstanding shall be three hundred percent (300%) or such lower percentage as specified by regulation.
3. The CBK may prescribe by regulation exemptions from the limitations of paragraph 1. and 2. of this Article for:
  - 3.1. an exposure that is fully secured by readily marketable collateral;
  - 3.2. transactions with, or guaranteed by, a government; and
  - 3.3. transactions between banks with a maturity of one year or less.
4. Bank policies on credit risk shall at a minimum require board approval of any large exposure.

5. For the purposes of applying this section or any regulations issued pursuant thereto, a group of connected persons shall be deemed to include any borrower and any other person with whom such borrower is connected, directly or indirectly, in such a way that the financial soundness of any of them may affect the financial soundness of the other or others, or the same factors may affect the financial soundness of some or all of them, or if as a result of the structure of their relationship the other person is in fact ultimately responsible for, or benefits from, the exposure outstanding.

6. A bank cannot hold deposits from any one source of funds in an amount greater than twenty percent (20%) of its total deposits. For the purpose of this paragraph “one source” is defined to be one legal entity, one person, or the total amount of public revenues from government entities which are classified as Kosovo Budget Organizations.

7. The CBK shall prescribe by regulation the manner in which the limitations specified in this section shall be applied on a group-wide basis to a banking group.

#### **Article 47** **Transactions with Bank-Related Persons**

1. No bank shall enter into a transaction with or for the benefit of a Bank-Related Person, if such transaction would be entered into on less favorable terms and conditions to the bank, or not at all, if such counterparty were not related to the bank.

2. Notwithstanding the foregoing, no bank shall have an exposure to or for the benefit of a Bank-Related Person if, as a result thereof, the aggregate amount outstanding to, or for the benefit of, Bank-Related Persons would exceed ten percent (10%) of the bank's Tier 1 capital.

3. Exposures provided by a bank to a bank-related individual are subject to the prior approval of the Board of Directors of the bank, except to the extent that the CBK exempts exposures below a de minimis threshold as determined by the CBK. Every exposure provided by a bank to a bank-related individual shall be promptly reported to the Board of Directors of the bank.

4. If an exposure has been provided by a bank to a Bank-Related Person in violation of the provisions of this Article, such exposure must be immediately repaid, and the members of the Board of Directors, or the designated branch manager, as the case may be, shall be personally liable, jointly and severally, for payment of principal of, and interest and other charges on, exposure granted in violation of this section with their knowledge and without their objection.

5. Exposure extended by any bank to any Bank-Related Person shall be subject to such additional conditions or restrictions as shall be prescribed by regulation.



6. The CBK shall deduct any lending to a Bank-Related Person from capital for purposes of calculating regulatory capital ratios pursuant to Article 15 and Article 16 of this Law.

7. This article shall not apply to a foreign bank that is licensed to operate one or more branches in Kosovo.

#### **Article 48**

##### **Exposures to Bank Employees**

A bank shall not provide financial assistance to any of its employees, or for their benefit, in excess of limits established by the CBK in a regulation.

#### **Article 49**

##### **Asset Classification and Provisioning for all Financial Institutions**

1. Each Financial Institution shall maintain adequate provisions for depreciation or diminution in the value of its assets.

2. Each Financial Institution shall develop and maintain written policies and procedures regarding the classification and evaluation of assets and provisions to be made on the basis of such classifications and evaluations.

3. All Financial Institutions must classify all loans and provide for loan loss provisions as required by Regulation or Order of the CBK.

#### **Article 50**

##### **Foreign Currency**

The CBK may issue regulations to set the maximum foreign currency exposures that banks may incur. The maximums may apply to foreign currency exposures generally, to any specific currency or currencies, or to both.

#### **Article 51**

##### **Corporate Records and Records of Transactions**

1. Every bank shall prepare and maintain at its head office or in an appropriately secure location, written records containing:

1.1. its charter or equivalent establishing documentation, statute and all amendments there to;

1.2. a register of its beneficial shareholders, including the number of shares registered in the name of each;

1.3. minutes of any Board of Directors or committee meetings and resolutions adopted by the Board of Directors;

1.4. minutes of shareholders' meetings and resolutions adopted by the shareholders;

1.5. accounting records exhibiting clearly and accurately the state of its business affairs, explaining its transactions and financial position so as to enable the CBK to determine whether the institution has complied with all the provisions of this Law and with applicable regulations and orders;

1.6. records showing, for each customer of the bank, on a daily basis, particulars of its transactions with, or for the account of, that customer, and all balances owing to or by that customer;

1.7. credit documentation and any other information concerning its business relations with its customers and other persons that the CBK may prescribe by regulation; and

1.8. such other records as are required by the CBK.

## **Article 52**

### **Credit Registry**

1. The Central Bank of Kosovo established the Credit Registry to collect and provide information to facilitate reduced risks of lending and to improve access to credit while ensuring maximum protection of personal data. Credit reporting shall be mandatory for all financial institutions operating in Kosovo.

2. All Financial Institutions as defined and provided for in a CBK regulation must be members of the Credit Registry located at CBK. They are required to file with the Credit Registry all their information on their credits and credit products, borrower repayment history, and guarantees. For purposes of compliance with this Article, all required fields of information must be completed. CBK regulations and operational instructions provide details on compliance, penalties, credit reports, and borrower rights.

3. Information about mortgages, pledges and other collateral can be additionally reported to the Credit Registry.

## **PART VII**

### **ACCOUNTS AND AUDIT**

#### **Article 53**

##### **Accounts and Financial Statements**

1. Banks shall maintain accounts and records and prepare annual financial statements adequate to reflect their operations and financial condition and to reflect the operations and financial condition of their subsidiaries, branch offices, both on an individual and on a consolidated basis.
2. Accounts and financial statements shall be in such form and detail and in accordance with internationally-accepted accounting standards, reflecting such additional accounting rules or standards as shall be prescribed by the CBK.
3. The CBK may prescribe by rule or order other affiliates of a bank for which consolidated financial statements shall be submitted.
4. A copy of each bank's audited financial statements, including audited consolidated financial statements, if applicable, shall be submitted by the bank to the CBK when they become available and within four months after the end of the financial year at the latest.
5. Each foreign bank with one or more branch offices in Kosovo shall prepare the financial statements required in paragraph 4. of this Article, showing the foreign bank's branches located in Kosovo collectively, as an operating segment of the foreign bank.

#### **Article 54**

##### **External Audit**

1. The shareholders shall appoint, upon the recommendation of its Audit Committee and the Board of Directors, an independent and qualified external auditor acceptable to the CBK who shall, consistent with international audit standards:
  - 1.1. provide an opinion as to whether the annual financial statements present a fair and true view of the financial condition and performance of the bank in accordance with the provisions of this Law;
  - 1.2. review the adequacy of the practices and procedures for internal audit and control practices and procedures and make recommendations for remediation; and
  - 1.3. inform the Board of Directors about any fraudulent activity by an employee of the bank or any of its subsidiaries or any irregularity or deficiency in its

administration or operations that may reasonably be expected to result in a material loss for the bank or such subsidiary.

2. The external auditor of a bank, or any member of the audit firm, shall not be a bank related person or an agent or representative of the bank and shall not have any financial interest in the bank, with the exception of holding a deposit in the bank.

3. The CBK may prescribe by regulation a requirement for rotation of auditors or engagement partners of audit firms after a specified period of time to ensure continued independence. The CBK shall have authority to require the removal or replacement of an auditor, or to directly appoint, remove, or replace an auditor, at the expense of the bank to do a re-audit, if the bank or the auditor fails to meet the requirements of this Article or where the CBK is not reasonably satisfied with the auditor's performance.

4. This article shall not apply to a foreign bank that is licensed to operate one or more branches in Kosovo, so long as so long as comparable requirements satisfactory to the CBK are applicable under the law under which the foreign bank is licensed in its home jurisdiction.

## **Article 55**

### **Internal Audit**

1. The Board of Directors of each bank shall also appoint an internal auditor who shall report to the Audit Committee and operate independently of management. Each branch of a foreign bank shall appoint an internal auditor, who must operate independently of management.

2. The internal auditor shall be given meaningful access to management and members of management to discuss matters relevant to their functions and shall have the right, upon request, to obtain from them any information or documentation which he or she shall require.

3. The internal auditor shall have no authority to bind or represent any bank in contracts or other transactions.

4. The internal auditor shall:

4.1. review systems of internal controls and monitor and critique policies and procedures with respect to accounting, administration, operations and the safeguarding of assets;

4.2. review internal audit programs, satisfactory to test for non-compliance and irregularities based on the internal auditor's risk assessments;

- 4.3. report non-compliance and irregularities to the Audit Committee at least quarterly and pursuant to such procedures as shall be set by the Audit Committee and where exigent circumstances so dictate, to the CBK to the Board of Directors;
- 4.4. assist and cooperate with the external auditor in the performance of his or her duties; and
- 4.5. perform such investigations and other duties as may be provided in the bank's by-laws or assigned to the internal auditor by the Board of Directors or the Audit Committee.

### **Article 56**

#### **Publication of Financial Statements and Other Disclosure Requirements**

1. Each bank shall within thirty (30) days of each calendar quarter, publish in a national newspaper and on its website a true and fair summary of its quarterly balance sheet as at the end of the previous calendar quarter. Each bank shall also, within four (4) months of the end of its financial year, publish in a national newspaper and on its website a fair and true summary of its balance sheet for the preceding financial year.
2. Within four (4) months of the end of its financial year, each bank shall also publish its annual report, containing audited financial statements, and make copies available to the public on request without charge. Each bank shall send copies of its annual report to the CBK as soon as it becomes available and make it available on its website.
3. The CBK may prescribe by regulation further disclosure requirements for banks.

## **PART VIII**

### **REPORTS AND EXAMINATION**

#### **Article 57**

##### **Reports and Examination**

1. Each bank shall prepare and submit to the CBK reports concerning its large exposures, administration and operations, liquidity, solvency, and profitability and such other information as the CBK requires and those of its subsidiaries on an individual and a consolidated basis. The reports shall be prepared in such form and detail and shall be submitted at such intervals as shall be prescribed by the CBK.

2. Each bank and each of its affiliates shall be subject to examinations by the CBK and by examiners appointed by the CBK. The examiners may visit banks at such reasonable times as CBK deems appropriate and may take such action as deemed necessary and advisable. Such examiners may include officials of the authority of another country that is charged with the monetary or prudential supervision of financial activities in that country if it concerns the examination of a bank that is a branch or affiliates of a foreign bank that has its head office in that country or has a significant interest in a foreign bank that is located in that country.

3. In their examinations of banks and their affiliates, the CBK and examiners appointed by it may:

3.1. examine the accounts, books, documents and other records of the bank or affiliates; and

3.2. require Directors and Senior Managers, employees and agents of the bank or affiliates to provide all such information on any matter relating to its administration and operations as they shall reasonably request.

4. Each bank and each of its affiliates shall admit and cooperate fully with the examiners of the CBK and the examiners appointed by the CBK. No one shall attempt to harass, hinder, delay, impede, intimidate or exert undue influence on an inspector of the CBK or the examiners appointed by it.

5. Each affiliate of a bank and providers of professional or operations services to banks shall provide information to the CBK as the CBK may reasonably request concerning the bank's operations and relations with such persons.

6. The CBK may require reports and conduct examinations as provided in this article of any additional member of a banking group, if it deems it necessary for consolidated supervision. Consolidated supervision includes without limitation an assessment of the group's organizational structure, management, risk management policies and internal controls.

## **PART IX**

### **ENFORCEMENT AND REMEDIAL MEASURES**

#### **Article 58**

##### **Enforcement and Remedial Measures**

1. Under procedures established by regulation of the CBK, the CBK may take the following actions, or impose the following penalties on the Directors and Senior Managers, employees, principal shareholders, or those holding significant interests in a bank, if it is determined that such person has violated a provision of this Law or of any regulation or order of the CBK, has violated any condition or restriction attached to an authorization issued by the CBK, or has engaged in unsafe or unsound practices in the judgment of the CBK:

- 1.1. issue written warnings;
- 1.2. impose fines of up to ten thousand (10,000) Euros for each day that the infraction continues provided that fines shall be of similar amount for entities with comparable total assets for the same type of infraction;
- 1.3. dismiss or suspend the person from his or her position in the bank;
- 1.4. prohibit such person from serving in or engaging in banking or financial business for a stated period or for life;
- 1.5. require the person to reimburse the bank for losses caused by such violations;
- 1.6. suspend the exercise of voting rights of shares in the bank;
- 1.7. require the person to dispose of all or any part of his or her direct or indirect ownership interest in the bank or cease to hold a significant interest in it; and
- 1.8. prohibit the payment of capital distributions or dividends to such person;
- 1.9. conclude a written agreement with the Board of Directors proposing for a program by remedial action.

2. Under procedures established by regulation of the CBK, the CBK may take the following actions, or impose the following penalties on a bank, if it is determined that such bank has violated a provision of this Law or of any regulation or order of the CBK, has violated any condition or restriction attached to an authorization issued by the CBK or has engaged in unsafe or unsound practices in the judgment of the CBK:

- 2.1. issue written warnings;
- 2.2. issue written orders to cease and desist from such infractions and to undertake remedial action;
- 2.3. conclude a written agreement with the Board of Directors providing for a program of remedial action;
- 2.4. impose fines of up to ten thousand (10,000) Euros for each day that the infraction continues provided that fines shall be of similar amount for entities with comparable total assets for the same type of infraction;
- 2.5. appoint an Official Administrator in accordance with Article 60 and Article 61 of this law; and
- 2.6. revoke the license of the bank.

3. Remedial actions required under paragraph 2. of this Article may include without limitation one or more of the following actions:

- 3.1. require that the average total assets of the bank during any calendar quarter not exceed its average total assets during the preceding calendar quarter or require the bank to divest itself of specific assets or reduce its total assets;
- 3.2. require that the bank not acquire any equity interest in any legal entity, establish or acquire any additional branch office, or engage in any new line of business;
- 3.3. require that the bank not grant any exposure to an affiliate unless such exposure is collateralized by marketable securities issued or guaranteed by a government and denominated in Euro, held in custody by an escrow agent, whose market value exceeds at all times one hundred and twenty five percent (125%) of the amount of the exposure;
- 3.4. otherwise restrict or prohibit transactions with affiliates;
- 3.5. require that the interest rates the bank pays on deposits not exceed the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the bank is located, as determined by the CBK;
- 3.6. require the bank or any of its subsidiaries to alter, reduce or terminate any activity that the CBK determines has caused, or may cause, material losses to the bank;



- 3.7. require the bank to dismiss one or more Directors or Senior Managers, as determined by the CBK;
  - 3.8. require that the bank divest itself of or liquidate any subsidiary;
  - 3.9. restrict payment of bonuses or excessive compensation to any Director or Senior Manager; and
  - 3.10. restrict the payment of capital distributions or dividends.
4. The measures and penalties provided in this section shall not preclude application of other civil penalties or criminal penalties as provided under applicable law.
5. Any fines or revenue imposed in accordance with this section shall be paid to the Kosovo Consolidated Budget.
6. Any person who engages in unauthorized deposit-taking in contravention of Article 5 of this Law, notwithstanding any other provision of law, shall be subject to criminal penalties. In addition, the CBK may impose fines of up to ten thousand (10,000) Euros for each day that the infraction continues and be empowered to seek the liquidation of the business of such person under the provisions of applicable law.

## **Article 59**

### **Suspension and Removal of Persons Related to a Bank**

1. If the CBK determines that any Senior Management, employee or holder of a significant interest in a bank has willfully or repeatedly committed any violation of the present regulation or any rule or order that has resulted in a material loss to the bank or financial gain to such person or has engaged in unsafe or unsound practices and has persisted in such violations or practices following a written warning from the CBK, the CBK may issue an order containing any or all of the following provisions:
- 1.1. requiring the dismissal of the person from his or her position in the bank;
  - 1.2. prohibiting such person from serving in or engaging in the banking or financial business for a stated period or for life;
  - 1.3. prohibiting the person from direct or indirect exercise of voting rights attached to shares of the bank;
  - 1.4. requiring the person to dispose of all or any part of his or her direct or indirect ownership interest in the bank or cease to hold a significant interest in it; and

- 1.5. requiring the person to reimburse the bank for losses caused by such violations.
2. If any such person is charged with any criminal offense, the CBK may issue an order temporarily suspending such person from his or her position in the bank and, if applicable, suspending the exercise of voting rights of shares in the bank by such person pending the determination of the criminal case. A dismissal of the criminal case or decision of not guilty on the merits shall not preclude the CBK from taking any enforcement action with respect to a person that is authorized by this Law.

## **PART X**

### **OFFICIAL ADMINISTRATION**

#### **Article 60**

#### **Grounds for Appointing an Official Administrator**

1. The CBK may appoint an Official Administrator for a bank if:
  - 1.1. the CBK determines that the bank has violated any provision of law or regulation, or has engaged in any unsafe and unsound practices, in such a manner as to weaken the bank's condition, seriously jeopardize depositors' interests, or dissipate the bank's assets;
  - 1.2. the CBK has reasonable cause to believe that the bank or its Senior Managers or Directors have engaged or are engaging in criminal activities punishable by imprisonment of one year or more, in such a manner to jeopardize depositors' interests;
  - 1.3. the CBK determines that the bank is in an unsafe or unsound condition to transact business and the bank or its Senior Managers and Directors are unable to promptly improve such condition;
  - 1.4. the bank fails in any manner to cooperate with the CBK, or its examiners and to enable the CBK to perform its supervisory responsibilities, including through concealment or failure to submit for inspection any of the bank's books, papers or records;
  - 1.5. the bank or its Senior Managers, Directors, employees or principal shareholders fail to comply with an order of the CBK under Article 58 of this law;

1.6. the bank, by resolution of its directors or shareholders, requests the appointment of an Official Administrator;

1.7. the bank's regulatory capital level falls below fifty percent (50%) of the minimum regulatory capital required pursuant to Article 16 of this law; or

1.8. the CBK considers that another bank or any shareholder that holds a significant interest in the bank faces a risk of becoming insolvent or fails to meet regulatory requirements regarding capital or liquidity by the Home Country Supervisor or in the home of its corporate headquarters.

2. The decision by the CBK to appoint an Official Administrator shall specify the grounds upon which it is adopted. Such decision shall be promptly notified to the bank subject to official administration and recorded in the register kept pursuant to Article 4 of this Law.

## **Article 61**

### **Appointment and Removal of the Official Administrator**

1. The Official Administrator shall be appointed by the CBK for a term, not exceeding six (6) months, as specified in the decision by the CBK. The term of appointment may be extended by the CBK only twice, for a period not exceeding, in each case, three (3) months. If the Official Administrator has not resolved the issues for which it was appointed to resolve after a period of twelve (12) months, the liquidation process of the bank will commence.

2. If the circumstances for which the appointment of an official administrator are not resolved after a period of twelve (12) months, the bank's license shall be revoked and the receivership and liquidation process in accordance with Part XI shall commence.

3. The Official Administrator may be a person from the private sector or an official of the CBK who meets the qualifications prescribed by the CBK.

4. The CBK shall provide written notice to the bank of the appointment of the Official Administrator.

5. The decision of the CBK appointing an Official Administrator for a bank shall be effective at the time specified in the decision or, if no time is specified, at the time notice is given under paragraph 3. of this Article.

6. As of the effective time of the appointment, all powers, functions and responsibilities of the bank's shareholders and Directors or Senior Managers shall be vested in the Official Administrator, unless the Official Administrator requests the shareholders or

Directors or Senior Managers to carry out any activity provided under this law. Any actions or decisions taken by or on behalf of the bank subject to official administration shall be null and void, unless they are taken by or under the authority of the Official Administrator.

7. The CBK may remove the Official Administrator before the end of the term specified in paragraph 1. above and appoint a qualified replacement. The CBK must ensure that the bank at all times remains under the control of a duly appointed Official Administrator.

8. The provisions in Article 33 of this law shall apply to an Official Administrator except that any obligation to report to the Board of Directors shall represent an obligation to report to the CBK. Any transaction involving the bank in official administration in which the Official Administrator has a material interest or relationship in the matter may be engaged in only with the prior approval of the CBK. If an Official Administrator fails to disclose a material interest or relationship as required, the contract may be set aside and the CBK shall remove the Official Administrator.

## **Article 62**

### **Powers and Duties of the Official Administrator**

1. The Official Administrator shall have full and exclusive powers to manage and operate the bank. The Official Administrator may take any action as necessary or appropriate to carry on the business of the bank and preserve and safeguard its assets and property or to implement a plan of action with respect to the bank that has been approved by the CBK.

2. The Official Administrator shall act in accordance with the regulations, instructions and guidelines given by the CBK at any time in the course of the official administration, and shall be accountable only to the CBK for the performance of duties and the exercise of powers as Official Administrator. The Official Administrator may delegate any of such powers or duties to other persons, in accordance with the instructions issued by the CBK.

3. The Official Administrator shall suspend the payment of any dividends or other form of capital distribution to shareholders, as well as any payment to directors other than for services provided to the bank upon request of the Official Administrator.

4. The Official Administrator may employ, at the expense of the bank in Official Administration, independent attorneys, accountants and consultants to assist the Official Administrator, on such terms as the CBK shall approve.

5. If the Official Administrator has reasonable cause to believe that shareholders, directors, officers, attorneys, accountants or other professionals have engaged or are engaging in criminal activities punishable by imprisonment of one year or more or in

fraudulent activities, it shall immediately notify the CBK and shall pursue civil actions seeking damages and restitution.

### **Article 63**

#### **Moratorium and Effect of Official Administration on Proceedings and Contracts**

1. The CBK may, on the written request of the Official Administrator, impose a moratorium suspending some or all payments by a bank in Official Administration.

2. Without the consent of the CBK:

2.1. one person may not begin or continue a proceeding in a court against a bank in Official Administration, and

2.2. one person may not exercise rights under a mortgage, charge, or other security over the property of a bank in Official Administration, or issue any execution, attach any debt, or otherwise enforce or seek to enforce any judgment or order obtained in respect of a bank in Official Administration.

3. CBK may by written consent waive the application of paragraphs 2.1 and 2.2 of this Article to any creditor or class of creditors.

4. No right or obligation under any contract to which the bank in Official Administration is a party may be terminated, accelerated, or modified solely because of the appointment of the Official Administrator or any action taken by the Official Administrator.

5. The Official Administrator may request the CBK to issue an Order to all banks ordering all banks to immediately cease granting credit to any of the defaulting debtors of the bank under Official Administration and their related entities, which order will remain in effect until such time as the defaulting debtors enter into an agreement with the Official Administrator to pay the debt service on loans at the bank under Official Administration. In determining whether to issue such an order the CBK may consider the defaulting debtor's financial condition and the likely impact of the order on third parties.

### **Article 64**

#### **Taking Control of the Bank**

1. Immediately upon appointment, the Official Administrator shall secure the properties, offices, assets, books and records of the bank, and may take all necessary or appropriate steps aimed at such purpose, including without limitation:

1.1. changing the locks for external access to the bank's buildings and offices;

1.2. changing the passwords to the bank's computers and granting access only to a limited number of employees;

1.3. issuing to authorized employees new type of entrance passes to the bank's premises and controlling the access of other employees to those premises.

2. In the course of the official administration, the Official Administrator shall have unrestricted access to, and control over, the properties, offices, assets and the books of account and other records of the bank subject to official administration.

3. Immediately upon request of the Official Administrator, law enforcement officials shall, if necessary by use of force, assist the Official Administrator to gain access to any premises of the bank and to gain control over and to secure such properties, offices, assets, books and records. The decision of the CBK appointing the Official Administrator shall have the legal force and effect of an enforceable court order requiring law enforcement authorities to provide such assistance.

4. Directors, officers and employees of the bank shall make available to the Official Administrator all records and documentation pertaining to the bank and any additional information or report requested by the Official Administrator.

## **Article 65**

### **Inventory and Plan of Action**

1. Not later than thirty (30) days after the appointment, the Official Administrator shall prepare and deliver to the CBK an inventory of the bank's assets and liabilities. Such report will itemize the assets according to their different risk profiles and classify the non-performing loans.

2. Not later than sixty (60) days after the appointment, the Official Administrator shall prepare and deliver to the CBK a report on the financial condition and future prospects of the bank subject to official administration.

3. In the report referred under paragraph 2. of this Article, the Official Administrator shall propose a plan of action which, as appropriate, shall recommend returning the bank to compliance with the law by carrying out a plan of corrective actions that may include a capital increase; or, if the bank cannot be rehabilitated, any other course of action designed to minimize disruption to depositors and preserve the stability of the banking sector. The Official Administrator shall promptly provide any additional report or information requested by the CBK.

**Article 66**  
**Capital Increase by Existing Shareholders**

1. On the basis of the report produced under Article 65 of this law and with the approval of the CBK, the official administrator may take the following actions to increase the bank's capital through the issuance of new shares:

1.1. determine the extent of losses and prepare the bank's balance sheet covering the amount of such losses through the bank's profits, reserves and, if necessary, capital; and

1.2. notify existing shareholders of the amount of additional capital needed to bring the bank's capital into compliance with all capital requirements and allow such shareholders to subscribe and purchase additional shares, by submitting binding commitments equal to the full amount of additional capital needed within three business days of such notification.

2. Existing shareholders of a bank in official administration shall have no preemptive or other rights to purchase additional shares issued except as provided in this Article.

**Article 67**  
**Recapitalization by New Shareholders**

1. On the basis of the report produced under Article 65 of this law and with the approval of the CBK, the Official Administrator may take the following actions to increase the bank's capital through the issuance of shares to new shareholders in the following circumstances:

1.1. in the event that binding commitments are not submitted in an amount equal to the full amount of additional capital needed by existing shareholders; or

1.2. without offering shares to existing shareholders, if the Central Bank determines that:

1.2.1. an expedited resolution of a bank to maintain financial stability is necessary, or

1.2.2. the existing shareholders are no longer suitable to maintain a significant capital position in the bank; or

1.2.3. there has been a failure to comply timely with a remedial measure under Article 66 of this law requiring an increase in the bank's capital.

2. To carry out a recapitalization by new shareholders, the Official Administrator shall:

- 2.1. if not already carried out in accordance with Article 66 of this law, determine the extent of losses and prepare the bank's balance sheet covering the amount of such losses through the bank's profits, reserves and, if necessary, capital;
  - 2.2. if necessary to reflect losses, reduce the par value of outstanding shares, notwithstanding any other provision of law;
  - 2.3. determine the amount and type of funding needed to bring the bank into compliance with all capital requirements;
  - 2.4. cause the bank to issue additional shares in the amount necessary and carry out the sale of shares by the bank and purchase of such shares by new investors.
3. Notwithstanding any law that may come into effect to regulate the securities market and other disclosures by issuers of securities, the competent authority under that law shall take the necessary action to permit any such issuance within three (3) business days.

## **Article 68**

### **Mergers, Sales and Other Restructurings**

1. On the basis of the report produced under Article 65 of this law and with the approval of the CBK, the Official Administrator may carry out a merger of the bank or a transfer, in whole or in part, of the bank's assets and liabilities.
2. A transfer of the bank's assets and liabilities may include a transfer to a bridge bank, which is a bank established by the Government or the CBK for a temporary period for the purpose of resolving the failing bank.
3. In accordance with the instructions given by the CBK, the Official Administrator may approve a restructuring of the bank's liabilities through arrangements with the bank's creditors, including a reduction, modification, rescheduling and novation of their claims.
4. If the liabilities of the bank under official administration that are transferred to another bank includes a transfer of insured deposits, and only if the value of payment is less than the amount of transferred insured deposits, the difference up to the amount of insured deposits shall be paid by the Deposit Insurance Fund of Kosovo to other bank in accordance with the law governing the deposit insurance system. After such transfer of liabilities of the bank and the use of deposit insurance funds, the license of the bank under official administration shall be revoked, the bank shall be placed in receivership, and the bank shall be liquidated in accordance with the provisions of Part XI.



**Article 69**  
**Expenses of the Official Administration**

The Official Administrator shall receive a remuneration determined by the CBK. All costs and expenses incurred on account of the official administration shall be borne by and charged to the bank subject to such proceeding.

**Article 70**  
**Termination of Official Administration**

1. The official administration shall terminate at the expiry of the term specified in the decision appointing the Official Administrator or any extension of the term of such appointment as provided in Article 61 of this Law.

2. Official administration shall be terminated prior to the expiry of the term identified above if the CBK determines that:

2.1. official administration is no longer necessary because grounds for appointment of the Official Administrator have been remedied; or

2.2. the bank cannot be rehabilitated and the CBK issues a decision to revoke the bank's license under Article 14 of this law and to commence a liquidation proceeding under the provisions of Article 71 of this Law.

3. In the case of a termination of official administration that does not involve a closure of the bank, the Official Administrator shall carry out the duties of the bank's Directors or Senior Managers until nomination and/or election of Directors or Senior Managers. Upon nomination and/or election of Directors or Senior Managers, the Official Administrator shall return control of the bank and its properties, offices, assets, books and records to the competent bodies.

4. The decision of the CBK to terminate official administration shall be accompanied by a recommendation by the Official Administrator and a detailed report prepared by the Official Administrator supporting the recommendation.

5. Within five (5) days of the termination of the appointment, the Official Administrator shall prepare and submit to the CBK a final report and accounting of the official administration.

## **PART XI**

### **RECEIVERSHIP AND LIQUIDATION**

#### **Article 71**

##### **Bases for Initiation of Receivership**

1. In the event of the revocation of a bank's license pursuant to Article 14, other than revocation under paragraph 1.1 Article 14 of this law, the CBK shall simultaneously take possession and control of that bank through a receiver appointed by the CBK. This proceeding shall be known as Receivership.
2. A receiver may be a person from the private sector or an official of the CBK who meets the qualifications prescribed by the CBK. The CBK may dismiss a receiver. The terms of the receiver's compensation shall be set by the CBK and may include incentives for meeting the objectives set by the CBK and may include penalties for failure to meet such objectives.
3. The compensation of the receiver and experts that he or she engages, reimbursement of their expenses and expenses of the CBK in execution of the present regulation with respect to a bank shall be paid from the assets of the bank. Payments to the receiver shall be made on a current basis if in the judgment of the receiver there are sufficient liquid assets. Any moneys owing to the receiver at the end of the term of receivership shall be paid from the proceeds from the sales of the bank's assets with the priority described in Article 75 of this Law.

#### **Article 72**

##### **Notice and Registration of Receivership**

1. The decision of the CBK appointing a receiver for a bank shall be effective as of the date of its issuance, unless such decision provides otherwise. The receiver shall immediately post in each office of the bank a notice announcing the revocation of the license and appointment by the CBK, specifying the effective date and time of possession by the receiver and specifying that:
  - 1.1. authorizations of persons to engage the financial responsibility of the bank have been cancelled;
  - 1.2. persons who previously had authorization to give instructions on behalf of the bank with respect to payment or transfer of the bank's assets or assets managed by the bank are no longer so authorized; and
  - 1.3. the bank's license has been revoked.

2. The receiver shall publish a notice specifying the actions taken in one or more newspapers of general circulation in the communities in which the bank maintains offices and arrange for the publication of such notice each week for the next four (4) weeks and shall inform as necessary the competent authorities and shall transmit copies of such actions to the CBK within two (2) days of such action.

### **Article 73**

#### **Powers and Duties of Receiver and Effects of Receivership**

1. Upon appointment the receiver shall become the sole legal representative of the bank, and shall succeed to all rights and powers of the shareholders and of the Directors or Senior Managers of the bank. Such rights and powers shall include holding title to the books, records, and assets of the bank; managing, operating and representing the bank; marshalling assets and claims; transferring or disposing of assets; and taking any other action necessary for the efficient liquidation of the bank and to obtain the maximum amount from the sale of assets, including without limitation:

- 1.1. continuing or interrupting any operation of the bank;
- 1.2. borrowing money guaranteed with its assets or without guaranty;
- 1.3. suspending or limiting the payment of debts subject to the approval of the CBK as provided below;
- 1.4. hiring specialists, experts or professional consultants;
- 1.5. administering the bank's accounts;
- 1.6. collecting the debts due to the bank and recovering goods owed by the third parties;
- 1.7. initiating or defending the bank in any legal proceeding and executing any relevant instrument in the name of the bank; and
- 1.8. restructuring the bank's liabilities through arrangements with the bank's creditors, including through a reduction, modification, rescheduling and novation of their claims, up to the amount determined by the CBK.

2. The receiver shall act in accordance with the regulations and guidelines given by the CBK at any time in the course of the liquidation, and shall be accountable only to the CBK for the performance of duties and the exercise of powers as receiver.

3. A receiver may not take any new deposits. A receiver may extend credit only to an existing customer in accordance with the terms of an agreement in force at the time of the appointment of the receiver.

4. A receiver may continue any operations except as prevented under paragraph 3. of this Article and may borrow money on a secured or unsecured basis. The receiver may stop or limit the payment of any obligation, employ or dismiss any officer, employee or advisor, execute any instrument in the name of the bank and initiate or defend and conduct in the bank's name any action or legal proceeding.

5. The receiver shall have unrestricted access to and control over the offices, books of account and other records, and other assets of the bank and its subsidiaries. At the request of the receiver, a law enforcement officer or officers shall assist the receiver to gain access to bank premises or control over bank records.

6. Any person who willfully interferes with a receiver's access to or control over the offices, books of account and other records, and other assets of a bank for which he or she has been appointed shall be imprisoned for a period of not less than one year nor more than five years or fined in an amount of not less than one thousand (1,000) Euros per day nor more than five thousand (5,000) Euros per day for each day that the infraction continues, or both.

7. The CBK shall approve or deny a merger of the bank with another bank, or sale of substantially all the bank's assets to any one bank, based upon the criteria in Article 39 of this law on mergers.

8. The receiver shall have the same rights and privileges and be subject to the same duties, penalties, conditions and limitations as apply to Directors, Senior Managers or other employees of a bank licensed under this Law.

9. The powers of the Directors or Senior Managers and shareholders of the bank shall be terminated during a receivership; provided, however, that Directors or Senior Managers may be instructed by the receiver to exercise specified functions for the bank; and further provided, that such persons shall be subject to dismissal by the receiver from their positions at the bank and shall thereupon cease to receive compensation from the bank.

10. The receiver shall secure the property, offices, books, records, and assets of the bank to seek to prevent their dissipation by theft or other improper action, by taking actions including, but not limited to, the following:

10.1. changing the locks and limiting access to the new keys on external entrances to the bank's offices and on doors to internal offices which contain financial assets or information or equipment which could enable a person to gain unlawful access to financial assets;

10.2. changing or establishing access codes to the bank's computers and granting access only to a limited number of trustworthy employees;

10.3. issuing new photo identification passes for entrance of authorized employees to the bank's premises and controlling the access of others to the bank's premises;

10.4. canceling authorizations of persons to engage the financial responsibility of the bank and issuing new authorizations, as appropriate and notifying third parties;

10.5. informing correspondent banks, registrars and transfer agents of securities, and external asset managers of the bank's assets that persons who previously had authorization to give instructions on behalf of the bank with respect to dealing in the bank's assets or assets held in trust by the bank are no longer so authorized and that only the receiver, and persons authorized by the receiver have such authority; and

10.6. suspending the payment of capital distributions in general and payment of any kind to directors, Senior Managers and principal shareholders; provided, however, that reasonable compensation may be paid to directors and Senior Managers and other staff of the bank for services rendered to the bank at the request of the receiver.

11. The receiver shall establish a new balance sheet for the bank, based on his or her determination of liquidation values of the bank's assets with a corresponding reduction in the value of the bank's liabilities in the reverse order of priority in payment of distributions in a liquidation of a bank's assets. Liabilities shall be deemed due and payable and interest shall cease to accrue as of the date of the appointment of the receiver. Un-matured liabilities shall be discounted to present value at the rate of interest determined by the CBK.

12. Within one (1) month of taking possession of a bank, the receiver shall make an inventory of the assets and property of the bank and transmit a copy thereof to the CBK, which shall make a copy available for examination by the public.

13. Within thirty (30) days from the date of appointment, the receiver can repudiate any unfulfilled or partially fulfilled contract, to the extent that the fulfillment of such contract is determined to be burdensome for the bank and the repudiation would promote the orderly administration of the bank's affairs and protects depositors' interest. Any liability arising from the repudiation shall be determined as of the date of repudiation and shall be limited to actual direct damages incurred and shall not include any damage for lost profits or opportunity or non-monetary damages. In case of repudiation of a lease contract of immovable and movable property, the owner shall be given a thirty (30) days notice.

14. As soon as possible from the date of appointment, the receiver may make available for withdrawal by depositors or payment to other creditors such amounts as in his or her opinion may appropriately be used for that purpose; provided, however, that all depositors or other creditors who are similarly situated shall be treated in the same manner.

15. When a receiver has taken possession of a bank:

15.1. any term, statutory, contractual or otherwise, on the expiration of which a claim or right of the bank would expire or be extinguished, shall be suspended;

15.1.1. the calculation of interests and penalties against bank's obligations shall be suspended and no other charge or liability shall accrue on the obligations of the bank;

15.1.2. all legal proceedings against the bank are stayed and the exercise of any right on the bank's assets shall be suspended. No right can be exerted over assets during the bank's liquidation, except rights given to receiver, and no creditor may attach, sell or take possession of any assets of the bank as a means of enforcing his claim or initiate or continue any legal proceeding to recover the debt or perfect security interests in the bank's assets.

15.2. any attachment or security interest except one existing six months prior to the effective date of the receivership shall be vacated, and no attachment or security interest, except one created by the receiver in the application of this section shall attach to any of the assets or property of the bank so long as such receivership continues;

15.3. shareholders' rights shall be extinguished except for the right to receive proceeds, if any, under Article 75 of this law; and

15.4. the receiver may sell the assets of the bank or arrange for the assumption of liabilities of the bank on terms he or she considers fair.

16. If the receiver has reasonable cause to believe that shareholders, directors, officers, attorneys, accountants or other professionals have engaged or are engaging in criminal or fraudulent activities, he or she and shall pursue civil actions seeking damages and restitution.

17. The procedures for determinations of the validity of claims and for liquidation of bank assets and return of bank customers' property shall be prescribed by the CBK; provided, however, that the sale of bank assets shall be accomplished in a transparent and commercially reasonable manner.

18. Any assets of the bank that have not been sold at the end of the term of the receivership may be abandoned by the receiver or given to a charitable institution that promotes public health or education. Creditors of the bank shall have no claim against any such assets.

19. The receiver shall report each month to the CBK on the progress of the receivership in such form as may be prescribed by the CBK and provide any other information upon request of the CBK.

20. The receiver shall, upon the prior written approval of the CBK and according to its guidelines, pursue the following activities:

20.1. dispose of a bank's assets and liabilities through a purchase and assumption transaction; or

20.2. organize a restructuring of the bank's assets and liabilities or continue viable or necessary operations through a bridge bank.

21. For purposes of paragraph 20. of this Article, a bridge bank is a bank established by the government or the CBK for a temporary period for the purpose of resolving a failed bank.

22. If the liabilities of the bank transferred to another bank immediately after revoking the license of bank in accordance with the provisions of paragraph 20.1 of this Article, that also includes transfer of insured deposits, and only if the value of payment is less than the amount of transferred insured deposits, the difference up to the amount of the insured deposits transferred to another bank shall be paid by the Deposit Insurance Fund of Kosovo in accordance with the law governing the deposit insurance system.

#### **Article 74**

#### **Avoidance of Pre-Receivership Transfers**

1. The receiver may set aside a transaction based on a forged or fraudulent document that the bank has executed to the detriment of creditors within five (5) years prior to the effective date of the receivership.

2. The receiver may bring an action in court to set aside the following transactions affecting the assets of the bank or to recover from third parties the transfers by the bank:

2.1. gratuitous transfers to, or to persons related to, Directors or Senior Managers and principal shareholders of or holders of significant interests in the bank made within five (5) years prior to the effective date of the receivership;

- 2.2. gratuitous transfers to third parties made within three (3) years prior to the effective date of the receivership;
- 2.3. transactions in which the consideration given by the bank considerably exceeded the received consideration, made within three (3) years prior to the effective date of the receivership;
- 2.4. any act done with the intention of all parties involved to withhold assets from bank creditors, or otherwise impair their rights, within five (5) years prior to the effective date of the receivership; and
- 2.5. transfers of property of the bank to, or for the benefit of, a creditor on account of a debt incurred within six (6) months prior to the effective date of the receivership which has the effect of increasing the amount that the creditor would receive in a liquidation of the bank; provided, however, that payment of deposits in an amount not exceeding two thousands (2000) Euros per depositor shall not be subject to this provision.
3. Transactions with persons related to the bank conducted within one (1) year prior to the effective date of the receivership, if detrimental to the interest of depositors and other creditors, may be set aside and recovered from such persons.
4. An action to set aside a transfer may be brought by the receiver within one (1) year following the effective date of the receivership.
5. Notwithstanding the foregoing paragraphs, the receiver may not set aside a payment or transfer by the bank if it was made in the ordinary course of the bank's business, or if it was part of a contemporaneous exchange for reasonably equivalent value, or to the extent that following the transfer the recipient extended a new unsecured credit to the bank which had not been satisfied by the bank as of the effective date of the receivership.
6. The receiver may recover property or the value of property transferred by the bank from a transferee of an initial transferee only if the second transferee did not give fair value for the property and knew that the initial transfer could be set aside under the present regulation.
7. The receiver may order that notice of the filing of a legal action to set aside a transfer be recorded in the public records for real estate ownership and any other rights in property and a person taking title to or acquiring any security interest or other interest in such property after the filing of such a notice takes his or her title or interest subject to the rights of the bank to recover the property.
8. A lessor of bank premises or a utility company or other provider of utility services including, without limitation, a company that supplies electricity, natural gas, water or telephone services, may not alter, refuse or discontinue such services to a bank because of



its receivership or because the debtor has failed to pay for services prior to its receivership; provided, however, that upon request of a lessor of bank premises or a utility company, the bank shall place a security deposit in a commercial bank as a condition to the lessor's or utility company's duty to continue to provide services during the receivership, and any such deposit shall not be required in an amount greater than the cost of services provided to the bank during the month immediately prior to the effective date of the receivership.

9. Notwithstanding the foregoing:

9.1. irrevocable money and securities transfer orders entered by a bank into a payment or securities settlement system recognized as such by the CBK shall be legally enforceable and binding on third parties, even upon a decision revoking the bank's license and appointing a receiver, but only if the transfer orders become irrevocable before such decision takes effect; or

9.2. where a bank has given irrevocable money or securities transfer orders through a payment or securities settlement system after the decision revoking the bank's license and appointing a receiver takes effect on the day such decision was taken, the transfer orders shall be legally enforceable and binding on third parties, unless the receiver proves that the system operator was aware of the decision before the transfer orders became irrevocable.

10. No law, regulation nor practice on the setting aside of contracts and transactions issued or adopted before the decision revoking the bank's license and appointing a receiver takes effect shall lead to the unwinding of a netting by a payment or securities settlement system recognized as such by the CBK because of that decision.

11. For the purposes of paragraph 9. and 10. of this Article:

11.1. a transfer order entered into a payment or securities settlement system becomes irrevocable at the time defined by the regulations of that system; and

11.2. "Netting" means the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant or participants in a settlement system either issue to, or receive from, one or more other participants in that system with the result that only a net claim or a net obligation remains.

12. Nothing in this law and no decision made under this law shall prevent or prohibit the set off by operation of law of obligations between a bank being subject to the liquidation proceeding under this Chapter and its counterparties.

13. In determining the rights and obligations between the bank and its contractual counterparties, effect shall be given to the termination provisions of eligible financial

contracts between them. The net termination value determined in accordance with an eligible financial contract between them shall be a claim of the bank on the counterparty or shall be admitted after its validation as a claim of the counterparty on the bank. For the purposes of this paragraph:

13.1. “eligible financial contract” means any of the following agreements:

13.1.1. currency or interest rate swap agreement;

13.1.2. a basis swap agreement;

13.1.3. a swap spot, future, forward or other currency exchange agreement;

13.1.4. an agreement providing the collar or floor transaction;

13.1.5. a commodity swap agreement;

13.1.6. an interest rate valid agreement;

13.1.7. a repurchase or reverse repurchase agreement;

13.1.8. a spot, future, forward or other commodity agreement;

13.1.9. an agreement to buy, sell, borrow or lend securities, to clear or settle securities transactions or to act as a depository for securities;

13.1.10. any derivative or option agreement;

13.1.11. any main agreement- master agreement;

13.1.12. a guarantee of the liabilities under a written agreement; and

13.1.13. any agreement of a kind prescribed by regulation of the CBK.

13.2. “net termination value” means the net amount obtained after setting off the mutual obligations between the parties to an eligible financial contract in accordance with its provisions.

14. Except as provided under this paragraph and subject also to paragraph 15 in this Article, no set off shall be allowed with respect to claims acquired towards the bank after the decision on the revocation of the license and the appointment of a receiver takes effect or within three (3) months before such decision.

15. Claims towards the bank arising from deposits shall be set-off against any sum due by a bank to a depositor as of the date on which the license is revoked and the receiver is

appointed, (i) automatically, if such sum is matured or past due, (ii) if the depositor elects so, if the sum is not matured or past due.

## **Article 75**

### **Priorities in Payment of Claims**

1. In any liquidation of a bank's assets, allowed secured claims shall be paid to the extent of the realization of the security or the security shall be delivered to the secured creditor. Other allowed claims shall be paid in relation to all other debts, in the order described below:

1.1. credits extended to the bank by the CBK until the appointment of the receiver;

1.2. credits extended to the bank prior to the appointment of the receiver and under collateral whose object are the bank's assets and to the extent of such collateral;

1.3. necessary and reasonable expenses incurred by the receiver and the CBK, including professional fees, in application of the provisions of the receivership sections hereof;

1.4. claims from Deposits Insurance Fund of Kosovo to the insured depositors;

1.5. credits extended to the bank after the appointment of the receiver;

1.6. uninsured deposits; and

1.7. unsecured Credits extended to the bank prior to the appointment of the receiver;

1.8. subordinated debt.

2. If the amount available for payment for any class of claims is insufficient to provide payment in full, such claims shall be reduced in equal proportions.

3. After payment of all claims filed, any remaining allowable claims that were not filed within the time specified by rule for the filing shall not be paid. Any proceeds remaining after all claims of depositors and other creditors have been paid shall be distributed among the shareholders of the bank in accordance with their rights.

**Article 76**  
**Final Reporting to the CBK**

Once the proceeds for the sale of assets of a bank have been distributed, the receiver shall provide a report to the CBK that includes a statement of income and expense and sources and uses of funds during the period of receivership. Upon approval by the CBK of the report, the CBK receivership shall be terminated and the CBK and the receiver shall be relieved of any further responsibility in connection with the receivership of a bank.

**Article 77**  
**Miscellaneous Receivership Provisions**

1. Professional employees appointed to represent or assist a receiver or the CBK in connection with a receivership shall not be paid amounts greater than are payable to employees or agents of banks for similar services, except that the CBK may authorize payment at higher rates, if the CBK determines that paying such higher rates is necessary in order to recruit and retain necessary personnel.
2. The CBK shall have authority to indemnify a receiver and his or her agents for their actions on such terms as the CBK deems proper.

**Article 78**  
**Voluntary Liquidation**

In the event that a bank, by resolution of its shareholders, requests that its license be revoked under the provisions of this law and the CBK, further to a plan presented to it, determines that the bank has enough assets to satisfy its liabilities, the liquidation shall be carried out immediately and all depositors paid within five days by the bank, in compliance with the procedures to be issued by the CBK and under the supervision of the latter. Notwithstanding the above, if the CBK determines, including in the course of such liquidation, that the bank does not ensure an orderly liquidation or it fails to comply with this law or with any instructions issued by the CBK, provisions of part XI of this chapter shall apply for the appointment of receivers.

## **PART XII**

### **MISCELLANEOUS PROVISIONS**

#### **Article 79**

##### **Cooperation with Other Supervisors**

1. The CBK may exchange information on supervisory matters with financial supervisory authorities in Kosovo and in other countries. The exchange of such information may include confidential information, provided that the CBK has satisfied itself that the information will be used for supervisory purposes and will be subject to confidential treatment that is similar to that which the CBK would be required to apply.
2. To facilitate fulfillment of supervisory responsibilities, the CBK may enter into a memorandum of understanding with another financial supervisory authority regarding mutual assistance and cooperation, which may cover any matters agreed to between the CBK and the other financial supervisory authority regarding information-sharing and other forms of cooperation and assistance.

#### **Article 80**

##### **Secrecy**

1. Present and past Directors and Senior Managers, employees, and agents of a bank shall keep secret, and not use for personal gain or gain by other than the bank that they serve or have served, or permit to be examined by others, any non-public information that they obtained in the course of their services to the bank. Such information may be disclosed only to the CBK, including its inspectors and the examiners appointed by it, to external auditors of the bank, to judicial authorities acting upon the order of the court in criminal cases, as the law shall provide, to foreign bank supervisory authorities, and when the protection of the bank's own interest in legal proceedings requires disclosure.
2. Any non-public information collected by the CBK from a bank and any non-public information provided to the CBK by any other regulatory or supervisory authority to carry out CBK responsibilities under this Law shall be subject to the requirements of the Central Bank Act and may only be disclosed outside the Central Bank as provided in that Law.

#### **Article 81**

##### **Authority to Require Information from Third Parties**

1. Where there is reasonable cause to suspect a violation of this Law or any regulations has occurred or is occurring, the CBK may require any person to produce the information required for the clarification of the situation, and may also carry out verifications on the spot on which such violation appears to have occurred or is apparently occurring, or

where it suspects that elements may be found which will shed light on the suspected violation.

2. In the course of an inquiry under paragraph 1. of this Article where the suspected violation is conduct of unlicensed banking activity or deposit-taking, the CBK may seize any documents or valuables which may constitute the object, instrument or proceeds of an infraction or which prove to be necessary for the inquiry.

3. The police shall provide whatever assistance the CBK requests in carrying out an inquiry under this Article.

## **Article 82**

### **Civil Penalties**

1. Major violations by banks: A fine from fifty thousands (50,000) to one million (1,000,000) Euros shall be imposed on a bank for the following violations:

1.1. failure to maintain the regulatory capital and capital requirements in accordance with Article 15 and Article 16 of this law;

1.2. distribution of profits or dividends contrary to the prohibition from Article 18 of this law;

1.3. failure to maintain the liquidity requirements in accordance with Article 19 of this law;

1.4. failure to organize an internal auditing in accordance with Article 32 of this law;

1.5. failure of the internal audit department to draw up internal audit reports or its failure to draw up such reports pursuant to Article 32 of this law;

1.6. acquisition of shares or holdings from another legal person in contravention of Article 37 of this law;

1.7. performance of activities other than banking services, additional financial services or any banking services without prior authorization of CBK in accordance with Article 44 of this law;

1.8. failure to maintain maximum limits on large exposures in accordance with Article 46 of this law;

1.9. enter into transaction with Related Individuals in contravention of Article 47 of this law;

- 1.10. failure to maintain and develop internal policies and procedures in accordance with Article 49 of this law;
  - 1.11. failure to prepare and maintain the written records in accordance with Article 51 of this law;
  - 1.12. keeping of accounts and records and prepare the financial statements in contravention of Article 53 of this law;
  - 1.13. failure to publish the financial statements and audited annual report within four (4) months after the end of its financial year in accordance with Article 56 of this law;
  - 1.14. failure to report to the CBK pursuant to Article 57 of this law;
  - 1.15. failure to cooperate fully with examiners of the CBK in accordance with Article 57.4 of this law.
2. Violations by Senior Management or Member of Board of Directors: A fine of one thousand (1,000) Euros to fifty thousand (50,000) Euros shall be imposed for the following violations:
- 2.1. failure to ensure that the bank operates in accordance with rules and regulations of CBK;
  - 2.2. failure to comply with his duties from Article 28 and 30 of this law;
  - 2.3. failure to comply with Article 28 of this law;
3. Violations by auditing firms and certified auditors: A fine from one thousands (1,000) to fifty thousand (50,000) Euros shall be imposed on the auditing firm for the following violations:
- 3.1. failure to perform an audit or prepare an auditor's report within time frame according to Article 54 of this law;
  - 3.2. failure to notify the Board of Directors forthwith of the facts or circumstances from paragraph 1, sub-paragraph 1.3 Article 54 of this law.

### **Article 83**

#### **Prevention of Money Laundering**

- 1. No bank or financial institution shall conceal, convert, or transfer cash or other property, if it knew or ought to have known that such cash or other property is derived

from criminal activity, or aid or abet any person in concealing or disguising the illicit origin of any cash or property.

2. Banks and financial institutions shall comply with the Law on The Prevention of Money Laundering and Financing of Terrorism. Central Bank of Kosovo and Finance Intelligence Unit shall keep cooperate relations in accordance with Laws into force.

#### **Article 84**

#### **Criminal Penalties**

1. A person who conducts the business of banking without obtaining a banking license within this Law is guilty of an offence and upon conviction may be subject to imprisonment for up to three (3) years, a fine of up to ten thousand (10,000) Euros, or both.

2. A person who knowingly or recklessly provide false information in connection with an application for a license or permit, an application for approval of acquisition of an interest in a bank, or a report required by the CBK under this Act is guilty of an offense and upon conviction may be subject imprisonment for up to three (3) years, a fine of up to ten thousand (10,000) Euros, or both.

#### **Article 85**

#### **Regulations and Orders of the CBK**

1. The CBK shall be empowered to issue such regulations, orders or guidelines and to take such other action as it shall deem necessary or advisable to give effect to the intent of this Law.

2. The CBK shall publish its regulations and orders, which shall take effect on the date of such publication or on such later date as such order, or regulation shall specify.

#### **Article 86**

#### **Fees**

1. The CBK may charge fees for the processing of a license or permit application, the issuance of a license or permit and for the possession of a license or permit. All such fees shall be non-refundable.

2. The CBK shall charge fees to banks for its supervisory and regulatory services in order to defray its direct and indirect costs incurred in providing such services. Fees shall be assessed against banks in relation to the amount of their assets or based on any extraordinary expenses incurred by the CBK or its agents in relation to its supervisory



activities with respect to a particular bank. Banks shall pay fees within ten days of presentation of a statement by the CBK.

#### **Article 87**

#### **Judicial Review**

1. Final orders and decisions of the CBK or its agents, including any CBK-appointed Official Administrator or receiver, under this Law shall be subject to judicial review in a court of law or an arbitration proceeding in accordance with the Law on Central Bank.

2. The requirements of the Central Bank Law for indemnification of members of the Central bank's decision-making bodies or its staff, or an agent of the central bank shall extend to indemnification of costs incurred in the defense of a legal action brought against such persons in connection with the discharge or purported discharge of official tasks within the scope of his employment or engagement under this Law.

#### **Article 88**

#### **Interpretation**

1. The headings of the sections in this Law are to be used solely for convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction of any term or provision hereof.

2. Terms used in the conjunctive or disjunctive in this Law may be read vice versa whenever the change is necessary to effectuate the obvious intention of the provision in question.

3. Words in the singular in this Law may be construed as plural and vice versa whenever the change is necessary to effectuate the obvious intention of the provision in question.

### **PART XIII**

### **TRANSITIONAL AND FINAL PROVISIONS FOR BANKS**

#### **Article 89**

#### **Transitional Provisions**

Any existing bank that is already licensed by CBK is permitted to continue their operations under their current license. However all banks must meet the requirements of this Law, together with any applicable CBK Regulations and Orders within 6 months of the entry into force of this Law.

## **CHAPTER II**

### **MICROFINANCE INSTITUTIONS AND NON-BANK FINANCIAL INSTITUTIONS**

#### **PART XIV**

#### **GENERAL PROVISIONS**

This chapter applies to the operations of Microfinance Institutions and NBFIs in Kosovo as defined under the present law and provides a legal framework for their registration, supervision and regulation.

#### **Article 90**

#### **Definitions**

For the purpose of this chapter, the following terms shall have the following meanings:

**Capital or Equity** - the net worth or funds of a Microfinance Institution that is the difference between its assets and liabilities in accordance with balance sheet accounts that reflect international accounting standards and shall include, if the microfinance institution is a branch of a Microfinance Institution Licensed in another country, its Capital Equivalency Deposit.

**Donated Capital** - capital funds provided by a Donor as a gift or grant.

**Loan** - any disbursement or commitment to disburse a sum of money in exchange for a right to repayment of the amount disbursed and outstanding and with, or without, the payment of interest or other charges on such amount, and including any extension of the due date of the corresponding debt;

**Loan Limits** - a loan from a Microfinance Institution with a maximum principal amount of twenty five thousand (25,000) Euros to a single legal entity and related individuals and related entities collectively; and for a person it means that the total amount of annual debt service, including principal and interest, for all loans may not exceed twenty five percent (25%) of the individual's total annual income.

**Low-income household** - a household with annual gross income which is equal to, or less than, one and one-half times the amount of individual annual gross income which is not subject to tax according to the Tax Administration of the Ministry of Finance;

**Low-income individual** - a person with annual gross income which is equal to, or less than, the amount of individual annual gross income which is not subject to tax according to the Tax Administration of the Ministry of Finance;

**NGO Microfinance Institution** - a Microfinance Institution that is registered at the Ministry of Public Administration for the purpose of its tax exempt status as well as at the CBK as a non-governmental organization which has a charitable purpose as its mission. An NGO Microfinance Institution is not permitted to sell or transfer its business, merge, or change its structure, nor is it permitted to distribute or in any way pay out profits, surplus capital, dividends, or any of its assets, except in compliance with this Law.

**IFRS** - International Financial Reporting Standards which are the principle based international accounting standards, interpretations, and framework adopted by the International Accounting Standards Board.

**Surplus Capital** - the accumulated funds derived from the activities and operations of a Microfinance Institution.

All definitions contained in Chapter One of this Law also apply to this chapter.

## **Article 91 Prohibitions**

1. No person shall engage in the business of a Microfinance Institution or a NBFi without being first registered with the CBK under the provisions of this Law, and without being at all times in full compliance with this Law and with all applicable Regulations and Orders issued by the CBK.
2. No Microfinance Institution or NBFi incorporated outside Kosovo shall be permitted to engage directly or indirectly in any financial activity in Kosovo unless the activity is undertaken through a branch office or subsidiary duly registered with the CBK, and meeting all requirements of this Law and the CBK.
3. No Microfinance Institution or NBFi shall use the word “bank”, or any derivative of the word “bank”, in its title, and any other word that is misleading concerning its financial activities, its financial condition, legal status or connection with government or international institutions.
4. No existing Microfinance Institution will be permitted to continue its operations without applying for a new registration under the present regulation within a period of three (3) months from the entry into force of this Law.
5. NBFIs that are already licensed by the CBK are permitted to continue their operations under their existing licenses.
6. No Microfinance Institution shall engage in collecting deposits without prior, express written approval of CBK. In no event may a MFI engage in collecting deposits in excess of fifty percent (50%) of its Surplus Capital or a maximum of one hundred and twenty five thousand (125,000) Euros whichever is less.

7. NBFIs may not engage in taking of any deposits.

## **PART XV**

### **REGISTRATION OF MICROFINANCE INSTITUTIONS AND NON-BANK FINANCIAL INSTITUTIONS**

#### **Article 92**

#### **Registration and Supervision of Microfinance Institutions and NBFIs**

1. All legal entities seeking to operate as an NGO Microfinance Institution must register at Ministry of Public Administration and all legal entities seeking to operate as Joint Stock Company Microfinance Institutions must first register with the Ministry of Trade and Industry. Evidence of this registration must be presented to the CBK and thereafter all Microfinance Institutions shall also be registered at CBK. The provisions contained in PART II, Articles 7-14 of this Law shall apply to the registration of Microfinance Institutions.
2. Upon receiving an application for registration, the CBK shall review the information submitted and once it deems the information complete it shall notify the applicant accordingly in writing. The CBK shall issue a Regulation providing the format and specifying the information required to be submitted in the application for registration.
3. All NBFIs must be regulated by CBK. The CBK shall issue a regulation providing for the format and specifying the information required for each type of NBFI.
4. No later than ninety (90) days after the applicant has been notified by the CBK that the application for registration is complete, the CBK shall issue a decision approving or denying the registration. By mutual agreement between the CBK and the applicant, the decision period can be extended for up to ninety (90) days. A notification of the denial of the registration shall state the grounds on which the registration was denied.
5. The registration of a Microfinance Institution or a NBFI shall be approved for an indefinite period of time and is not transferable. Once registered, a Microfinance Institution or a NBFI shall commence operations within six (6) months from the date of the notification of the registration. If it does not commence operations with such time, the registration becomes invalid. The Microfinance Institution or NBFI may reapply for registration.
6. All Registered Microfinance Institutions and NBFIs are required to be listed in the register of financial institutions maintained by the CBK.

7. All Microfinance Institutions and NBFIs shall be supervised and regulated solely by the CBK under the provisions of this Law.

## **PART XVI**

### **PERMITTED ACTIVITIES**

#### **Article 93**

#### **Permitted Activities of Registered Microfinance Institutions**

1. The main purpose of Registered Microfinance Institutions is to provide Loans primarily to Low-income households and individuals, and micro and small legal entities.

2. The maximum aggregate amount of the Loans outstanding for the benefit of any single person or for a single entity or for the benefit of a single legal entity or a group of related individuals shall not exceed the Loan Limits. The maximum aggregate amount of the Loans outstanding for the benefit of any single legal entity or for the benefit of a group of related business interests, defined as legal entities that either are affiliated or for which the same individuals exercise control shall not exceed the Loan Limits.

3. Registered Microfinance Institutions may also engage in the following activities:

3.1. providing payments services in connection with Loans extended to clients;

3.2. acquiring funds by grant or by borrowings for the purpose of lending or for their own use;

3.3. borrowing from and placing funds in markets and specified institutions that have been approved by the CBK for the purpose of managing their liquidity;

3.4. acquiring, owning, leasing, renting, maintaining, transferring, selling or disposing of any movable or immovable property that is used for carrying out their business; and

3.5. providing financial, technical and professional assistance and training to their clients or assisting them in obtaining services in such fields.

3.6. microfinance Institutions may also engage in such other financial activities as the CBK may determine by Regulation or Order.

3.7. the CBK may also prohibit or restrict any Registered Microfinance Institution from engaging in any of the permitted activities set out in this Article of this Law. In such a case, the CBK will provide reason(s) in writing for its decision.

**Article 94**  
**Permitted Activities of Registered NBFIs**

1. The main purpose of NBFIs is to extend credit, enter into loans and lease agreements; underwrite, or trade securities; act as an investment company, or investment advisor; or provide other financial services such as foreign exchange/money changing; credit cards; factoring or guarantees; or provide other financial advisory, training or transactional services.
2. As part of their purpose NBFIs may also engage in the following activities:
  - 2.1. providing payment services in connection with credit extended to clients;
  - 2.2. acquiring funds by grant, investment or by borrowings for the purpose of lending or for their own use;
  - 2.3. borrowing from and investing funds in markets and institutions approved by the CBK for the purpose of managing their liquidity;
  - 2.4. providing credit to finance the purchase of equipment;
  - 2.5. acquiring, owning, leasing, renting, maintaining, transferring, selling or disposing of any movable or immovable property that is used for carrying out their business;
  - 2.6. transfers and remittances of money, or payment services, on payments originating within or outside the country; and
  - 2.7. providing financial, technical and professional assistance and training to their clients or assisting them in obtaining services in such fields.
3. The maximum amount of a loan that an NBFI may disburse to any single person or legal entity cannot exceed twenty percent (20%) of the then outstanding loan portfolio.
4. NBFIs may also engage in such other financial activities as the CBK may determine by Regulation or Order.
5. The CBK may also prohibit or restrict any NBFIs from engaging in any of the permitted activities set out in this Article of this Law. In such a case, the CBK will provide reason(s) in writing for its decision.

**PART XVII**  
**ORGANIZATION, MANAGEMENT AND ADMINISTRATION**  
**OF MICROFINANCE INSTITUTIONS AND NON-BANK FINANCIAL**  
**INSTITUTIONS**

**Article 95**  
**Transactions of Microfinance Institutions and NBFIs that Require Prior**  
**Authorization from the CBK**

1. The following transactions of a Microfinance Institution or a NBFI require prior written approval from the CBK:

- 1.1. the change of name;
- 1.2. the opening of new locations or any change of location;
- 1.3. the sale or transfer of its business to a different entity;
- 1.4. any merger or acquisition of the Microfinance Institution or NBFI;
- 1.5. if the Microfinance Institution or NBFI is a legal entity, all transactions and operations involving its Paid-in Capital modifying the list of the shareholders owning ten percent (10%) and more of the share Capital and/or of the voting rights of the company;
- 1.6. a NGO Microfinance Institution is not permitted to sell or transfer its business, merge, divest, or otherwise change its structure, mission, or ownership, except in compliance with provisions of voluntary liquidation, receivership, or Official Administration as provided in this Law and with the written approval of the CBK; and
- 1.7. a NGO Microfinance Institution is not permitted to distribute or in any manner pay out income, profit, surplus or other assets, liabilities or capital except in compliance with this Law and with the written approval of the CBK.
- 1.8. Microfinance Institutions as a shareholder, may not distribute dividend without prior approval by CBK.

**Article 96**  
**Governance of Microfinance Institutions and NBFIs**

The activities of a Microfinance Institution and NBFIs are governed and managed by and under the direction of its executive bodies in conformity with this Law and the institution's legal status. The Microfinance Institution or NBFIs must perform in accordance with accepted principles of good governance ensuring that the business of the institution is conducted in a safe and sound manner. The Microfinance Institution or NBFIs must comply with all applicable Regulations and Orders issued by the CBK.

**Article 97**  
**Board of Directors of Microfinance Institutions and NBFIs**

1. Microfinance Institutions and NBFIs unless otherwise required by CBK shall be administered by the Board of Directors appointed by the Founder, shareholders or owners, consisting of an uneven number of not less than three (3) members, majority of which must be independent and non-executive. All members of the Board of Directors shall be "fit and proper" and of good repute, meeting the criteria established by the CBK regarding qualifications, experience and integrity of the members of the Board of Directors. Prior to assuming their office, members of the Board of Directors of a Microfinance Institution must have written approval by the CBK.
2. The Board of Directors and its members may not delegate their responsibilities to others.
3. The Board of Directors must appoint the Executive Director and Chief Executive Officer or General Manager at duly called annual meetings. The Board of Directors must meet at least twice a year.
4. Any changes in the executive body or General Manager, or any Senior Managers and in members of the Board of Directors must be submitted to the CBK for approval.

**Article 98**  
**Committees**

1. In its management, organization, administration and control functions, the Board of Directors of a Microfinance Institution is assisted by the establishment of at least two Committees:
  - 1.1. an Audit Committee which includes and is chaired by a non-executive member of the Board of Directors, at least one member of the Audit Committee may be an outside expert in the field of accounting or audit;
  - 1.2. a Risk Management Committee; and



- 1.3. any other committees deemed necessary or appropriate.
2. Ordinary meetings of the Committees are convened according to a calendar fixed by the Board of Directors. Extraordinary meetings of the Committees may be convened by two (2) members of the Board of Directors or by two members of the Committee. A member of the Board of Directors may serve on more than one Committee.
3. NBFIs must have at least one committee that performs these functions.

### **Article 99** **Chief Executive Officer**

Day-to-day activities of a Microfinance Institution or a NBFI are under the responsibility of the Chief Executive Officer or General Manager appointed by the Board of Directors and reporting to it. That person shall not simultaneously serve as the Chairperson of the Board of Directors, unless approved by the CBK. This person must be submitted in advance to the CBK for its review and approval prior to the person being appointed. Changes to the person in this position must be approved in advance by the CBK.

### **Article 100** **Secrecy**

Present and previous directors and managers, employees, and agents of a Microfinance Institution or NBFI shall keep secret, and not use for personal gain or gain for the others by any other than the Microfinance Institution or NBFI that they serve or have served, shall not permit to be examined by others, and do not disclose any non-public information that they obtained in the course of their services for the Microfinance Institution or NBFI. Such information may be disclosed only to the CBK, including its inspectors and examiners appointed by it, external auditors of the Microfinance Institution or NBFI, judicial authorities acting upon the order of the Court in criminal cases, as provided by the applicable law and then when such disclosure is required for protection of interests of Microfinance Institution or NBFI in a court proceeding.

**PART XVIII**  
**PRUDENTIAL REQUIREMENTS FOR MICROFINANCE INSTITUTIONS AND**  
**NONBANK FINANCIAL INSTITUTIONS**

**Article 101**  
**Minimum Capital**

1. The minimum amount of Paid-in Capital to establish and maintain a Microfinance Institution is two hundred thousand (200,000.00) Euros, or such other amount as may be determined in a regulation issued by CBK. The minimum amount of Paid- in Capital for NBFIs is dependent upon the particular activities of the NBFI and will be established by the CBK in a separate regulation.
2. All credit extended by a Microfinance Institution or NBFI to members of its Board of Directors; its Executive Director or Chief Executive Officer or General Manager; those holding a Significant interest; and those who are Related Individuals or business organizations with respect to the aforementioned will be reported to the CBK and deducted from paid-in Capital for the purpose of establishing compliance with CBK Regulations or Orders.

**PART XIX**  
**ACCOUNTING, AUDIT AND FINANCIAL REPORTING**

**Article 102**  
**Accounts and Financial Statements and Reports**

1. All Microfinance Institutions and NBFIs shall maintain accounts and records, and prepare annual financial statements, adequate to reflect their operations and financial condition in accordance with IFRS accounting standards. Accounts and records shall also reflect the operations and financial condition of their branch offices, subsidiaries and affiliates, both on an individual and on a consolidated basis. Regulatory reports to CBK shall be prepared on a consolidated basis, consolidating the financial activities of all offices.
2. Accounts and financial statements shall be in such form and detail and in accordance with IFRS accounting standards and such other accounting standards as shall be prescribed by the CBK.
3. All Microfinance Institutions and NBFIs will be required to prepare and submit all reports and statements as required by the CBK, including monthly, quarterly and annual reports of loans and financial statements, according to the format of the CBK.

**Article 103**  
**Audit**

1. All Microfinance Institutions and NBFIs will have an annual audit according to IFRS accounting standards and performed by an auditing company authorized for such purposes by the CBK. The auditor must be approved in advance by the CBK.
2. The CBK may because of special circumstances, require by Order or Regulation specific Microfinance Institutions or NBFIs to have an internal auditor. The auditor must be approved in advance by CBK. The duties of the internal auditors may be specified by CBK Regulations or Order.

**PART XX**  
**SUPERVISION AND CONTROL OF ALL MICROFINANCE**  
**INSTITUTIONS**

**Article 104**  
**Supervision and Examination**

All Microfinance Institutions and NBFIs are subject to examinations by the examiners of the CBK or by agents appointed by the CBK. Such examiners may include officials of the authority of another country that is charged with the prudential supervision of financial activities in that country where the institution is a branch or a subsidiary of a Microfinance Institution or NBFI supervised by the other country's regulator.

**PART XXI**  
**INFRACTIONS, SANCTIONS AND REMEDIAL MEASURES**

**Article 105**  
**Infractions, Penalties and Remedial Measures**

1. The CBK may take one or more of the following actions or impose the following penalties with respect to a Microfinance Institution or NBFI if the CBK, in its findings, determines that the Microfinance Institution or NBFI or any of its Senior Managers or Directors or holders of a Significant interest have violated a provision of any Regulation or Order of the CBK, or has engaged in unsafe or unsound practices:
  - 1.1. issue written warnings;
  - 1.2. require the Microfinance Institution or NBFI to submit a remedial plan;

- 1.3. conclude a written agreement with the Board of Directors providing for a program of remedial action;
- 1.4. impose limits and/or place restrictions on the activities and operations of the Microfinance Institution or the NBFI;
- 1.5. issue written Orders to cease and desist from such infractions and to undertake remedial action;
- 1.6. impose fines on the Microfinance Institution, the NBFI or on its Senior Managers, Directors, Principal shareholders or those holding Significant interest in it, in amounts of from one hundred (100) to one thousand (1,000) Euros for each day that the infraction continues;
- 1.7. appoint an advisor to the Microfinance Institution or the NBFI;
- 1.8. suspend temporarily or dismiss Senior Managers or a member or members thereof, the Board of Directors or a member or members thereof;
- 1.9. appoint an Official Administrator in place of current Senior Management and the Board of Directors; and
- 1.10. revoke the registration of the Microfinance Institution or NBFI and appoint a Receiver pursuant to the provisions of this Law.

#### **Article 106**

#### **Suspension and Removal of Persons Related to a Microfinance Institution or Non-Bank Financial Institutions**

1. If the CBK determines that any Director or Senior Manager, Receiver, employee or holder of a Significant interest in a Microfinance Institution or NBFI has willfully or repeatedly committed any violation of the present regulation or any Rule or Order that has resulted in a material loss to the Microfinance Institution or NBFI or a financial gain to such a person or has engaged in unsafe or unsound practices and has persisted in such violations or practices following a written warning from the CBK, the CBK may issue an Order containing any or all of the following provisions:

- 1.1. requiring the dismissal of the person from his or her position in the Microfinance Institutions or NBFI;
- 1.2. prohibiting such person from serving in or engaging in any financial institution business for a stated period or for life;
- 1.3. prohibiting the person from direct or indirect exercise of voting rights of the Microfinance Institution or NBFI; and

1.4. requiring the person to dispose of all or any part of his or her direct or indirect ownership interest in the Microfinance Institution or NBFI or cease to hold a Significant interest in it and may also require that person to reimburse the Microfinance Institution or NBFI for financial losses, including a reasonable rate of interest, caused by such violations.

## **PART XXII**

### **VOLUNTARY LIQUIDATION, MANDATORY RECEIVERSHIP AND OFFICIAL ADMINISTRATION**

#### **Article 107**

##### **Voluntary Liquidation**

If the founders, shareholders, directors or owners of a Microfinance Institution or NBFI wish to voluntarily liquidate the Microfinance Institution or NBFI they shall submit a request for approval of the voluntary liquidation to the CBK accompanied by such information as the CBK may prescribe. The CBK shall make due inquiry into the affairs of the Microfinance Institution or NBFI and, if it assures itself that the borrowers' interests or other borrowers' interests will be sufficiently protected, may approve the voluntary liquidation.

#### **Article 108**

##### **Mandatory receivership**

If the CBK determines that a Microfinance Institution or NBFI is insolvent or that it may reasonably be expected to become insolvent, the CBK may revoke the registration of that Microfinance Institution or NBFI and shall forthwith take possession and control of that Microfinance Institution or NBFI through a Receiver appointed by the CBK. This proceeding shall be known as Receivership and the provisions of this Law particularly Part XI shall apply.

#### **Article 109**

##### **Official Administration**

1. The CBK may appoint an Official Administrator for a Microfinance Institution or NBFI in the event any of the grounds contained in Article 60 of this Law are found to exist. Upon appointment of an Official Administrator, all provisions of Part X of this Law, shall apply to the Official Administrator of a Microfinance Institution or NBFI.
2. Notwithstanding the foregoing, the CBK may determine that the Microfinance Institution is or has become solvent. In that event the term limits for the appointment of the Official Administrator contained in Article 61 of this law may be extended by written

order of CBK so as to provide adequate time for the orderly sale or other disposition of the Microfinance Institution.

**Article 110**  
**Treatment of Donated Capital and Surplus Capital**

1. In the event of voluntary liquidation, mandatory receivership, or official administration of an NGO Microfinance Institution, any remaining Donated Capital or Surplus Capital must be returned to the original donor(s) or distributed for charitable purposes in Kosovo as may be directed by the original donor (s). If the initial capital of donator is not returned, Donated Capital and the Surplus Capital will be distributed for charitable purposes according to applicable Laws and the plan approved by CBK.
2. Neither the CBK itself nor the members of decision- making bodies, or persons related to CBK are permitted to benefit either directly or indirectly from any plan for the charitable disposition of the Donated Capital and Surplus Capital.

**PART XXIII**  
**CREATION OF JOINT STOCK COMPANY**

**Article 111**  
**Procedures**

1. Any NGO Microfinance Institution in order to be registered in the Ministry of Trade and Industry and in CBK as a Microfinance Institution joint stock company should implement provisions of Article 110 and 112 of this Law on Donated Capital. Any use of Donated capital or surplus capital shall be subject to the tax of Tax Administration of Kosovo. Evidence of compliance with the Tax Administration of Kosovo must be submitted to the Ministry of Trade and Industry or its successor as part of the registration as Joint Stock Company and must also be submitted to CBK. Upon registration as a Joint Stock Company at the Ministry of Trade and Industry, the NGO Microfinance Institution registration at the CBK must be terminated and new registration as a Joint Stock Company Microfinance Institution must be completed and delivered to CBK within two (2) weeks.
2. The registration as an NGO Microfinance Institution remains in effect until terminated, however it shall be the responsibility of the Microfinance Institution to submit an application for registration at CBK as a Joint Stock Company Microfinance Institution.
3. The Microfinance Institution is also required to notify the Ministry of Public Administration in order to remove its NGO tax exempt status.

**PART XXIV**  
**CRITERIA FOR INVESTMENT IN A BANK BY MICROFINANCE**  
**INSTITUTION**

**Article 112**  
**Procedures on application for bank license**

1. A Microfinance Institution may invest in an ownership of a bank up to a maximum of twenty five percent (25%) of the Paid-In Capital of that bank upon approval of CBK. All of the ownership shares must be paid for in cash out of surplus capital by a Microfinance Institution. The remaining seventy five percent (75%) of the ownership shares and Paid-In Capital of the Bank must be from private sector qualified investors who become shareholders.
2. All Microfinance Institutions as a joint stock company that seek to invest in the ownership of a bank must comply with all provisions of Chapter I of this Law, as well as other additional requirements that CBK considers them as reasonably adaptable foreseen in Article 7 of this Law.
3. All Directors and Senior Managers of the bank must meet the eligibility and professional requirements and be approved as “fit and proper” by the CBK. In no event the Director of the Microfinance Institution may serve as a Director of a bank. No person can be at the same time a manager or senior manager of both the Microfinance Institution and the bank.
4. In the event of investment in a bank that the Microfinance Institution has an ownership interest in, the Microfinance Institution shall have the following options:
  - 4.1. it may continue to conduct business and operate as a Microfinance Institution under the provisions of this Law with the remaining capital and continuing its lending operations, or;
  - 4.2. it must pay all Donated Capital, if any, back to the original charitable donors, or otherwise insure that the Donated Capital is used for a charitable purpose in Kosovo by submitting a plan for distribution which is approved by CBK. The remaining Surplus Capital, if any, must also be used for a charitable purpose by submitting a plan for distribution which is approved by CBK. Any plan for distribution approved by the CBK must provide that neither the Microfinance Institution or its shareholders nor the CBK itself, or the members of decision-making bodies of CBK, or persons related to CBK will benefit directly or indirectly.

## **PART XXV MISCELLANEOUS PROVISIONS**

### **Article 113 Prevention of Money Laundering**

1. No Microfinance Institution or NBFIs shall conceal, convert, or transfer cash or other property, if it knew or ought to have known that such cash or other property is derived from criminal activity, or aiding or abetting any person in concealing or disguising the illicit origin of any cash or property.
2. Microfinance Institutions and NBFIs shall comply with the Law on The Prevention of Money Laundering and Financing of Terrorism. Central Bank of Kosovo and the Finance Intelligence Unit shall cooperate in accordance with applicable Laws.
3. Microfinance Institutions and NBFIs will comply with all laws, regulations, rules, instructions, procedures and orders relating to anti-money laundering and anti-terrorism financing.

### **Article 114 Regulatory and Supervisory Powers of the CBK**

The CBK shall be empowered to issue such Regulations, or Orders to visit such offices of Microfinance Institutions and NBFIs at such reasonable times as it deems appropriate, to examine such accounts, books, documents and other records, and to take such other action as it shall deem necessary or advisable to give effect to the intent of the present Law or Regulations or Orders issued.

### **Article 115 Regulations, Orders and Instructions of the CBK; Fees**

1. The CBK shall publish its Regulations, Instructions and Orders which shall take effect on the date of such publication or on such later date defined by sub-legal acts.
2. The CBK shall charge fees to Microfinance Institutions and NBFIs for its supervisory and regulatory services in order to recover its direct and indirect costs incurred in providing such services. Fees shall be assessed on a cost recovery basis or based on any extraordinary expenses incurred by the CBK or its agents in relation to its supervisory activities with respect to a particular Microfinance Institution. Microfinance Institutions shall pay fees within ten days of presentation of a statement by the CBK. The CBK shall also charge fees to Microfinance Institutions for the use of the Credit Registry.



**Article 116**  
**Transitional Provisions for Microfinance Institutions**

1. Any existing Microfinance Institutions must meet the requirements of this Law, together with all applicable CBK Regulations and Orders in all their operations, and are required to apply for a new registration no later than three (3) months after the entry into force of this amending Law.
2. After the application is submitted and registration is completed under this Law with CBK, NGO Microfinance Institutions will no longer be regulated by the Ministry of Public Administration.

**Article 117**  
**Effect on Previous Statutory Provisions**

The United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/21 of 15 November 1999, UNMIK Regulation No. 2008/28 of 28 May 2008, and any amendments thereto are hereby replaced upon enactment of this Law. Any rules promulgated under such regulations shall continue in effect, to the extent they are not in conflict with this law or until modified or repealed by the CBK.

**Article 118**  
**Entry into Force**

This Law shall enter into force on 12 April 2012.

**Law No. 04/L-093**  
**12 April 2012**

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

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**Jakup KRASNIQI**