

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE BANKING REGULATION AND SUPERVISION AGENCY OF TURKEY

AND

THE CENTRAL BANKING AUTHORITY OF KOSOVO

**CONCERNING THEIR CO-OPERATION IN THE FIELD OF SUPERVISION OF
BANKS**

TABLE OF CONTENTS

Introduction	3
Competent Authorities	3
Definitions	3
Professional Secrecy	4
Exchange of Information	5
Licensing, Ownership Control and Management	6
On-site Examinations	7
Ongoing Supervision and Corrective Action	7
Miscellaneous	8

Introduction

The Banking Regulation and Supervision Agency, (hereinafter: BRSA) of Turkey, and the Central Banking Authority of Kosovo, (hereinafter: CBAK), both hereinafter referred as “the Authorities,” reminiscent of United Nations Security Council Resolution 1244 (1999) of 10 June 1999, whereby the United Nations Security Council, acting under Chapter VII of the Charter of the United Nations, authorized the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo, known as the United Nations Interim Administration Mission in Kosovo (UNMIK), in order to provide an interim administration in Kosovo with the mandate as described in the resolution, and cognizant of the interim character of CBAK as a part of an interim administration in Kosovo, express their willingness to co-operate on the basis of mutual trust and understanding and agree to base their co-operation in the field of supervision of banks of Cross Jurisdiction Establishments within their respective jurisdictions on the principles and procedures outlined in this memorandum.

The general framework of this Memorandum of Understanding are the Core Principles for Effective Banking Supervision issued by the Basle Committee on Banking Supervision in September 1997 (hereinafter: Core Principles).

The purpose of this Memorandum is to establish a co-operation between the Authorities in order to facilitate the effectiveness of the supervision and to provide the supervision of banks on a consolidated basis.

The co-operation of the Authorities under this Memorandum shall be accomplished in accordance with the principle of reciprocity.

The Authorities will use their best endeavors to cooperate in routine supervisory procedures, and to notify and provide to each other relevant information in a prompt and timely manner regarding any material supervisory concerns in respect of a Cross-Jurisdiction Establishments.

Competent Authorities

1. The BRSA is responsible for regulation and supervision of banks operating in Turkey or abroad, financial leasing companies, factoring companies, consumer finance companies, financial holding companies and asset management companies as well as the institutions providing support services to these companies under the Banking Law Nr. 5411. The Banking Regulation and Supervision Board is the decision-making organ of the Agency

The CBAK acts as the banking supervision authority under UNMIK Regulation No. 2006/47 on the Central Banking Authority of Kosovo adopted on August 24, 2006 Amending UNMIK Regulation No. 2001/24 on the Central Banking Authority of Kosovo, and UNMIK Regulation No. 1999/21 on Bank Licensing, Supervision and Regulation.

Definitions

2. For the purposes of this Memorandum of Understanding, the following expressions shall have the following meaning:

Cross – Jurisdiction
Establishment:

“A Branch, a representative office, a subsidiary or any other entity in one jurisdiction that is established by a head office of a bank that is incorporated and licensed in the other jurisdiction, or a Subsidiary incorporated and licensed in one jurisdiction that is directly or indirectly controlled by a parent bank that is incorporated and licensed in the other jurisdiction.”

Jurisdiction:

“The country, state or other territory, as the case may be, in which an authority has legal responsibility, power and/or jurisdiction by law.

Bank :

“A legal entity which carries on banking activities (general or specialized) and whose activities are licensed, regulated and supervised by the Authorities which undersign this agreement.

Branch:

“The organisational unit licensed in one jurisdiction of a bank that is incorporated and licensed in the other jurisdiction.”

Subsidiary:

“A bank incorporated and licensed in one jurisdiction that is directly or indirectly controlled by a parent bank incorporated and licensed in the other jurisdiction.”

Home Supervisor:

“The authority supervising the head bank in the case of a Branch, or supervising the parent bank in the case of a Subsidiary.”

Host Supervisor:

“The authority supervising a Branch or a Subsidiary within its jurisdiction.”

Professional Secrecy

3. Compliance with the obligations of professional secrecy by all employees and officials who receive information from the respective other jurisdiction in the course of their activities is a necessary condition for successful co-operation between the Authorities.

BRSA is subject to the fulfilment of the professional secrecy requirements to the extent specified in Article 73 of the Banking Law Nr. 5411.

CBAK is subject of the fulfilment of the professional secrecy requirements to the extent specified in Section 34 of UNMIK Regulation 2006/47.

Any confidential information received from the other Authority will be used exclusively for lawful supervisory purposes.

The Authorities will not disclose any confidential information obtained in accordance with the principles of the Memorandum to third parties without the prior written consent of the authority that has provided this confidential information.

If an Authority in one Jurisdiction that receives confidential information from a supervisor in another Jurisdiction may, to the extent permitted by law, be compelled to disclose that information to a third party supervisory authority or a law enforcement or regulatory body. In such a case, the Authority shall notify the other Authority that originated the information prior to passing it to a third party and also indicate what information it is compelled to release and the circumstances surrounding its release.

If the disclosure of confidential information to a home government agency (e.g. The Court, Tax Administration etc.) is required by Turkish law or law applicable in Kosovo, the Authorities will promptly notify each other.

Exchange of Information

4. The Authorities endorse a broad principle of exchange of information between each other to support and facilitate their respective supervisory tasks. The Authorities underline the willingness to share the information on events concerning Cross - Jurisdiction Establishments and also their parent banks regulated by the Turkish and Kosovo Banking Supervision.

In broad terms this means that there will be contact, in writing whenever the Home or Host Supervisor considers this useful or necessary on the basis of relevant facts or developments for his own or each other's supervisory purposes. In particular, the Host Supervisor will alert the Home Supervisor promptly of any event concerning the Branch or Subsidiary which might jeopardise the stability of the bank as a whole. They will inform each other of administrative penalties imposed or other actions taken on a Branch or Subsidiary or a bank as a whole, in so far as they are aware and the penalty or other actions can be deemed to be of a material importance.

In addition, there will be communications between Authorities regarding any substantial changes in the respective domestic supervisory regulations and policies.

The communication and the exchange of information shall be carried out by the persons authorised from both parties.

The Authorities advise each other upon request on any aspect of their regulatory system and notify each other of any major change in their domestic rules and regulations, in particular about those changes which have significant bearing on the activities of Cross – Jurisdiction Establishments, on the enforcement of laws and regulations that concern the banking sector, information about banking sector developments in Turkey and Kosovo. This includes the exchange of information and - if needed – consultations on the deposit guarantee scheme.

Information will be exchanged between the Authorities in writing, without request or upon request, as well as during consultation sessions between the Authorities' management and other designated staff.

Licensing, Ownership Control and Management

5. If a bank incorporated in one of the two jurisdictions applies to the Authority of the other jurisdiction to establish a Branch or a Subsidiary, the latter shall inform the Home Supervisor without delay. If the adequacy of the home supervision is a statutory prerequisite which the Host Supervisor needs to address in the licensing procedure, it would contact the home – jurisdiction authority to settle any question in this regard.

Upon request, the Home Supervisor shall inform the Host Supervisor of the amount of own funds and the solvency ratio of the parent bank, whether the parent bank is authorised to provide banking and other financial services, whether it is fully subject to and complies with the domestic banking regulation, and whether it is expected in the light of its administrative structure and internal control to run the cross – jurisdiction establishment in an orderly and proper manner. The Home Supervisor discloses any piece of available information to the Host Supervisor which might give rise to doubts as to the qualification and suitability of the prospective managers of the Cross – Jurisdiction Establishment.

The Authorities shall consult or ask for an evidence of a prior approval (if granting of such approval is stipulated with the regulation of the Authorities), before granting authorisation to a Subsidiary of a bank authorised in the other jurisdiction or assessing any acquisition of a holding in a domestic bank through a bank within the jurisdiction of the other Authority.

The Home Supervisor shall provide the Host Supervisor (upon a written request and to the extent reasonable) with information about the shareholder structure including but not limited to shareholders with a significant (qualifying) holding in a parent /head bank of a Cross-Jurisdiction Establishment incorporated in the jurisdiction of the Host Supervisor.

The Host Supervisor shall provide the Home Supervisor (upon a written request and to the extent reasonable) with information about the shareholder structure, including but not limited to shareholders with a significant (qualifying) holding in a Subsidiary of a parent bank authorised in the jurisdiction of the Home Supervisor.

Especially, the information from this section shall include the substantial changes in the shareholder structure in a respective bank, indicating that another entity or group of related (connected) entities have taken control of the bank.

For the purpose of this section a significant (qualifying) holding shall mean a direct or indirect holding of 10% or more of the capital or voting rights or which it makes possible to exercise a significant influence over the management of the bank in which a holding subsists.

Supervisory authorities of the respective jurisdictions shall provide each other with information (upon written request and to the extent reasonable) about the individuals or

enterprises which have or seek control of one or more banks incorporated in the other jurisdiction.

On-Site Examinations

6. Recognising the importance of consolidated supervision, the Authorities agree that their co-operation is particularly useful in assisting each other in carrying out on-site examinations of Cross – Jurisdiction Establishments.

In the course of the preparation of the examination plan, the Authorities will inform each other about the scheduled period for the on-site examination of the Subsidiary or the Branch.

The Home Supervisor undertakes to notify the Host Supervisor of plans to appoint an internationally reputable (accredited) independent auditing company to conduct the examination on its behalf under certain circumstances which might make it necessary and upon the mutual agreement of the authorities

The Host Supervisor will allow the Home Supervisor to carry out examinations of Branches and Subsidiaries in the host jurisdiction. The Host Supervisor will allow on-site examination, upon advanced notification of the institution subject to examination, purpose of the examination, its expected duration and the persons performing it.

The Host Supervisor has the right to have representatives accompany any such on-site examinations. As agreed, the Host Supervisor will be kept informed by being provided by the Host Supervisor with an executive summary report on the results of such on-site examination to a reasonable extent and in a timely manner.

Requests for on-site examinations need the written consent of the Host Supervisor.

Ongoing Supervision and Corrective Action

7. The Authorities inform each other, in proper time and to the reasonable extent, about any event which has the potential to endanger the stability of bank having Cross – Jurisdiction Establishments in the respective other jurisdiction. That is in particular:
 - incipient crisis, any serious violation of the laws and regulations of prudential banking, a decline in capital adequacy to under the minimal limit set by Authorities on solo and consolidated basis, carrying out of business in a way that impairs the interests of the depositors of the bank or threatens the safety and stability of the banking system,

They also notify each other of administrative penalties which they have imposed or any other action which they have taken on Cross – Jurisdiction Establishment as Host Supervisor, if based on their judgement, the information is possibly important to the Authorities, in particular:

- limiting and cancelling some activities stated in the license;
- requesting changes in the Management Board (executive body) and Supervisory Board (Management Board) of the bank;
- establishment of appropriate amounts of provisions, reserves and extraordinary write-off items;
- lowering the initial capital of a bank;
- implementing forced administration;
- revoking license;
- and other supervisory measures of a material importance.

The notification between the Authorities will be in writing, without request and without undue delay. The Authorities discuss between each other any significant information on banks having Cross – Jurisdiction Establishment in Turkey and Kosovo. Representatives of the Authorities convene ad-hoc meetings to promote the resolution of supervisory problems concerning a Cross – Jurisdiction Establishment in Turkey or in Kosovo, whenever one party deems necessary.

Miscellaneous

Nothing in or relating to this Memorandum shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including UNMIK.

The Parties will use their best efforts to settle amicably any dispute arising out of this Memorandum.

This Memorandum comes into force and effect and becomes binding upon the signing of both parties.

The Authorities shall continue to honor the terms of this Memorandum unless one of the parties request its termination. This Memorandum will then stay in effect until the expiration of 30 days after either the authority gives written notice to its counterpart indicating its intention to terminate this Memorandum. However, the last and existing request for assistance made prior to such notification shall be honored by the authorities if possible under the conditions set forth under this Memorandum.

Both contracting parties agree that this Memorandum shall be changed or amended only upon written consent of both sides.

After the signing of this Memorandum, within 10 days, the Authorities shall exchange lists of authorised personnel with full contact details. The list of authorised personnel will be updated if the list is changed.

After the signing of this Memorandum, the Authorities will exchange lists of licensed banks in their jurisdictions. These lists of licensed banks will be updated on a regular basis or if the list is changed.

If any of the Authorities refuse to meet a request for information or to make onsite examination, it shall notify the other Authority, without undue delay, of the reasons behind such action.

In the event of termination of this Memorandum, information obtained under this Memorandum will continue to be treated confidentially.

If it appears that one of the Authorities will incur substantial costs in responding to a request for assistance under this Memorandum, the Authorities will establish a cost-sharing arrangement before responding to such a request.

The Authorities agree that should be regular meetings to discuss various questions relating to prudential supervision of banks established in both jurisdictions and on developments of their regulatory and supervising systems on annual basis.

This Agreement is written in English in duplicate, both text being equally authentic and signed, each party obtaining a copy.

SIGNED at Prishtina this 12 th day of , 2008

For and on behalf of the Banking Regulation
and Supervision Agency

For and on behalf of the Central Banking
Authority of Kosovo

Signature _____



Signature _____

