



Pursuant to the authority given under Section 17.b of Law on the Central Bank of the Republic of Kosovo and Section 3.3 of UNMIK Regulation No.2001/25 on Licensing, Supervision and Regulation of Insurance Companies and Insurance intermediaries. For the purpose of execution of Section 57.6 and 57.7 of UNMIK Regulation Nr. 2001/25, Governing Board of the Central Bank of the Republic of Kosovo, at the meeting held on July 29, 2008 approved:

## **Rule 10 On Amending Rule on The Establishment of Arbitration Forum**

### **Section 1 Definitions**

In this Rule unless the context indicates otherwise:

**Arbitration** means the process of dispute resolution in which a neutral third party (arbitrator) renders a decision after a hearing at which both parties have had an opportunity to be heard;

**Arbitrator** or Arbitrate means an individual or a group of individuals (panel) appointed by a bilateral approval of both parties or if necessary an intervention on behalf of CBK to direct the arbitrary in resolving disputes.

**Claimant** is a person that has the right to make a claim and require resolution or payment of benefit or proper benefits under the terms and conditions of the insurance contract. Claimant includes any or all insured policyholders, beneficiary's third party claimant.

**Arbitrate** means the process of resolving a dispute.

### **Section 2 Beneficiary's Right in Arbitration Procedure**

No licensed insurance company or insurance intermediary may decline to arbitrate a dispute if arbitration is requested by a beneficiary to an insurance policy. The right of a beneficiary to an insurance policy to submit to arbitration is voluntary.

The right to submit a dispute to arbitration must be exercised within the determined period by law from the occurrence of the insurable event or events that gave rise to the claim. Parties have the right to be address the claim to arbitrary forum after usage of legal assets within Insurance Company in reverse the claim will be turned down as premature.

### **Section 3 Jurisdiction of the Arbitration Panel**

Arbitration may resolve all issues relating to the policy liability, the extent of the loss or damage and other issues relating to the terms of the insurance contract (policy).

### **Section 4 Arbitration Forum**

The licensed insurers, branches of foreign insurers and insurance intermediaries shall establish an arbitration forum that shall function as an office for organizing the arbitration proceedings, maintaining the list of arbitrators and conducting the other functions needed for arbitration panels to be established and the parties notified of decision by the arbitration panel.

### **Section 5 List of Arbitrators**

- 5.1 The arbitration forum shall develop and submit to the CBK a list of persons that can be selected as arbitrators under this Rule.
- 5.2 The persons selected for the list of arbitrators must be individuals with high integrity, honesty and possess adequate knowledge, and have competence to adjudicate issues related to insurance.
- 5.3 Individuals who are practitioners or members of institutions on consumer advocacy in Kosovo shall be included among the panel of arbitrators.
- 5.4 CBK has the right add or exclude persons to the list of arbitrators.
- 5.5 The list of arbitrators counts up to 15 persons.

### **Section 6 Selection of the Arbitration Panel**

- 6.1 An arbitration panel is established for each case so that the claimant select one arbitrator from the list of arbitrators and the licensed company select another arbitrator for the list of arbitrators. The two appointed arbitrators together select the third arbitrator who will be the chairman of the arbitration panel.

- 6.2 The CBK can appoint any of the arbitrators if the claimant, the licensed company or the appointed arbitrators do not appoint an arbitrator within a time period of 15 days as of the day one party was determined for arbitrate.

### **Section 7 Procedure of Arbitrators dismissal**

- 7.1 An arbitrators must be independent in relation to the parties to the case, and can not be working for or have ownership interest in one of the parties.
7. 2 For cases when arbitrators were dismissed in this procedure will be used legal dispositions that are in force.

### **Section 8 The Arbitration procedures**

The arbitrators can require that the parties submit documents describing the details of the complaint and such other evidence or proof they consider necessary to enlighten the case.

### **Section 9 The Costs of Arbitration**

- 9.1 Expenditures of functioning of arbitrators' office, including administrative, rent, supplying and material expenditures and other reasonable expenditures for arbitrators will be covered by Insurance Companies.
- 9.2 Whereas expenditures for conducted procedure of current legal dispute including arbitrators per diem, expert expenditures, and other expenditures need it for arbitrage and expenditures of arbitrage will be covered by parties that will lose the legal dispute.
- 9.3 With aim of more successful accomplishment of overall procedure and depending from complexity of legal dispute, from parties it will be requested to deposit certain cash amount on behalf of expenditures, pursuant to the arbitrary working Regulation.
- 9.4 If the party does not deposit a certain cash amount from the prior section within a period of 15 days then it will be considered as withdrawing the request for arbitrate.

### **Section 10 Arbitrate Decision**

Decision made by arbitrators is compulsory, the decision is executor and no Insurance Company or accuser cannot appeal in court or in any other arbitrary panel or initiate a dispute for the same issue and for the execution of this decision competent is only the court.

## **Section 11**

### **Judicial Remedies**

Against the decision of the arbitration panel, parties (insurer and beneficiary of the insurance policy) have the right to make a suit for the cancellation of the arbitration decision, in specific cases pursuant to the section 36 of Law on Arbitration.

## **Section 12**

### **Damages less than 1,000.00 Euro**

Only one arbitrary is needed to solve cases of disagreement in amount up to 1,000.00 € or less. In this case CBK needs to select arbitrary.

## **Section 13**

### **Duties and Obligations of the Arbitrator(s)**

The conduct of arbitration shall be fair and equitable to both parties.

## **Section 14**

### **Prior notice**

All arbitration proceedings require at least a ten (10) days prior notice to the parties, unless such notice is waived under a signature of the party to whom notice is due. The notification must be sent to the parties, by mail or by courier in such manner and fashion that the person to whom it is party to the case receives the notification ten (10) days after the dispute is submitted to and accepted by the arbitrator(s).

## **Section 15**

### **Attendance of the parties**

The arbitrators must exert every effort to require the attendance of the parties or their duly authorized representatives in its conduct of investigation or hearing. The arbitrators can if they consider it just and reasonable, declare a party in default and commence the arbitration proceedings with a party absent, provided that the requirement to prior notice has been observed.

If the party that initiated the procedure is not present during the hearing and has not reasoned its absence then the procedure will end considering it has withdrawn the request.

## **Section 16**

### **Decision making period**

The arbitrators must have given a decision in the case within ten (10) days, counted from the date of the arbitration hearings ending.

## **Section 17**

### **Recording of judicial sessions**

The arbitration forum shall record all the documents submitted to the arbitration panel, the written decision and legal reasoning provided by the arbitration panel.

The record of arbitration shall be held as confidential by the arbitration forum. Information relating to the arbitration can only be released to the CBK upon its written request.

### **Section 18 Recordkeeping**

The arbitration forum shall keep and secure the record of arbitration for a period of at least five (5) years from the date of its decision.

### **Section 19 Reporting to the CBK**

The arbitration forum must submit a report on the conducted and decided arbitration proceedings to the CBK within the first fifteen (15) days of January, April, July and October of each year.

### **Section 20 Technical – administrative work**

Technical – administrative works for arbitration forum are conducted by the Insurance Association of Kosovo

### **Section 21**

If with this rule is not appointed differently and in cases of possible legal gaps, legal dispositions of arbitrary working regulation approved by CBK will be applied and legislation that is in force.

### **Section 22 Transitional Provision**

Until arbitration forum is established and arbitration proceedings can take place, disputes involving settlement and payment of insurance claims described under this Rule shall be conducted on and under the initiatives of the CBK under the following guidelines:

- 22.1 Any claimant contesting a settlement or payment of an insurance claim, where the internal systems of the licensed companies fail to resolve the dispute, may submit his or her claim to the CBK.
- 22.2 CBK evaluates the claim and the issues under dispute and, if it is satisfied that the claim and the issues are reasonable and justified, may decide the dispute itself or appoint an independent arbitrator panel to hear and decide the case.
- 22.3 The conduct of arbitration under this initiative shall be conform, to the guidelines prescribed under sub-section 2, Section 3, of this Rule.
- 22.4 The resolution of disputes under this initiative is binding to the insurance company and the claimant.

### **Section 23**

The Arbitration Forum according to the approved list by CBK, in the first proceeding will propose the working regulation which will be subject to approval by CBK

### **Section 24**

Rule 28 on the Establishment of an Arbitration Forum to Resolve Disputes on Claims will be rescinded with the entry into force of this Rule.

### **Section 25**

#### **Entry into Force**

This Rule as amended shall enter into force on July 29, 2008

Hashim Rexhepi

Governor  
Central Bank of the Republic of Kosovo