



Pursuant to Article 35, paragraph 1, sub-paragraph 1.1 of the Law No. 03/L-209 on the Central Bank of the Republic of Kosovo (Official Gazette of the Republic of Kosovo, no. 77/16 August 2010), Article 49 and Article 85 of the Law no. 04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions (Official Gazette of the Republic of Kosovo, no. 11/11 May 2012), the Board of the Central Bank of the Republic of Kosovo in the meeting held on 28 March 2019, adopted the following:

REGULATION ON NON-PERFORMING EXPOSURES AND FORBEARANCE

Article 1

Purpose and Scope

1. The purpose of this Regulation is to determine the conditions and set forth the criteria for non-performing exposures and forbearance.
2. This Regulation shall apply to all banks in the Republic of Kosovo, which are licenced by the Central Bank of the Republic of Kosovo (hereinafter: CBK).

Article 2

Definitions

1. All terms used in this Regulation shall have the same meaning with the terms defined under Article 3 of the Law No. 04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions (hereinafter: Law on Banks), and/or as determined below, for the purpose of this Regulation:
 - 1.1. **Banking Book** – includes all the balance and off-balance sheet items of a bank, apart from those considered as trade book positions;
 - 1.2. **Debtor level** – includes all the legal persons in the group of debtors, with consolidated accounting and natural persons controlling that group;

- 1.3. **Debt** – includes loans, debt securities and unused revocable and irrevocable commitments, but excludes exposures held for trading;
- 1.4. **Exposures**- include all debt instruments (loans and advances and debt securities) and off-balance sheet exposures, excluding exposures held for trading. Off-balance sheet exposures include the following revocable and irrevocable items: unused commitments, financial guarantees and other commitments;
- 1.5. **Financial difficulties** - are the difficulties that have arisen or will arise from the debtor in the settlement of his obligations, which are assessed at the debtor level and/or a group of debtors on a consolidated basis for the purpose of compiling the consolidated financial statements if the borrower pertains to a group of related individuals;
- 1.6. **Significant material amount** - is the amount greater than 1% of a bank's receivable account, but not less than one hundred (100) euro in the case of exposure debtors to retail portfolios or five hundred (500) euros in the case of exposure debtors to non-retail portfolios.
- 1.7. **Defaulted exposure** – implies any principal, interest or fee amount that has not been paid on the due date.
- 1.8. **Probation period for forborne exposures** – it is a period of a minimum two years from the date the forborne exposure was classified as performing.
- 1.9. **Exposure to non-retail portfolios** implies exposure to all business organisation categories as classified in Article 5 of the Law on Accounting, financial reporting and audit.
- 1.10. **Exposure to retail portfolios** implies exposure to natural or legal person that does not meet the criteria to be classified according to Article 5 of the Law on Accounting, financial reporting and audit;
- 1.11. **Exposure refinancing** - means the use of debt contracts to ensure the total or partial payment of other debt contracts the current terms of which the debtor is unable to comply with.

Article 3

Definition of non-performing exposures

1. Bank shall classify the exposures as non-performing if one or both of the following criteria are satisfied:
 - 1.1. material exposures are more than ninety (90) days past-due;
 - 1.2. the debtor is assessed as unlikely to pay its credit obligations in full without realisation of collateral, regardless of the existence of any past-due amount or of the number of days past due;

2. For purposes of paragraph 1 of this Article, the definition of non-performing exposures will apply to balance sheet loans, debt securities and other default amounts (interest and commissions) that a bank includes in its banking book in order to calculate the capital. This definition shall also apply to off-balance sheet items (unused commitments and guarantees).
3. Classification as a non-performing exposure as defined in paragraph 1 of this Article shall be applied irrespective of the classification of exposure as default for regulatory purposes in accordance with Article 10 of the Regulation on Credit Risk Management or as impaired for accounting purposes.
4. Exposures which are deemed to have defaulted in accordance with Article 10 of the Regulation on credit risk management and exposures that have been found impaired in accordance with the IFRS framework shall be considered as non-performing exposures.
5. Exposures shall be categorised for their entire amount and without taking into account the existence of any collateral.
6. A commitment shall be regarded as a non-performing exposure for its nominal amount if, when withdrawn or otherwise used, it would lead to exposures that present a risk of not being paid back in full without realisation of collateral.
7. Guarantees shall be regarded as non-performing exposures for their nominal amount when the guarantee is at risk of being called by the other party ("beneficiary party"), including, in particular, when the guarantee was executed and meets the criteria to be considered as non-performing. Where the contracted party is past-due on the amount due under the guarantee contract, the bank shall assess whether the resulting receivables meet the criteria to be classified as non-performing.

Article 4

Assessing non-performing exposures

1. Exposures shall be assessed as non-performing on an individual basis ("transaction approach") or by considering the overall exposure to a given debtor ("debtor approach").
2. Non-performing exposures that are defaulted or impaired shall be assessed according to the approaches set forth in Regulation on credit risk management, respectively used for recognising impairment according to the IFRS.
3. When a bank has on-balance sheet exposures to a debtor that are past due by more than ninety (90) days, the gross carrying amount of which represents more than twenty per cent (20%) of the gross carrying amount of all on-balance sheet exposures to that debtor, all on- and off-balance sheet exposure to that debtor shall be considered as non-performing.
4. When a debtor belongs to a group or a group of related parties, it should also be assessed whether exposures to other entities of the group are considered as non-performing, when they

are not already considered as impaired or defaulted in accordance with Regulation on credit risk management.

Article 5

Reclassification of non-performing exposures into performing exposures

1. Exposures may be considered to have ceased being non-performing when all of the following conditions are met:
 - 1.1. Exposure meets the exit criteria applied by the reporting bank for the discontinuation of the impairment and default classification;
 - 1.2. The situation of the debtor has improved to the extent that full repayment, according to the original contract or the modified conditions, is likely to be made;
 - 1.3. Repayments have been made during a continuous period of six months;
 - 1.4. The debtor does not have any amount past-due by more than ninety (90) days.
2. An exposure shall remain classified as non-performing, until the criteria from paragraph 1 of this Article are met, even though the exposure has already met the discontinuation criteria applied by the bank for impairment and default classification.
3. When forbore loans have been classified as non-performing, the exposures may be considered to have ceased being non-performing only when all the following conditions are met:
 - 3.1. The application of forbearance does not result in the recognition of impairment or default;
 - 3.2. One year has passed since the forbearance measures (excluding grace period or moratorium);
 - 3.3. There is not, according to the forbearance conditions, any past-due amount or concerns regarding the full repayment of the forbore exposure that has to be determined after an analysis of the debtor's financial situation.
4. If all the criteria set forth in paragraph 3 of this Article are not met by the end of one-year period, the exposure shall continue to be identified as forbore exposure and not as a non-performing one, until all these criteria are met. The criteria should be at least assessed on the quarterly basis.

Article 6

Definition of forborne exposures

1. Forborne exposures are debt contracts, the conditions of which have been changed by forbearance. Forbearance measures consist of concessions towards a debtor facing or about to face difficulties in meeting its financial commitments ("financial difficulties"). Financial difficulties will be assessed at the debtor level.
2. Exposures will be treated as forborne, if a concession has been made, irrespective if an amount is delayed, impaired in accordance with the IFRS or classified as defaulted in accordance with the Regulation on credit risk management.
3. For the purposes of this Regulation, concessions shall refer to either of the following actions:
 - 3.1. A modification of the previous terms and conditions of a contract the debtor is considered unable to comply with, due to its financial difficulties ("troubled debt");
 - 3.2. A total or partial refinancing of a troubled debt contract that would not have been granted had the debtor not been in financial difficulties.
4. A modification including the payments made by taking possession of the collateral is to be treated as a forbearance measure, if the modification comprises a concession.
5. There is a rebuttable presumption that forbearance has taken place in one of the following circumstances:
 - 5.1. The modified contract was totally or partially past-due by more than 30 days (without being non-performing) at least once during the three months prior to its modification or would be more than thirty (30) days past-due, totally or partially, without modification;
 - 5.2. Simultaneously with or close in time to the concession of additional debt by the bank, the debtor made payments of principal or interest on another contract with the institution that was totally or partially thirty (30) days past due at least once during the three months prior to the refinancing;
 - 5.3. Bank approves the use of forbearance for debtors that are 30 days past-due or debtors who would be thirty (30) days past-due without the exercise of these concessions.
6. Financial difficulties shall be assessed at the debtor level as defined in paragraph 5 of Article 2 of this Regulation. Exposures shall not be treated as forborne, when the debtor is not in a financial difficulty.
7. The management of banks should document on each client's loan files the basis of forbearance for each credit exposure and must prepare a list of forborne (reprogrammed) exposures for periodic review by the Board of Directors or the Risk Management Committee. CBK examiners will review the relevant lists and files during the on-site examinations for each bank to certify the institution's forbearance policies and practices.
8. Forborne exposures must have (in writing) the payment plan. The payment plan should be tailored to the debtor's business nature.

Article 7

Criteria for exit from the category of forborne exposures

1. The forbearance classification shall be discontinued when all the following conditions are met:
 - 1.1. The contract is considered as performing, including if it has been reclassified from the non-performing category after an analysis of the financial condition of the debtor showed it no longer met the conditions to be considered as nonperforming;
 - 1.2. A minimum two (2) year probation period has passed from the date the forborne exposure was considered as performing (excluding grace period or moratorium);
 - 1.3. None of the exposures to the debtor is more than thirty (30) days past-due at the end of the probation period.
2. When all the conditions set forth in paragraph 1 of this Article are not met at the end of the probation period, the exposure shall continue to be treated as performing forborne until all these conditions are met. The conditions shall be assessed on at least a quarterly basis.
3. Forborne exposures may be both performing and non-performing. When forbearance is applied to non-performing exposures, exposure should remain non-performing. When forbearance is applied to performing exposures, bank should assess whether the exposures meet the non-performing criteria and whether the forbearance resulted with new exposure. All the forborne non-performing exposures should remain non-performing until they meet the criteria in paragraph 1, Article 3 of this Regulation.
4. If a performing forborne under probation is extended additional forbearance measures or becomes more than 30 days past-due, it shall be classified as non-performing.
5. Banks should not use forbearance practices to avoid classification of loans as non-performing. Therefore, improvements to a non-performing exposure, by allowing the forbearance measures, are prohibited and a special classification for forborne exposures is required.
6. Banks should pay special attention to the proper classification of exposures which have been forborne more than once. When a forborne exposure in the probation period is forborne again, this should cause the re-commencement of the probation period and banks should take into account whether the exposure should be classified as non-performing. When an exposure becomes non-performing during twelve (12) months of the probation period, the probation period shall commence anew.

Article 8
Reporting to the Central Bank of the Republic of Kosovo

Banks should submit the CBK reporting forms set forth by the CBK according to Regulation on reporting of banks to the CBK no later than fifteen (15) days after each month-end, with other regular monthly reports.

Article 9
Transitional provisions

Banks shall act in accordance with the provisions of this Regulation as of 01 January 2020.

Article 10
Enforcement, remedial measures and civil penalties

Any violation of provisions of this Regulation shall be subject to remedial and punitive measures as defined by the Law on Central Bank and Law on Banks.

Article 11
Entry into force

This Regulation shall enter into force fifteen (15) days from the day of its approval.

Flamur Mrasori

Chairman of the Board of the Central Bank of the Republic of Kosovo