



Pursuant to Article 35, paragraph 1, subparagraph 1.1, and Article 65, paragraph 1, of the Law No. 03/L-209 on the Central Bank of Kosovo (Official Gazette of the Republic of Kosovo, No.77/16 August 2010), and in accordance with Article 4, paragraph 3, and Article 125, paragraph 4 of the Law no. 05/L-045 on Insurances (Official Gazette of the Republic of Kosovo, No. 38/24 December 2015), the Board of the Central Bank, on its meeting held on 28 February 2020, adopted the following:

REGULATION ON FINES FOR INSURERS, INSURANCE INTERMEDIARIES AND INSURANCE CLAIM HANDLERS

Article 1

Purpose and scope

1. This Regulation shall aim to determine fines to be imposed by the CBK in cases where the institutions and/or individuals representing them, have violated the Law on Insurances and/or its sub-legal acts.
2. This Regulation shall apply to institutions licensed by the CBK and to the individuals representing them.
3. This Regulation shall not apply to directors (members of the board of directors) of parent companies, in cases of branches of external insurers, branches of external insurance intermediaries and branches of external claim handlers.

Article 2

Definitions

1. All terms used in this Regulation shall have the same meaning as set forth in Article 3 of Law no. 05/L-045 on Insurances (hereinafter: *Law on Insurance*) or/and definitions specified further for the purpose of this Regulation:
 - 1.1. **Violation** – shall mean acting or failure to act of the insurer, thus violating the provisions of the Law on Insurance and/or its sub-legal acts adopted by the Central Bank of the Republic of Kosovo (hereinafter: CBK).
 - 1.2. **Insurer** – shall mean any legal entity licensed by the CBK to exercise insurance activities, including the subsidiary or branch of the external insurer.

- 1.3. **Insurance intermediary** – shall mean a natural or legal person licensed by the CBK and contracted by the insurer to exercise insurance intermediation activity, including the subsidiary or branch of the external mediator.
- 1.4. **Insurance Claim Handler** – shall mean a natural or legal person licensed by the CBK, including the subsidiary or branch of the external claim handler, and contracted by the insured or insurers to carry out insurance claims treatment/assessment activities.
- 1.5. **Institution** – shall mean insurers, including the subsidiary or branch of the external insurer, insurance intermediaries organized as legal entities, including the subsidiary or branch of the external insurer, as well as insurance claim handlers organized as legal entities, including the subsidiary or branch of the external claim handler.
- 1.6. **Individuals** – shall mean directors (if applicable), senior managers and/or employees of insurers, insurance intermediaries, insurance claim handlers, as well as interim administrators where applicable.
- 1.7. **Actuary** - shall mean the person, who has the primary duty of calculating the premiums, technical and mathematical provisions based on actuarial methods.
- 1.8. **Sub-legal act** – shall mean Regulations, Instructions, Orders and Decisions issued by the CBK.

Article 3

Fines on insurers

1. The CBK may impose fines on insurers from EUR 3,000 (three thousand) to EUR 15,000 (fifteen thousand) for the following violations:
 - 1.1 failure to provide and meet capital requirements, as required by Article 19, paragraph 1, Article 21, Article 60 and Article 61 of the Law on Insurances and sub-legal acts implementing these Articles;
 - 1.2 distribution of the dividend, without the prior approval of the CBK, in violation of Article 66, paragraph 1, of the Law on Insurance, and sub-legal acts implementing this Article;
 - 1.3 failure to meet solvency and liquidity requirements as required by Articles 62 and 64 of the Law on Insurance and sub-legal acts implementing these Articles;
 - 1.4 failure to establish an internal audit unit or to perform an internal audit in accordance with the requirements of Article 77 of the Law on Insurance and sub-legal acts implementing this Article;
 - 1.5 ownership of shares, without the prior approval of the CBK, in accordance with the requirements of Article 35 of the Law on Insurance and sub-legal acts implementing this Article;
 - 1.6 conducting other activities, without being licensed by the CBK, in accordance with Articles 6 and 17 of the Law on Insurance and sub-legal acts implementing these Articles;

- 1.7 failure to maintain accounting and documentation as well as preparation of financial statements in accordance with the requirements of Article 70 of the Law on Insurance and sub-legal acts implementing these Articles;
 - 1.8 failure to report to the CBK as required by Article 71 of the Law on Insurance and sub-legal acts implementing this Article;
 - 1.9 failure to submit the report and opinions of the actuary to the CBK in accordance with the requirements of Article 72 of the Law on Insurance and sub-legal acts implementing this Article;
 - 1.10 failure to publish the annual report containing the audited financial statements accompanied by the opinion of the external auditor within the time limit set in accordance with the requirements of Article 81, paragraph 1, of the Law on Insurance and sub-legal acts implementing this Article.
 - 1.11 failure to cooperate with CBK officials, as required by Article 84, paragraph 4, and Article 86, paragraph 4, of the Law on Insurance and sub-legal acts implementing these Articles.
2. For violations referred to in paragraph 1 of this Article, the CBK may impose a fine on individuals representing the insurer, from EUR 500 (five hundred) up to EUR 5,000 (five thousand).
 3. For other violations of the provisions of the Law on Insurance, other relevant laws and sub-legal acts, the CBK may impose a fine on the insurer from EUR 1,500 (one thousand five hundred) up to EUR 10,000 (ten thousand), whereas to individuals representing the insurer the CBK may impose a fine from EUR 200 (two hundred) up to EUR 2,000 (two thousand).
 4. The CBK may impose a fine of EUR 1,000 (one thousand) for each day that the violation continues, if it finds that an insurer has violated any provision of the Law on Insurance, its sub-legal acts, or any condition or limitation issued by the CBK. This measure can only be imposed after the CBK has previously notified and requested the insurer to stop the respective violation.
 5. The CBK may impose a fine on insurance actuaries, from EUR 500 (five hundred) up to EUR 5,000 (five thousand), in cases of violations of the provisions of the Law on Insurance related to actuaries and its sub-legal acts.
 6. The CBK may impose a fine of EUR 500 (five hundred) up to EUR 5,000 (five thousand) against any other person obstructing and impeding supervision by the CBK and against any person intentionally preventing the temporary administrator appointed by the CBK from taking control of the offices, accounting books, records and other assets of the insurer, under legal administration.

Article 4

Fines for insurance intermediaries and insurance claim handlers

1. For violations of the provisions of the Law on Insurances and its sub-legal acts, the CBK may impose a fine on insurance intermediaries and insurance claim handlers organized as legal entities from EUR 1,500 (one thousand five hundred) to EUR 7,500 (seven thousand five

hundred), whereas to individuals representing insurance intermediaries and claim handlers organized as legal entities, the CBK may impose a fine under this paragraph from EUR 200 (two hundred) up to EUR 2,000 (two thousand).

2. For violations of the provisions of the Law on Insurance and its sub-legal acts, the CBK may impose a fine on insurance intermediaries and insurance claim handlers organized as natural persons from EUR 200 (two hundred) up to EUR 2,000 (two thousand).
3. The CBK may impose a fine of from EUR 200 (two hundred) up to EUR 2,000 (two thousand) on any other person who obstructs and impedes the supervision of the mediator and claim handler by CBK.
4. The CBK may impose fines up to EUR 200 (two hundred) for each day that the violation continues, if it finds that an insurance intermediary or claim handler has violated any provision of the Law on Insurances, its sub-legal acts, or any condition or limitation issued by the CBK. This measure can only be imposed after the CBK has previously notified and requested the insurance intermediary or insurance claim handler to stop the respective violation.

Article 5

Factors for the assessment of fines

1. Fines shall be imposed for the purpose of financial punishment of the offender in accordance with the degree of culpability and the severity of the offence and to prevent future violations by the institutions and/or individuals representing them.
2. Fines imposed by the CBK shall not affect and supersede any other administrative measures provided for by the Law on Insurances, which may be undertaken independently and without being affected by the fine.
3. The following factors shall be taken into account when assessing the severity of the violation:
 - 3.1. Intent – the violation has been intentional and has been committed as a result of failure to comply with the applicable legal framework;
 - 3.2. Benefit – in case the institution, individuals representing it and/or third parties have benefited from the violation;
 - 3.3. Repetition of the same violation – in case the same violation is repeated by the institution or individuals representing it;
 - 3.4. Previous violations – the history of previous violations, especially when they are similar to the violations under consideration;
 - 3.5. Financial losses – the financial damage caused to the institution as a result of the violation;
 - 3.6. Number of violations – number of violations from the last examination;
 - 3.7. Duration of the violation – the duration of a specific violation;
 - 3.8. Duration after notification – the duration of the violation, even after the institution and/or the individual representing it, has been warned by the CBK;

- 3.9. Concealment – concealment of the violation;
- 3.10. Other losses – other damages (reputation, future business etc.) caused to the institution as a result of the violation;
- 3.11. Damage to clients and other parties – the damage caused to clients and other parties by the violation;
- 3.12. Cooperation with the CBK – cooperation with the CBK to eliminate or resolve problems in due time;
4. Recommendation for fines shall be initiated only when it is found that the violation has taken place. The fine shall be assessed according to the factors set out in paragraph 3 of this Article, and shall be calculated according to provisions of Article 6 of this Regulation.
5. The CBK shall also impose other administrative measures against the institutions and/or individuals representing the institution, in accordance with the Law on Insurance. Other measures may be imposed in addition to or separately from the fine.

Article 6

Calculation of fines

1. Fines for institutions licensed by the CBK operating in the Republic of Kosovo shall be calculated according to the Annex A of this Regulation. The Annex shall contain three forms, i.e. the form for institution, the form for individuals representing the institutions, and instructions on how to complete them.
2. Completion of Annex A shall be conducted by the officer-in-charge, which will initially be reviewed by the Head of the Division and the Director of the Department.
3. Annex A (the table “Factors” and table “Cooperation with the CBK” in the form 1 and/or 2), shall set out the possible scores for each of the evaluation factors of the relevant violation by the institution and/or the individual representing it (column A).
Upon evaluating the violation according to the evaluation factors, the respective score shall be set for each factor (column B), which shall then be multiplied by the severity of the violation (column C), and finally the points and their total shall be calculated (column D = B x C).
4. The same calculation shall be made in the section “Cooperation with the CBK” where depending on the willingness of the institution to eliminate violations, points are assigned, which correct the total gained by “Factors”.
5. In order to gain total points for the imposition of a fine, the total points from the “Factors” table, shall be subtracted from total points from the “Cooperation with the CBK” table.
6. The total points gained under paragraph 5 of this Article shall be the basis for determining the amount of the fine as set out in Annex B of this Regulation.
7. In certain cases, when fines are found to be detrimental to the financial standing of an institution, the CBK may mitigate or may not impose it. In such cases, the CBK may, instead of imposing a fine, impose other administrative measures provided for by the legislation in force.

8. Notwithstanding the provisions of this Article, the CBK may, by its assessment, impose fines on other cases, which may be outside the calculations and points gained from matrices A and B.

Article 7
Procedures for imposing fines

The procedure for imposing fines shall be in accordance with the requirements of the Regulation on Procedures for Imposing Administrative Penalties.

Article 8
Judicial review

Entities subject to a fine under this Regulation shall have the right to request the competent court to review the fine within 30 (thirty) days of receipt of the decision, in accordance with the Law on Insurances.

Article 9
Annexes

Annex A Form 1 - Matrix on setting fines - Institution, and Form 2 - Matrix on setting fines - Individual representing the institution, Form 3 - Instructions on completing the matrix and Annex B - Fines by points, are part of this regulation.

Article 10
Entry into force

This regulation shall enter into force 15 days upon its approval by the Board of the Central Bank.

Flamur Mrasori

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

Annex A

Form 1 – Matrix on setting fines – Institution

Institution:

Violation:

Legal basis violated:

Factors	Scores assigned to violations					Score (1-4)	Weight	Points
	0	1	2	3	4			
	A							
Intention	None	Not applicable	It was supposed to be aware	Not applicable	Clear intention		5	0
Benefit	None	Not applicable	Not applicable	Indirect	Direct		5	0
Repeating the same violation	None	Not applicable	From the actual examination	From the previous examination	Order/decision		4	0
Previous violations	None	Not similar	Similar	Similar > 2	Same		5	0
Financial losses	None	Minimum	Average	Not applicable	Substantial		4	0
Number of violations	Only one	Not applicable	2 – 5 violations	Not applicable	> 5		4	0
Duration of violations	None	< month	1 – 6 months	6 months – 1 year	> year		5	0
Duration after notice	None	< month	1 – 6 months	6 months – 1 year	> year		5	0
Concealment	None	Not applicable	Not applicable	Intentionally	Continuous		5	0
Other losses	None	Not applicable	Minimum	Average	Substantial		3	0
Damage to clients and other parties	None	Not applicable	Minimum	Average	Substantial		5	0
Total points 1							50	0

Cooperation with CBK	0	1	2	3	4	Score (1-4)	Weight	Points
	A					B	C	D = Bx (
Correction of violations	None	Completed after order/decision	Partially	Completed after discovery	Voluntarily after examination		- 5	0
Full cooperation	None	Not applicable	Partially	Not applicable	Full cooperation		- 5	0
Total points 2								0
Total points 1 and 2								0

Annex A

Form 2 – Matrix on setting fines – Individual representing the institution

Individual:
Position:
Institution:
Violation:
Legal basis violated:

Factors	Scores assigned to violations					Score (1-4)	Weight	Points
	0	1	2	3	4			
	A							
Intention	None	Not applicable	It was supposed to be aware	Not applicable	Clear intention		5	0
Benefit	None	Not applicable	Not applicable	Indirect	Direct		5	0
Repeating the same violation	None	Not applicable	From the actual examination	From the previous examination	Order/decision		4	0
Previous violations	None	Not similar	Similar	Similar > 2	Same		5	0
Financial losses	None	Minimum	Average	Not applicable	Substantial		4	0
Number of violations	Only one	Not applicable	2 – 5 violations	Not applicable	> 5		4	0
Duration of violations	None	< month	1 – 6 months	6 months – 1 year	> year		5	0
Duration after notice	None	< month	1 – 6 months	6 months – 1 year	> year		5	0
Concealment	None	Not applicable	Not applicable	Intentionally	Continuous		5	0
Other losses	None	Not applicable	Minimum	Average	Substantial		3	0
Damage to clients and other parties	None	Not applicable	Minimum	Average	Substantial		5	0
Total points 1							50	0

Cooperation with CBK	0	1	2	3	4	Score (1-4)	Weight	Points
	A					B	C	D = Bx (
Correction of violations	None	Completed after order/decision	Partially	Completed after discovery	Voluntarily after examination		- 5	0
Full cooperation	None	Not applicable	Partially	Not applicable	Full cooperation		- 5	0
Total points 2								0
Total points 1 and 2								0

Annex A

Form 3 – Instructions on completing the matrix

Factors	Scores assigned to violations					Score (1-4)	Weight	Points
	0	1	2	3	4			
Intention	Score 0 – Applied when the violation is not intentional	Score 1 – No application on this factor	Score 2 – Applied in cases of the violation, when the institution should have been aware that acting or not acting constitutes a violation	Score 3 – No application on this factor	Score 4 – Applied when it is determined that the institution has had clear intention for the violation		5	0
Benefit	Score 0 – Applied when the institution has no benefits from the violation	Score 1 – No application on this factor	Score 2 – No application on this factor	Score 3 – Applied when the institution has benefited from the violation indirectly	Score 4 – Applied when the institution has benefited from the violation directly		5	0
Repeating the same violation	Score 0 – Applied when there is no same violation repeated by the institution	Score 1 – No application on this factor	Score 2 – Applied when the violation has been identified in the actual examination (for the first time)	Score 3 – Applied when the violation has been identified in the preliminary examination, and continues to be current	Score 4 – Applied when CBK has issued an order/decision related to the same violation		4	0
Previous violations	Score 0 – Applied when there are no violations in the past by the institution	Score 1 – Applied when the violation is not similar with previous violations	Score 2 – Applied when the violation is similar to the previous violation	Score 3 – Applied when the violation is similar and has been repeated more than 2 times	Score 4 – Applied when the same violation has been repeated		5	0
Financial losses	Score 0 – Applied when there are no losses for the institution by the violation	Score 1 – Applied when the loss from the violation for the institution is minimal	Score 2 – Applied when the loss from the violation for the institution is average	Score 3 – No application on this factor	Score 4 – Applied when the loss from the violation for the institution is substantial		4	0
Number of violations	Score 0 – Applied when there is only one violation by the institution	Score 1 – No application on this factor	Score 2 – Applied when the institution has made 2 - 5 violations	Score 3 – No application on this factor	Score 4 – Applied when the institution has made more than 5 violations		4	0
Duration of violations	Score 0 – Applied when there are no violations by the institution	Score 1 – Applied when the duration of violations has been shorter than one month	Score 2 – Applied when the duration of the violation has been from 1 to 6 months	Score 3 – Applied when the duration of the violation has been from 6 months to 1 year	Score 4 – Applied when the duration of the violation has been longer than 1 year		5	0
Duration after notice	Score 0 – Applied when there are no violations by the institution	Score 1 – Applied when the duration of violation, after notice by CBK, has been shorter than one month	Score 2 – Applied when the duration of violation, after notice by CBK, has been from 1 to 6 months	Score 3 – Applied when the duration of violation, after notice by CBK, has been from 6 months to 1 year	Score 4 – Applied when the duration of the violation, after notice by CBK, has been longer than 1 year		5	0

Concealment	Score 0 – Applied when there are no violations	Score 1 – No application on this factor	Score 2 – No application on this factor	Score 3 – Applied when the institution intentionally has tried to conceal the violation	Score 4 – Applied when the institution has tried to conceal the violation, even after its identification by CBK		5	0
Other losses	Score 0 – Applied when there is no other impact besides the financial loss	Score 1 – No application on this factor	Score 2 – Applied when the other impact, in addition to financial loss, is minimal	Score 3 – Applied when the other impact, in addition to financial loss, is average	Score 4 – Applied when the other impact, in addition to financial loss, is substantial		3	0
Damage to clients and other parties	Score 0 – Applied when the violation does not damage clients and/or other parties	Score 1 – No application on this factor	Score 2 – Applied when the damage to clients and/or other parties is minimal	Score 3 – Applied when the damage to clients and/or other parties is average	Score 4 – Applied when the damage to clients and/or other parties is substantial		5	0
						Total points 1		0

Cooperation with the CBK and the institution's readiness to eliminate violations (mitigating factors)	0	1	2	3	4	Score (1-4)	Weight	Points
Correction of violations	Score 0 – Applied when there is no elimination of violations	Score 1 – Applied when the elimination of violations has been done after the order/decision issued by CBK	Score 2 – Applied when the violations has been eliminated partially	Score 3 – Applied when violations have been eliminated after the identification of the violation	Score 4 – Applied when the violations have been eliminated voluntarily prior to identification by CBK		- 5	0
Full cooperation	Score 0 – Applied when the institution has not fully cooperated with CBK	Score 1 - No application on this factor	Score 2 – Applied when the institution has partially cooperated with CBK	Score 3 – No application on this factor	Score 4 – Applied when the institution has fully cooperated and expressed the readiness to cooperate on the elimination of violations		- 5	0
						Total points 2		0
						Total points 1 and 2		0

Annex B – Fines by points

Points	Insurers*	Insurers**	Individuals responsible of insurer	Actuaries	II*** or CH**** legal entities	Individuals responsible of II or CH legal entities	II or CH legal entities
0 to 15 points	discussed or 3,000.00	discussed or 1,500.00	discussed or 500.00	discussed or 500.00	discussed or 1,500.00	discussed or 200.00	discussed or 200.00
16 to 30 points	4,000.00	2,200.00	870.00	870.00	2,000.00	250.00	250.00
31 to 45 points	5,000.00	2,900.00	1,240.00	1,240.00	2,500.00	400.00	400.00
45 to 60 points	6,000.00	3,600.00	1,610.00	1,610.00	3,000.00	550.00	550.00
61 to 75 points	7,000.00	4,300.00	1,980.00	1,980.00	3,500.00	700.00	700.00
76 to 90 points	8,000.00	5,000.00	2,350.00	2,350.00	4,000.00	850.00	850.00
91 to 105 points	9,000.00	5,700.00	2,720.00	2,720.00	4,500.00	1,000.00	1,000.00
106 to 120 points	10,000.00	6,400.00	3,090.00	3,090.00	5,000.00	1,150.00	1,150.00
121 to 135 points	11,000.00	7,100.00	3,460.00	3,460.00	5,500.00	1,300.00	1,300.00
136 to 150 points	12,000.00	7,800.00	3,830.00	3,830.00	6,000.00	1,450.00	1,450.00
151 to 165 points	13,000.00	8,500.00	4,200.00	4,200.00	6,500.00	1,600.00	1,600.00
166 to 180 points	14,000.00	9,200.00	4,570.00	4,570.00	7,000.00	1,750.00	1,750.00
181 to 200 points	15,000.00	10,000.00	5,000.00	5,000.00	7,500.00	2,000.00	2,000.00

*Subject to the provisions of Article 3, paragraph 2, of the Regulation on Fines for Insurers, Insurance Intermediaries and Insurance Claims Handlers (EUR 3,000 - 15,000)

** Subject to the provisions of Article 3, paragraph 4 of the Regulation on Fines for Insurers, Insurance Intermediaries and Insurance Claims Handlers (EUR 1,500 - 10,000)

*** Insurance intermediaries

**** Claim handlers in insurance