



Banking and Payments Authority of Kosovo

Pursuant to the authority given under Section 17.b of UNMIK Regulation No. 2001/24 date of October 1, 2001 on Amending UNMIK Regulation No. 1999/20, on Banking and Payments Authority of Kosovo and Section 3.3 of UNMIK Regulation No.2001/25 date of October 5, 2001 on Licensing, Supervision and Regulation of Insurance Companies and Insurance intermediaries,

For the purpose of execution Section 55 of UNMIK Regulation Nr. 2001/25

Governing Board of the Banking and Payment Authority of Kosovo, at the meeting held on March 28, 2002 adopt the following:

Rule 26 on Internal Controls

Section 1

1. Scope of Rule

This rule applies to all insurance companies and insurance intermediaries licensed by the BPK.

2. Legal Authority

This rule implements Section 55, Chapter VIII of the Insurance Regulations.

3. Definitions

“Board of directors” means the highest-ranking governing body of a corporation composed of members appointed by the voting equity holders. In this rule, the term “board of directors” refers to:

- a) In the case of a corporation or company created and existing under the laws of Kosovo, the board of directors body, itself.
- b) In the case of a foreign company incorporated in another jurisdiction, but which is licensed to conduct insurance business in Kosovo, the senior officer of the company’s office in Kosovo, who is a resident of Kosovo and accepted as such by the BPK.

“Board” refers to board of directors as defined in this rule.

“Internal control” or “system of internal control” refers to the written documented policies, procedures and practices adopted by and applied in the company designed to protect its assets against undue exposure to losses and misuse and to ensure profitable conduct of business.

“Licensed company” or “company” refers to either, or both, insurance company or insurance intermediary company.

“Senior officer” is the highest ranking officer of a licensed company whether using the title of “president”, “vice president”, “managing director”, “country representative”, “manager” or such other title or titles.

Section 2

Adoption of Adequate and Effective System of Internal Control

1. Responsibility of the Board

The conduct of insurance business involves the application of a system of internal control. The management of the company shall formulate standards of operating policies, procedures and practices to be adopted and applied by the company in the conduct of its business. It is the responsibility of the board to pass and prescribe an adequate and effective system of internal control in the company.

2. Requirements for an Effective System of Internal Control

The written standard policies, procedures and practices in the company, flexible to allow corrections and edits as needed, comprise the company’s system of internal control. This system must be adequate and effective in relation to the organizational structure, nature and scale of business of the company. At a minimum, the system of internal control must satisfy the following guidelines:

- a) No individual in the organization shall have absolute or unfettered power of decision.
- b) No individual shall have the absolute or unfettered control of a transaction. The control of cash and other assets must require at least two signatures of responsible individuals who are subject to accountability.
- c) The actuary and the external auditor must not be officers or employees of the company or of any of its affiliates and subsidiaries to ensure that the calculations of technical provisions and other liabilities are adequate and to provide conservatism in the valuation of company assets and in the determination of profits or losses. The actuary and the external auditor report directly to the board.

- d) Related-party transactions are prohibited except as allowed by the BPK consistent with the Insurance Regulations and pursuant to Rule 27.
- e) The creation and organization of internal audit functions is under the authority and supervision of the board. Internal audit must have full access to all lines and support departments of the company, sufficiently staffed with trained personnel with relevant experience.
- f) The acceptance of risks shall be in accordance with underwriting guidelines prescribed by the board. The guidelines must include the determination of risk retention, single and aggregate, procedures that apply to the disposition of risks beyond the underwriting guidelines, the cession of risks to reinsurers and the acceptance of reinsurance risks.
- g) The investment of company assets shall be in accordance with the policies and guidelines prescribed by the board consistent with Rule 12, Part II or as prescribed by the BPK in written directives.
- h) Market conduct oversight defining standards on fair treatment of customers, adequate disclosure to customers of policy benefits, risks and responsibilities, the handling of customer's money, separation of principal and agent activities and conflicts of interest.
- i) The proper and timely administration of accounting functions to ensure reconciliation of accounts, up-to date accounting records, and the production of accurate and reliable information for management.
- j) Continuing physical control of and accountability for all assets and investments of the company.
- k) Establish procedures to recognize, in a timely fashion, potentially disadvantageous or suspicious transactions including the application of adequate system of checks and balances.
- l) Establish procedures to promptly recognize deviations of regulatory compliance.
- m) Establish well-defined communication lines within the organization from the lowest ranked employee to management and up to the board with a credible system of feed back.
- n) Establish procedures to provide the board with adequate oversight over all activities of the company to ensure timely recognition of internal control deficiencies, deviations and/or suspicious transactions.

- o) Such other requirements as may be prescribed by the BPK consistent with the insurance regulation and these rules.

Section 3

Authority of the BPK to Review and Supplement Internal Control

1. Review of Internal Control System

The board of directors of a licensed company shall give full and open access to the BPK to review the adequacy and effectiveness of the company's internal control system. The internal audit reports in the company must at all times be accessible to the BPK at its request.

2. Supplementing Internal Control System

If the BPK considers it necessary, after conducting a review of the system of internal control, it shall direct the licensed company to incorporate in their system of internal control:

- a) Such policies, procedures or practices that are needed to strengthen existing controls prescribing the areas where the BPK determines the present system is deficient and the controls necessary to correct the deficiencies noted.
- b) If the BPK determines that the insurance company or insurance intermediary failed to adopt and install a system of internal control, or if a purported system of internal control is not in writing, the BPK may suspend the license of the company until such time as the company shall have adopted and installed, in writing, its system of internal control. .

Section 4

Entry into Force

This present rule shall enter into force on April 1, 2002.

David Weatherman
Acting Managing Director