



Pursuant to Article 35, paragraph 1.1 of the Law No.03/L-209 of the Central Bank of the Republic of Kosovo (Official Gazette of the Republic of Kosovo, No. 77 / 16 August 2010), and Articles 7, 8, 9, and 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 at the meeting held on November 09, 2012, approved the following:

REGULATION ON LICENSING OF BANKS AND BRANCHES OF FOREIGN BANKS

Article 1 Purpose and Scope

1. This Regulation identifies the terms and conditions, requirements, and procedures to be followed for the application and granting of a license for a bank and/or for a branch of a foreign bank;
2. The Regulation shall apply to all applicants for a license from the CBK to engage in banking business in the Republic of Kosovo.

Article 2 Definitions

1. All terms used in this Regulation are as defined in Article 3 of the Law No. 04/L-093 on Banks, Micro-finance Institutions and Non-bank Financial Institutions (hereafter: *the Law on Banks*) and/or as further defined herein for the purpose of this Regulation:
 - a) *Bank* - means a shareholder company engaged in the business of banking, including a subsidiary;
 - b) *Branch of foreign bank* - is a person that is organized and licensed to operate banking activities within the Republic of Kosovo but its parent bank has its head office and holds a license to engage in the business of banking in a jurisdiction other than the Republic of Kosovo;
 - c) *Beneficial owner* - means any individual or group of individuals that, either directly or indirectly, has the possession and/or benefits of ownership of a property even though its ownership is in the name of another entity.

Article 3 Application Requirements

1. All applicants for a banking license must meet all requirements of the Law on Banks necessary to that process as well as all CBK internal requirements. The applicant may request the necessary application form and instructions from the CBK or obtain it from the official CBK Website.

2. The application is signed by all founding shareholders and submitted in person to the CBK by a representative of the founding shareholders of the proposed bank or by the foreign bank in cases where they are interested in opening a branch in the Republic of Kosovo. The application shall be accompanied by the complete documentation required by the Law on Banks and by this Regulation.

3. The provided documentation shall be in one of the two official languages of the Republic of Kosovo, either in original or legalized copies. In the case of the documentation issued by the competent authorities of a foreign country, the documentation must be legalized by the responsible authorities of the foreign country, and in accordance with the stipulations in the respective legal acts of the other applicable laws in the Republic of Kosovo.

Article 4

Capital Requirements for Licensing

1. The applicant for a license for a bank in the Republic of Kosovo, through the establishment process and before the final license of a bank, shall deposit for this purpose at the CBK a minimum initial capital amount not less than seven (7) million Euros, in accordance with Article 15 of the Law on Banks.

2. The foreign bank applying to carry out banking activity through its branch, shall maintain a capital equivalency deposit with the CBK not less than seven (7) million Euros as provided for by Article 17 of the Law on Banks.

3. For a bank or a branch of a foreign bank, the payments or costs for the purchase or hire of the work premises and equipment's, and the other operational costs shall not be included in the minimum initial capital amount or the capital equivalency deposit amount required in accordance with paragraphs 1 and 2 of this Article.

Article 5

Directors and Senior Managers

The standard criteria for proposed directors and senior managers for the licensing process of an applicant bank or a branch of a foreign bank in the Republic of Kosovo are contained in Article 3 and Article 4 of the CBK Regulation on Banks Directors and Senior Managers.

Article 6

Suitability of Shareholders

1. The CBK will assess the suitability of the prospective principal shareholders, in respect of a new application for a banking license in terms of the requirements of Article 7 of the Law on Banks. As part of the application process, the applicant must disclose the list of all founding shareholders as well as any beneficiary owners, if different. In all cases the source of funds for the shareholder's investment in the bank must be disclosed to the CBK.

2. Each prospective shareholder must be able to demonstrate financial soundness. This includes evidence of prompt satisfaction of past financial obligations and an existing sound financial condition. The prospective shareholders shall submit the current legal documentation certifying the payment of all fiscal obligations; such a document shall be issued not later than 30 days from the date of application.

3. The CBK shall independently verify the identity of persons who control banks or propose to control banks. This power shall include the compelling of witnesses and documents in formal proceedings under appropriate administrative procedures.

4. These requirements are on-going and similar requirements will be applied when the bank notifies the CBK under Article 37 of the Law on Banks for a prospective new shareholder or whether an existing shareholder wishes to increase its holding above any of the thresholds stipulated in Article 37 of the Law on Banks.

5. The CBK will also assess, under Article 8 of the Law on Banks, the ownership structure of a potential bank as whole, as well as assessing the suitability of individual shareholders, in order to ensure the structure would not hinder effective supervision of the bank.

Article 7 **Branches of Foreign Banks**

1. Where a foreign bank applies to establish a branch in the Republic of Kosovo, the requirement will be the same as for banks. As for banks, the CBK will assess the soundness of the shareholders and of the group as whole, especially when the parent is not the principal bank in the group. In addition, as required by Article 7 of the Law on Banks, the CBK will require evidence that the home supervisor of the parent bank has no objection to the proposal. In addition the CBK will also satisfy itself that the group of which the new bank will be a part is subject to effective consolidated supervision.

2. Where the foreign bank applies for license to establish its branch in the Republic of Kosovo, the CBK will seek assurance from the supervisory authority of the applicant's home jurisdiction:

- a) Certification to the effect that the applicant is a duly organized and validly licensed depository institution;
- b) That pursuant to an on-site examination completed within the last one hundred eighty (180) days, its capital levels, asset quality and liquidity ratios are deemed by such authorities to be at least satisfactory;
- c) That the applicant is not object of corrective action or supervisory concern under any early warning surveillance program or otherwise; and
- d) That the establishment of the branch and its proposed activities in Kosovo are unconditionally permitted.

3. A letter of assurance addressed to the CBK that acknowledges the foreign bank's legal obligation to pay when due all liabilities of the Kosovo branch will also be required in cases of branches of foreign banks.

4. Article 17 of the Law on Banks requires branches of foreign banks to maintain claims on residents of Kosovo in excess of its liabilities to residents of the Republic of Kosovo. The CBK will determine the appropriate margin of net claims on Kosovo residents on a case by case basis.

5. The CBK also retains the right to require a branch of a foreign bank to be converted into a subsidiary of that foreign bank in accordance with Article 12 of the Law on Banks.

6. The CBK shall have the right to revoke a license of a branch of a foreign bank and seize its capital equivalency deposit under due process if, in the judgment of CBK, that branch of a foreign bank is operating in a manner detrimental to the interests of its depositors.

7. In the event that a foreign bank establishes two or more branches in the Republic of Kosovo, one branch must be designated as its administrative headquarters. Regulatory reports will be submitted to the CBK on a consolidated basis, incorporating the data for all Kosovo branches of the foreign bank.

Article 8

Reviewing of the Application for License

1. The CBK will review the submitted application and documentation for acquiring a license, in accordance with the requirements set out in the Law on Banks and this Regulation.

2. The CBK notifies the applicant for a license if the documentation provided from him is incomplete and/or does not meet the requirements defined in the Law on Banks and with this Regulation.

3. The CBK may request the change of the proposed name for the bank if it deems that this later may raise confusion to the public or to the banking system.

4. The CBK, after the complete submission of the request for license, shall carry out the following operations:

- a) It shall review the whole information provided through the submitted documentation, and it may carry out any further verifications needed or deemed necessary;
- b) It may hold and organize meetings, if deeming necessary, with: the proposed directors of the bank or senior managers for the branch of a foreign bank, and/or the founding shareholders of bank or with the legal representatives of the foreign bank (in case the submitted application relates to the licensing of the branch of a foreign bank).

5. The purpose of organizing and holding these meetings is the discussion of their market strategy and their objectives, the provided business plan, the main proposed policies and the risks the bank or the branch of foreign bank shall bring about in the market, and other relevant issues as CBK deems necessary.

Article 9

Preliminary Approval or Refusal of license

Within three (3) months from the date of receiving the complete application for a license, the CBK shall preliminary approve or refuse/deny the license as provided for in Article 8 on Law on Banks.

Article 10

Notification of New Facts

1. The applicant for a license shall inform the CBK in writing of any new facts and circumstances being concluded after the grant of the initial approval for the license, as well as the changes they bring about in the submitted documentation, based on which the CBK has granted the prior approval for the license.

2. The notification as defined in paragraph 1 of this Article shall take place immediately, but in any case no later than fifteen (15) days from the occurrence or the informing of the applicant for the new facts or circumstances.

Article 11

The Final License

1. The bank, having acquired the preliminary approval for license and after accomplished the conditions as are stated in paragraph 5 of Article 8 of Law on Banks, has to apply in writing to the CBK for the grant of the license, by submitting the following documentation:

- a) The banking document that certifies the payment of the minimum initial capital amount or the transfer of the capital equivalency deposit of the branch of the foreign bank;
- b) The business registration of the bank as a legal person or the registration of the branch of a foreign bank, at the Ministry of Trade and Industry;
- c) The By-laws / Statute of the bank;
- d) A legal document for acquiring of the right to use the premises where the banking and financial activity shall be carried out. The premises must be legalized and have adequate documentation by the competent authorities;
- e) The respective contracts concerning the insurance against a least the main risks (fire, earthquake, floods) of the premises and equipment's with any of the insurance companies licensed by the CBK;
- f) The contracts for the protection of premises and equipment's provided by the physical security and protection companies licensed by the competent authorities in the Republic of Kosovo;
- g) Respective contracts with insurance companies to have insurance coverage on vault risk (cash in vault) and cash in transit, that bank must maintain during the banking activity.

2. The CBK, prior to the approval of the license, shall carry out an on-site examination of the technical and security conditions of the premises where the bank or branch of foreign bank shall exercise its banking activities. The purpose of this on-site examination is to assess whether the subject has created conditions to meet the obligations, in terms of technical and security conditions of the premises within which the subject shall carry out its activity.

3. If the CBK determines that conditions in this Article have been satisfied, it shall issue a license as stated in Article 9 of the Law on Banks.

Article 12

Criminal Penalties

Carrying out of banking activities without having a license or giving false information regarding the application for license is considered a criminal offense according to Article 84 of the Law on Bank, and shall be subject of criminal penalties.

Article 13

Abrogation

Upon the entry into force of this Regulation, it shall abrogates the Rule VI of CBK on Licensing and Restrictions on Branches of Foreign Banks adopted on February 7, 2007, and any other provisions that may be in conflict with this Regulation.

Article 14
Entry into Force

This Regulation shall enter into force on December 03, 2012.

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

Gazmend Luboteni