



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 13 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 5 C on the Licensing of Reinsurance Intermediaries (Insurance Intermediaries)

Section 1

Obtaining Approval for an Insurance Intermediary License

1. Scope of Rule

This rule applies to all applicants seeking to carry on business as a Reinsurance Intermediary.

2. Definition of Terms

In this rule, the following terms mean:

“Actuary” shall have the meaning as defined under Chapter I, Section 1 of the Insurance Regulations.

“Insurer” is an insurance company duly licensed as such by the BPK.

“Licensee” is the person licensed by the BPK under this Rule.

“Person” includes any individual, firm, company, association, organization, partnership or corporation.

“Reinsurance” shall have the meaning as defined under Chapter I, Section 1 of the Insurance Regulations.

“Reinsurance intermediary” includes a reinsurance broker and a reinsurance representative.

“Reinsurance broker” or “RB” is a person, who is not an officer or employee of a ceding insurer, that solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority to bind reinsurance on behalf of the ceding insurer.

“Reinsurance representative” or “RR” is a person that has authority to bind assumed reinsurance business on behalf of a reinsurer and who acts as agent of that reinsurer, whether known as RR, resident manager, or other similar terms.

“Reinsurer” means a reinsurance company as defined under Chapter I, Section 1 of the Insurance Regulations.

3. Obtaining Approval for an Insurance Intermediary License

- a) **Fit and Proper:** One of the key requirements for the establishment of an insurance intermediary operation is that the surplus lines broker, or the shareholders (if applicable), directors (if applicable) and managers must be "fit and proper" to exercise their responsibilities. Accordingly, in the event that the BPK subsequently discovers that any aspect of the information provided in connection with the application for an insurance intermediary license was deliberately falsified, the shareholders (if applicable), directors (if applicable) and managers of the insurance intermediary will be subject to fines. A pending application will be immediately rejected in this case. Where a license was granted on the basis of this falsified information, the license of the insurance intermediary may be immediately withdrawn.
- b) **Criminal Charges:** Applicants found to have engaged in any activities resulting in criminal charges, past or pending, will be automatically disqualified from further consideration. This disqualification will apply to the present and future applications for an insurance intermediary license, unless a competent court authoritatively dismisses the charges.
- c) **Bankruptcy:** Persons having been declared bankrupt by any authoritative court in Kosovo or elsewhere are disqualified from further consideration. Similarly, persons having served as shareholders, directors or managers in a bankrupt business enterprise will also be disqualified from further consideration.

4. Insurance Intermediary Qualification Requirements

In order to act as reinsurance intermediary, the licensee must be a holder of a current and valid insurance intermediary license issued by the BPK as an agent

or broker for the class of insurance he, she or it desires to transact reinsurance business.

5. Requirements for All Applicants:

a) **Additional requirements:** The BPK reserves the right at all times to demand additional or supplementary information to that requested herein or, from time to time, prescribe the minimum degree of technical knowledge and skill required of the licensee.

b) **Language:** All applications must be submitted in Albanian and/or Serbian or English.

c) **Application fee:**

An individual applicant for a license to act as reinsurance intermediary must submit a non-refundable application fee of Euros 500. This fee is in addition to the fee applicable as insurance agent or broker.

All persons soliciting, negotiating, or procuring the reinsurance business, and/or the managers of a licensee under this rule must be licensed reinsurance intermediary.

An applicant for a corporate license must submit a non-refundable application fee of Euros 500. This fee is separate and distinct from the application fee required of individual applicants.

d) **All applicants must provide the following data:**

d.1 a formal application to carry on insurance intermediary business for general or life insurance business in the format provided by the BPK.

d.2 the original charter document or equivalent documentation for the proposed insurance intermediary company along with its company by-laws or equivalent documentation (if applicable);

d.3 Full, detailed Curriculum Vitae (CVs) of the intermediary or main shareholders (when they hold or will hold more than 10% of paid-up shares), if applicable, directors (if applicable) and managers proposed for the insurance intermediary. The CV(s) must summarize their professional history and academic background. The CV(s) of the proposed licensee should, in particular, demonstrate considerable insurance industry experience, training and knowledge. Additionally,

the proposed managers should ordinarily have a recognized business degree from a reputable academic institution and/or a recognized insurance industry qualification and/or considerable professional insurance experience. Original academic and professional qualifications should be submitted to the BPK for review. The BPK will undertake its own investigation of the applicant's background and credentials;

- d.4 A list of all individuals, with their addresses and nationalities, who are/will be the registered main shareholders (as defined above) or ultimate beneficial owners of the insurance intermediary company. The list should include the shareholdings of each main shareholder;
- d.5 Complete, certified personal balance sheets/statements of financial resources for the intermediary or main shareholders (if applicable), directors (if applicable) and managers proposed for the insurance intermediary. A BPK recognized bank or audit firm must certify statements. Any exception shall be approved by BPK.
- d.6 Three professional references for the intermediary or each of the individual main shareholders (if applicable), directors (if applicable) and senior managers for the proposed insurance intermediary operation. A BPK recognized bank or audit firm having certified the statements of financial resources in the aforementioned point should provide one of the references.
- d.7 A statement as to the class or classes on insurance under which the applicant desires to be so licensed.
- d.8 A list of individuals employed by or acting for the insurance intermediary with authoritative documents evidencing their professional and academic qualifications.
- d.9 A lease contract with a landlord evidencing a place of business to which formal legal notice can be served.
- d.10 The original copy of their proposed professional indemnity insurance.
- d.11 The original copy of the surety bond, or certificate of deposit in lieu of the surety bond, in the form and amount required under these Rules.

- d.12 Significant changes to the business plan submitted by the applicant must be approved by the BPK. Another BPK insurance rule outlines what the BPK considers to be significant changes. Violations of this requirement will be subjected to sanctions prescribed under Kosovo's insurance regulation or BPK rules.

6. Insurance Intermediary qualification for education and experience

A person licensed by the BPK as agent or broker may qualify for a reinsurance intermediary license without the necessary education and experience by showing to the BPK that he, she or it possesses the necessary knowledge and competence to transact reinsurance business. A verified statement of previous or present experience in the procurement, placement and/or management of reinsurance business would be given considerable relevance.

At its discretion, the BPK may require the applicant to demonstrate his technical skills as a reinsurance intermediary as a condition of the issuance and maintenance of his or her license.

Section 2 Requirements for Applicants Wishing to Operate through a Kosovan-Incorporated Insurance Intermediary

1. Minimum Capital

A minimum paid-in capital of not less than Euros 25,000 is required for an incorporated reinsurance intermediary company. The BPK will require a certificate from a BPK-authorized bank verifying the capital has been paid-up or the investment has been made into the intermediary's bank account, as the case may be.

For applicants incorporated outside of Kosovo desiring to establish a subsidiary operation in Kosovo, the BPK will require a letter from the home country reinsurance intermediary supervisor that the supervisor is aware of and in agreement with the applicant's intention to establish a reinsurance intermediary operation in Kosovo. The letter must state that the applicant is in compliance with the insurance laws of the home country including all solvency requirements.

2. Applicant outside Kosovo wanting to incorporate

An applicant from outside Kosovo wanting to incorporate a Kosovo reinsurance intermediary company subsidiary must submit its audited annual financial statements for the last five years in Albanian and/or Serb or English (a certified English translation is acceptable). When applicable, the annual accounts of the

applicant's parent company and related companies for the preceding five years should be submitted in the same language format.

The applicant will be expected to have made profits in at least four of those preceding five years.

3. Corporate License

- a) A duly organized incorporated eligible intermediary may be given a corporate license as a reinsurance intermediary.
- b) The corporate license shall list all individuals within the corporation who have satisfied all the requirements, and are licensed, under this Rule as reinsurance intermediaries.
- c) Only those individuals listed in the corporate license shall transact reinsurance business.

4. Audit Firm

The licensed audit firm for the proposed insurance intermediary must be approved by the BPK. Tangibly, this means that the BPK recognises the licensed audit firm as capable of providing the needed insurance industry audit expertise.

Section 3 Requirements for Applicants Wishing to Operate as a Branch Within Kosovo

1. Statement from Regulator in domestic jurisdiction

For applicants incorporated outside of Kosovo desiring to establish a branch operation in Kosovo, the BPK will require a letter from the home country reinsurance intermediary supervisor that the supervisor is aware of and in agreement with the applicant's intention to establish a reinsurance intermediary operation in Kosovo. The letter must state that the applicant is in compliance with the insurance laws of the home country including all solvency requirements.

2. Financial Statements

An applicant from outside Kosovo wanting to operate a Kosovo reinsurance intermediary company branch must submit its audited annual financial statements for the last five years in Albanian and/or Serb or English (a certified English translation is acceptable). When applicable, the annual accounts of the applicant's parent company and related companies for the preceding five years should be submitted in the same language format.

The applicant will be expected to have made profits in at least four of those preceding five years.

3. Audit Firm

The proposed licensed audit firm for the proposed insurance intermediary must be approved by the BPK. Tangibly, this means that the BPK recognises the licensed audit firm as capable of providing the needed insurance industry audit expertise.

Section 4 Conditions Inherent in a Reinsurance Intermediary License

1. License requirement

No person shall engage in a business regulated under this rule, or assume to act as a licensee unless he or she is licensed under this rule.

2. Qualification of Managers

No person shall act as manager of the intermediary unless he or she possesses the license for a reinsurance intermediary under this Rule and has demonstrated to the satisfaction of the BPK that he is technically and professionally qualified to direct, control and manage the business affairs of the intermediary.

3. Notifications

The licensed intermediary must notify the BPK, within 30 days from the occurrence of the following events or conditions:

- a) His, her or its manager ceases to be connected with the intermediary.
- b) Appointment and qualification of a new or additional manager of the intermediary.
- c) Any change of the name, composition or address of the intermediary, or main shareholders (when they hold more than 10% of the paid up shares), if applicable, directors and managers of the intermediary.
- d) If a claim has the potential of exceeding the amount set by the reinsurer.
- e) If a claim is settled for less than the amount set by the reinsurer.

- f) If a claim remains open for a period in excess of 6 months.

4. Non-Assignment of the license

A license issued under this rule is personal and exclusive to the individual licensee and is not assignable.

5. Approval of Written Contract

The licensee shall, as soon as reasonably possible, deliver to the BPK a copy the written contract or agreement he, she, or it has entered into with licensed insurers (applicable to reinsurance intermediary-broker) or with reinsurance company (applicable to reinsurance intermediary-representative) for approval. The contract or agreement shall specify, at a minimum, the duties, responsibilities and authorities of the licensee, the manner by which the licensee shall render his accounts, the remittance of funds and the authority of the BPK to arbitrate disputes arising from the performance of the parties' respective obligations under their contract or agreement.

6. Prudential responsibility

The licensee must ensure that the reinsurance is placed only with insurers or reinsurers that have sound financial condition and of good international reputation. The licensee must have in his file a copy of the reinsurance company's current certificate, in good form, issued by the regulatory authority in the domicile of the reinsurance company stating that such reinsurance company is in good standing and in compliance with the minimum capital and surplus requirement prescribed by that authority.

7. Prohibited Acts

No person licensed as a reinsurance intermediary under this rule, its director, officers, managers or employees, shall do the following:

- a) Transact the business authorized under this rule before the BPK shall have approved the Contract or Agreement between the reinsurance intermediary and the insurance company (with respect to reinsurance broker) or with the reinsurance company (ies) (with respect to reinsurance representative).
- b) Appoint a sub-broker or a sub-representative.
- c) Appoint an agent or sub-agent who is not licensed to transact the type of reinsurance for which the agent or sub-agent is appointed.

8. Records maintenance

Every licensed reinsurance intermediary shall keep in his, her or its office located in Kosovo a full and true record of each reinsurance transaction showing the following:

- a) The type of contract, limits, underwriting restrictions, classes or risks, and territory.
- b) The period of coverage, effective and expiration dates, cancellation provisions, and notice required for cancellation.
- c) Reporting and settlement of balances.
- d) Rate used to compute reinsurance premium.
- e) Names and addresses of assuming reinsurers.
- f) Rates of all commissions.
- g) Name and address of the ceding companies.
- h) Related correspondence and memoranda.
- i) Proof of placement.
- j) Financial records, including but not limited to premium and loss accounts.
- k) Any additional requirement as may be required by the BPK.

9. Annual statement

On or before April 1 of each year and on such times required by the BPK the licensee shall submit to the BPK a verified statement of all reinsurance business transacted during the preceding calendar year and in a form prescribed and furnished by the BPK indicating the following:

- a) Gross amount of premium for each class or risk reinsured.
- b) Loss accounts for each class of risk reinsured, incurred, settled and outstanding.
- c) Aggregate gross premium charged.
- d) Aggregate loss accounts.

- e) Loss reserve required and provided, if any, for each risk reinsured.
- f) Actuarial certification of the aggregate loss reserve required and provided, if any.
- g) All other information required by the BPK.

Section 5

Revocation of an Insurance Intermediary's License

Once a license has been granted by the BPK, a reinsurance intermediary must ensure that it continues to comply with all the conditions contained herein. If the BPK discovers that any of the factors forming an integral part of the reinsurance intermediary's application have been modified without the prior permission of the BPK, the BPK reserves the right to immediately revoke the reinsurance intermediary's license.

Revocation can also occur when a newly licensed reinsurance intermediary seriously contravenes Kosovo's insurance regulation or rules promulgated by the BPK. Similarly, any violations of criminal law promulgated by any authoritative governmental or quasi-governmental body in Kosovo could lead to a revocation of a license.

When a reinsurance intermediary has not commenced operations within six months of the granting of a licence, the BPK will automatically revoke its licence.

Section 6

Entry into Force

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

David Weatherman
Acting Managing Director