



Based on Article 35, 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 4, paragraph 3 and Article 39, paragraph 5 of Law No. 05 / L-045 on Insurance (Official Gazette of the Republic of Kosovo, No. 38/24 December, 2015), the Board of the Central Bank of the Republic of Kosovo in the meeting held on June 27, 2016 approved the following:

REGULATION ON OUTSOURCING OF FUNCTIONS BY INSURERS

Article 1

Aim and Scope

1. The aim of this Regulation is the determination of criteria and conditions for the outsourcing of insurer's functions to another person (recipient of the delegated functions).
2. This Regulation applies to all insurers and branches of foreign insurers licensed by the CBK to operate in the Republic of Kosovo.

Article 2

Definitions

1. All terms used in this Regulation shall have the same meaning as defined in Article 3 of Law No. 05 / L-045 on Insurance (hereinafter: the Insurance Law) and / or as specified below for the purposes of this regulation.
 - a) Recipient of outsourced functions, means a natural person or legal entity to which the insurer may outsource its functions under the provisions of this Regulation.
2. For the purposes of this regulation, unless otherwise specified by special provisions, the term "Insurer" means also the branch of a foreign insurer.

Article 3

Outsourcing of functions

1. Under Article 39 of the Law on Insurance, the insurer may outsource the functions allowed to be outsourced pursuant to this Regulation, to the recipient of delegated functions, only after having obtained the prior written approval of the CBK;
2. Insurers may delegate the following functions:
 - a) handling and assessment of claims, licensed by the CBK;
 - b) actuarial services, licensed by the CBK;
 - c) promotion and marketing services;

- d) information technology services;
 - e) accounting records;
 - f) management of reinsurance and relationships with external insurers.
3. Functions of the insurer may be outsourced only through a written contract, under which the insurer transfers a part of his functions to another person / recipient of the outsourced functions.
 4. The insurer shall ensure that the outsourcing of functions:
 - a) does not affect the financial results, stability of the insurer and continuity of its activities;
 - b) does not affect the quality of management and decision taking of an insurer;
 - c) does not affect the capability of the insurer to provide the insured with a continuous service;
 - d) does not produce an unjustified increase of operational risks.
 5. The insurer before selecting the recipient of outsourced functions, must:
 - a) ensure that the recipient of outsourced functions is fit and proper to perform outsourced functions;
 - b) carry out a detailed analysis of the professional ability and competence of the recipient of outsourced functions;
 - c) ensure that the recipient of outsourced functions has taken all necessary measures to avoid conflicts of interest;

Article 4

Policies for outsourcing of functions

1. The insurer shall develop and approve internal policies for outsourcing of functions. Such policies should include at least the following elements:
 - a) identify the functions to be outsourced and assess the impact that will have outsource of those functions;
 - b) procedures for the outsourcing of functions, including criteria for the selection of recipients of outsourced functions;
 - c) terms and methods of reporting of the recipient of functions outsourced by insurers;
2.
 - d) ways of monitoring the recipient functions delegated by the insurer;
 - e) setting tariffs applicable for outsourced functions.

Article 5

Contract for outsourcing of functions

1. The contract for outsourcing of functions between the insurer and recipients of outsourced functions, shall contain the following:

- a) the rights and obligation of the parties;
- b) a clause stipulating that the insurer outsourcing the responsibility is responsible for the functions transferred to another person and in no case can avoid the responsibility of insurer's governing bodies.
- c) a provision stipulating that the recipient of outsourced functions is obliged to provide the insurer with the information required under Article 6, paragraph c);
- d) commitment of the outsourced person to perform his activity in conformity with the applicable legislation, regulatory requirements and policies adopted by the insurer and to cooperate with the CBK regarding outsourced functions;
- e) provision that stipulates that the person receiving the outsourced functions will be subject to supervision by the CBK;
- f) the obligation of the outsourced person to inform immediately the insurer for each fact which may have a significant impact in his ability to perform efficiently and effectively his activity according to legal requirements in force;
- g) a notification period for the termination of the contract by the outsourced person, which is sufficient for the insurer in order to find an alternative solution;
- h) the right of the insurer to be informed regarding the progress of outsourced functions by the outsourced person, and the right of the insurer to develop and adopt general or special instructions related to the performance of outsourced functions;
- i) protection of confidentiality by the outsourced person of the data related to the insurer and the insured;
- j) the right of the insured to withdraw from the contract, if the latter shall be required by the CBK for failure to comply with legal requirements.

Article 6

Requirements for approval of outsourcing of functions

1. An insurer shall notify in writing and submit to the CBK the request for approval of outsourcing functions. The request for approval of outsourced functions shall be associated by the documentation as follow:
 - a) The decision of the insurer's board of directors for function outsourcing;
 - b) description of functions that an insurer is willing to outsource, and the requirements to be met by a potential person outsourced for the performance of these functions, as well as the duration of outsourcing;
 - c) data on the potential outsourced person: name, certification of business registration, qualification, financial reports for the last three years (if applicable according to the legislation on financial reporting) and other data in case of potential persons outsourced from a foreign country: address, telephone number, fax number, e-mail address, official website, name, surname, and contact details of the person authorized for the representation of the potential outsourced person; if the recipient of outsourced functions is a foreign person, in addition to data referred to in this subparagraph, CBK, at its discretion, may request additional information.

- d) results of analyses and assessments conducted by the insurer pursuant to article 3, paragraph 5 and subparagraph b) of this regulation;
- e) draft contract, with content pursuant to article 5 of this regulation;
- f) documents proving the experience of outsourced person in activities similar to outsourced function by the insurer (if any);
- g) documents that prove any previous experience of the outsourced person.

Article 7

Approval or rejection of functions outsourcing

1. The CBK shall, within 30 calendar days from the receipt day of the request, approve or reject the request for outsourced functions.
2. During the review of the application, the CBK may require the insurer to provide documents and additional information. In such cases, the 30-day term starts upon the receipt of documents and additional information in the CBK.
3. The CBK refuses to outsource specific functions of the insurer if the requirements stipulated in the Law on Insurance and this regulation are not met.

Article 8

Withdrawal of outsourcing functions approval

The CBK may withdraw the approval of outsourced functions if it considers that further exercise of outsourced functions by the outsourced puts at risk the interests of the insured, puts in difficulty the CBK supervision and the outsourcing function recipient has no professional competence to exercise the delegated function.

Article 9

Supervision of outsourced functions

1. The provisions of the Insurance Law on the supervision of insurer shall apply adequately on the person exercising the delegated functions.
2. The insurer and the person who performs outsourced functions, upon the request of the CBK presents the data on legal status, financial condition and activity of the person who has signed the contract for the outsourcing of functions, as well as any documents and other information required by the CBK.
3. The external auditor of the insurer has the right to require from the person exercising outsourced functions any information related to the audit performance.
4. The recipient of outsourced functions should cooperate with the CBK regarding supervision defined in paragraph 1 of this Article.

Article 10

Enforcement, Remedial Measures and Civil Penalties

Any violation of other provisions of this Regulation shall be subject to the remedial measures and penalties provided for in the Law No. 03 / L-209 on the Central Bank of the Republic of Kosovo and the Law No.05 / L-045 on Insurance.

Article 11

Abrogation

Upon the entry in to force of this Regulation, it shall abrogate the Rule 18 on Affiliation and Outsourcing Contracts and any other provision that may be in conflict with this Regulation.
Article 10

Article 12

Entry into Force

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

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

Prof. Dr. Bedri Peci