



Pursuant to Article 35, paragraph 1, sub-paragraph 1.1, of the Law No. 03/L-209 on Central Bank of the Republic of Kosovo (Official Gazette no. 77/16 of the Republic of Kosovo, August 2010), as well as Article 4, paragraph 3, Article 90, Article 91, paragraph 4, and Article 92, paragraph 3, of the Law No. 05/L-045 on Insurance (Official Gazette no. 38/24 of the Republic of Kosovo, December 2015), the Board of Central Bank, in the meeting held on 30 November 2017, approved:

Regulation on consolidated supervision of groups of insurers

Article 1

Purpose and scope

1. The purpose of the present Regulation is to establish the consolidated supervision of groups of insurers.
2. The provisions of the present Regulation shall apply to all insurers licensed by CBK operating in the Republic of Kosovo.

Article 2

Definitions

1. All terms used in the present Regulation shall have the same meaning as defined in Article 3 of the Law No. 05/L-045 on Insurance (hereinafter Law on Insurance) and/or, as determined below for purposes of the present Regulation.
 - a) " *Holding company* " shall mean a parent company owing shares in another company, enabling policy control and its management.
 - b) " *Group* " shall mean a business group composed of parent company, its controlled companies and all entities over which the parent company or its controlled company exercises a significant interest or has a share.
 - c) " *Parent company* " shall mean an economic unit having one or more affiliates.
 - d) " *Affiliate* " shall mean an economic unit which is controlled by another economic unit known as parent company.
 - e) " *Affiliated companies* " shall mean a type of relationship in which one of companies owes less than the majority of the shares of other company, or a type of relationship in which at least two different companies are affiliates of a big company.

- f) “*Consolidated supervision*” shall mean a general assessment – both quantitative and qualitative – of financial power of a group to which an insurer belongs, which aims at assessing the possible impact of other companies of group on the insurer.
- g) “*Consolidated financial statements*” shall mean financial statements of a group presented as financial statements of a single economic unit.
- h) “*Individual financial statements*” shall mean financial statements presented by a parent company, an investor in a share or an undertaker in a jointly controlled economic unit, in which investments have been calculated based on the direct interest of net capital and not based on the reported results and net assets of the unit where it has been invested.

Article 3

Consolidated supervision of insurers in the group

1. Consolidated supervision of insurers in the group shall take place for the purpose of monitoring the financial situation of insurers in the group and protection of insurers and creditors from risks to which the insurer is exposed as a result of affiliations with other entities in the group. Consolidated supervision of insurers in group shall mean consolidated supervision of the general situation of insurers and is related to the supervision standards for:
 - a) consolidated calculation of own funds;
 - b) consolidated calculation of the solvency ratio;
 - c) consolidated control of adequacy of own funds to cover market risks;
 - d) consolidated control of exposure to risk;
 - e) consolidated restrictions for investments from credit institutions outside the insurance sector;
 - f) consolidated supervision shall also apply to groups which include investing firms.
2. Consolidated supervision of groups of insurers shall include:
 - a) collecting and verifying information that are necessary for the purposes of supervision;
 - b) supervision of inter-group transactions provided for in Article 91 of the Law on Insurance;
 - c) supervision of group’s capital adequacy;
 - d) corrective measures in case of risk at the insurer in a group, resulting from activities or financial situation of any other insurer in the group of insurers.
3. Pursuant to Article 91 of the Law on Insurance, the insurers who are part of insurance groups shall report to the CBK all inter-group transaction on an annual basis. The CBK shall exercise supervision over significant transactions as determined in Article 91, paragraphs 2 and 3 of the Law on Insurance.

Article 4
Scope of group supervision

1. The CBK shall precisely determine the scope of the oversight of a group of insurers for which the consolidated supervision applies.
2. In order to make an assessment of the strength of a group of insurers as a whole, it is necessary for the CBK to assess the risks in all significant parts of the group. This shall take place both on quantitative and qualitative basis. The CBK shall determine which companies of the group involve significant risk and include those in consolidation. If a member of a group does not involve significant risk and where the linkages between companies are weak, it may be acceptable not to include such companies within the consolidation. Non-financial companies may be excluded, but only if the linkages are weak or the risks are considered minimal. Where the linkages are close, the CBK may require the insurer to re-organise the group so that the financial part is more self-contained.
3. Where a group of insurers is headed by a parent insurer, consolidated supervision is relatively straight-forward and shall include all insurer's subsidiaries and associated companies. It may also be desirable to supervise a group on a consolidated basis, where the parent is a holding company or another entity that is not itself subject to supervision. In such a case, a group shall be defined to include an insurer, its parent and other affiliated companies, which according to CBK present a potential risk to insurers and insurer creditors. A group of insurers shall be defined as including entities that are all under common control. It also does not exclude the possibility of including companies not with a majority share ownership. The CBK will use practical tests to determine whether an entity, even if not majority owned, is nevertheless still effectively controlled by a group, and thus potentially exposing the insurers and insurer creditors to risk.
4. Where an insurer is a member of a group involving an insurer or a foreign company, the CBK shall only consolidate the Kosovo insurer and any affiliated companies in the Republic of Kosovo, irrespective of whether they are subsidiaries of the Kosovo insurer or subsidiaries of a foreign affiliate of the group. CBK will expect the home supervisor to be responsible for the consolidated supervision of the whole group as stipulated with paragraph 1 of Article 10 of Law on Insurance. Before licensing such an insurer, and continuously thereafter, the CBK will verify that the group continues to be subject to effective consolidated supervision by its home supervisor. If the CBK ceases to be satisfied, it may take steps to ensure that the Kosovo operations are insulated from developments elsewhere. This may involve the changes to the shareholding structure of the insurer.

Article 5
Quantitative supervision

1. Quantitative supervision of a group of insurers for the purposes of this Regulation shall mean the preparation of consolidated financial statements, as required under the International Accounting Standard (IAS) 27 and Article 71, paragraph 2 of the Law on Insurance. The CBK may prescribe the extent of consolidation for accounting purposes, relying on the tests, based on IAS 27. However, the CBK may also include within the scope of its consolidated supervision the entities not subject to the consolidated accounting. Thus, the fact that an entity is not consolidated for accounting purposes does not necessarily mean it will not be treated as part of the group for purposes of consolidated supervision.
2. Groups of insurers shall also be required to prepare and to submit to the CBK the balance sheet and other statistical returns on a consolidated basis. These returns will enable the calculation of capital adequacy ratios for the group as a whole in order to ensure that no double counting of capital takes place. Intra-group claims and liabilities will be eliminated in this process. In the case of insurance subsidiaries, the investment in the insurance company will be deducted from the parent's capital in order to determine the group's capital. For detailed application of the capital adequacy requirement for a group of insurers, the insurers shall act in accordance with the CBK Regulation on Insurer Capital Adequacy.
3. Quantitative returns will also enable the calculation of large exposures and foreign exchange positions for the group as a whole. Insurer exposure to other market risks shall be assessed on a group basis. The CBK Regulation on Large Exposures shall apply to groups for which CBK has determined the application of consolidated supervision.

Article 6
Qualitative supervision

1. In addition to quantitative supervision, the CBK shall also consider qualitative aspects. This process will involve 'mapping' the connections between different members of a group of insurers and having an understanding and consideration of the management linkages as well as financial linkages. The CBK may require that an insurer subsidiary of a group have sufficient independent directors on its board to operate independently of other group companies and thereby ensure sufficient attention is paid to the responsibility of the insurer to relevant policyholders. Information gathered in this process shall also influence the CBK's decisions as to which members of a group should be included in the consolidated group for supervisory purposes. Where a group consists of a mixture of financial and other entities, the CBK may seek to ring fence the financial activities and exclude non-financial entities from the scope of consolidated supervision. However, in order to do this, the CBK will wish to ensure that any financial links and managerial links are not such as to vitiate the process. Thus a financial sub-group would be expected to have independent directors and managers and not be excessively influenced by the management of entities outside the consolidated financial sub-group.

2. It may request certain changes to the way a group is structured if it determines that the current structure impedes effective consolidated supervision.
3. The CBK shall also use the powers where it suspects that a non-licensed entity within a group is carrying on activities prohibited by the Law on Insurance or any other relevant laws.
4. The CBK requires that only one firm to be responsible for the external audit of all the companies in a group and not have to rely on the work of several audit firms.

Article 7 Information

1. The basis for consolidated supervision is the collection of information by the CBK. Pursuant to Article 90 of the Law on Insurances, the CBK may collect information from supervised entities within a group of insurers, but also other entities affiliated to the supervised entity in order to determine the extent of the linkages described above.
2. Where a group of insurers includes entities supervised or regulated by another supervisory authority in the Republic of Kosovo or abroad, the CBK shall hold periodic discussions with such supervisory authorities as are necessary to understand the relationship between the insurers licensed in Kosovo and foreign ones in the group and to be able to take a view on the soundness of the group and its components.

Article 8 Procedure for Consolidated Supervision

If the CBK believes that a group of insurers that requires consolidated supervision exists, it shall discuss with the principal group member the nature of the linkages. If, on the basis of such discussion it determines that the group does require consolidated supervision, the CBK shall inform the insurer in writing, listing the entities that it proposes to include in its consolidated supervision. The determination will also indicate whether any adjustments are necessary to consolidation for accounting purposes.

Article 9 Enforcement, remedial measure and civil penalties

Any violation of this Regulation shall be subject to the remedial measures and penalties provided for in Articles 124,125 and 126 of the Law on Insurance.

Article 10 Transitory provisions

Subjects of this Regulation, no later than six (6) months following the entry into force of this Regulation, shall carry out in accordance with the requirements of this Regulation, the review and/or the approval of the internal rules and procedures.

Article 11
Repeal

Upon the entry into force of the present Regulation, all provisions of Regulations, Rules and Instruction governing the consolidated supervision of groups of insurers shall be repealed.

Article 12
Entry into force

This Regulation shall enter into force 15 days after its approval.

Prof. Dr. Bedri Peci
Chairman of the Board of Central Bank