



Based on Article 35, paragraph 1, sub-paragraph 1.1 of Law No. 03/L-209 on Central Bank of the Republic of Kosovo (Official Gazette of the Republic of Kosovo, No. 77 / 16 August 2010) and Articles 46 and 85 of 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, in its meeting held on 29 September 2016, approved the following:

REGULATION ON LARGE EXPOSURES

Article 1

Purpose and Scope

1. The purpose of this Regulation is to prevent credit risk concentrations of risk assets in a bank's portfolio by imposing limitations on credit exposures and to ensure that large exposures are treated differently from other exposures.
2. This Regulation shall apply to all banks and branches of foreign banks licensed by the Central Bank of the Republic of Kosovo (hereinafter: 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 the terms defined in Article 3 of the Law No. 04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions (hereafter: *the Law on Banks*) and/or as the following definitions for the purpose of this Regulation:

1.1. Bank - a joint stock company engaged in banking activity, including a subsidiary.

1.2. Branch of a foreign bank - a legal entity that is organized, has its headquarters and possesses a license to engage in banking activity in any jurisdiction other than Kosovo, licensed by the CBK to operate as a branch of a foreign bank in the Republic of Kosovo.

1.3. Exposure - is any asset or off-balance sheet item, including, without limitation, any loan or direct or indirect commitment to disburse money in exchange for the right to repayment of the amount disbursed and outstanding and to the payment of interest or other charges relating to this amount, any deferral of the date of payment of the debt, any guarantee or letter of credit issued, debt securities and similar forms of credits or credit commitments granted by a bank to a client, as well as shares, participation in the capital, and other types of investment in a legal entity by the bank.

1.4. Large exposure - any exposure to a single person or group of related persons exceeding the Tier 1 capital percentage specified by the CBK in Article 46 of the Law on

Banks. For branches of foreign banks, large exposure is defined as any exposure to a single borrower or group of related borrowers if the sum of all exposures exceeds ten per cent (10%) of the parent bank's Tier 1 capital.

1.5. *Control* - a relationship where a person or group of persons, directly or indirectly: (i) owns a majority of the shares of a legal entity; (ii) has the power to appoint or remove the majority of the Board of Directors of the legal entity; or (iii) has the ability to exert a significant influence on the management or policies of a legal entity;

1.6. *Group of related persons* - two or more persons (natural or legal or both) who are connected, directly or indirectly, in such a way that the financial soundness of any of them may affect the financial soundness of the other or others, or if as a result of the structure of their relationship the other person is in fact ultimately responsible for the credit outstanding. More specifically, individual persons of a bank are considered a group of related persons:

- a) When the expected source of repayment for each loan is the same for each borrower, and neither person has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid.
- b) When loans are made to borrowers who are related directly or indirectly through common control, including where one person is directly or indirectly controlled by another borrower.
- c) When substantial financial interdependence exists between or among the borrowers: substantial financial interdependence is deemed to exist when fifty per cent (50%) or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with the other borrower. Gross receipts and expenditures include gross revenues/expenses, intercompany loans, capital contributions, and similar receipts or payments.
- d) When separate borrowers borrow from a bank to acquire a business enterprise of which those borrowers will, collectively, own more than fifty per cent (50%) of the voting shares.
- e) In other cases, as CBK determines, based on an evaluation of the facts and circumstances of particular transactions, that the financial soundness of any borrower may affect the financial soundness of any other.
- f) When, in the reasonable judgment of the CBK, a common enterprise clearly exists between or among persons.

Article 3

Limitations of exposures

1. No bank shall allow any exposure to a person or group of related persons which exceeds ten per cent (10%) of its Tier 1 capital, as defined in the CBK Regulation on Bank Capital Adequacy, unless such exposure has first been approved by the Board of Directors of the Bank at meetings held in accordance with the provisions of Article 27 of the Law on Banks.
2. In the case of a branch of a foreign bank, no exposure to any person or group of related persons which exceeds 10 per cent (10%) of the parent bank's Tier 1 capital set in accordance with regulatory requirements in the country where the foreign bank was established shall be allowed, except when such exposure was first approved by the Board of Directors of the parent bank.
3. No bank shall be allowed to have exposure to a single person or group of related persons if, as a result of that action, the exposure to that borrower or group exceeds fifteen per cent (15%) of Tier 1 capital. In the case of a branch of a foreign bank, the exposure under this paragraph shall be fifteen per cent (15%) in relation to the parent bank's Tier 1 capital. Notwithstanding this, exposure to a person or a group of related persons in the case of a branch of a foreign bank shall never exceed EUR twenty-five million (25,000,000). The limitation of EUR twenty-five million (25,000,000) shall be subject to review depending on market developments.
4. For the purposes of paragraph 2 of Article 46 of the Law on Banks, the limitation of three hundred per cent (300%) of Tier 1 capital on aggregate large credit exposures will apply to all exposures to a person or groups of related persons exceeding ten per cent (10%) of the bank's Tier 1 capital. In the case of a branch of a foreign bank, the exposure under this paragraph shall be in relation to the parent bank's Tier 1 capital.
5. All approvals of large exposures under this Article shall be documented in the minutes of the Board of Directors meetings. In the case of branches of foreign banks, minutes of meetings of the parent bank's Board of Directors regarding the approvals of the large exposures of the branch in Kosovo shall also be kept at the branch of the foreign bank in Kosovo.

Article 4

Consolidation

1. If a bank is a member of a banking group subject to consolidated supervision in accordance with the provisions in CBK Regulation on the Consolidated Supervision of Banking Groups, the limitations from Article 46 of Law on Banks and this Regulation shall be observed by adding together all exposures to the same counterparty by all the members of the group and relating the total exposure to the group's regulatory capital.

Article 5

Exceptions

1. Banks and branches of foreign banks may completely exclude the limitations set out in paragraphs 3 and 4 of Article 3 of this Regulation the following categories of exposures:
 - 1.1. Portions of exposures collateralized by cash in Euros or other readily convertible currencies with value to be at all times maintained in amounts of at least one hundred per cent (100%) of the outstanding exposure, such cash to be actually delivered to the bank or placed with it in a pledged and blocked special account, clearly labelled and evidenced by an enforceable security agreement.
 - 1.2. Exposures in the form of debt securities issued or unconditionally guaranteed by the Government of the Republic of Kosovo, or by central governments and central banks of countries that are classified at least with strong payment capacity, as defined in Annex I to the CBK Regulation on Bank Capital Adequacy, or portions of credit risk exposures collateralized by such debt securities with margins to be at all times maintained at market values of at least one hundred and twenty-five per cent (125%) of amounts outstanding, all such securities to be delivered to the bank under either book-entry form satisfactory to the CBK or in certificated form actually delivered and pledged under an enforceable security agreement.
 - 1.3. Portions of exposures collateralized by money market instruments issued in Europe's or North America's money markets such as: banker's acceptances issued by primary bankers that are rated at least of high credit quality as defined in Annex 1 to the CBK Regulation on Bank Capital Adequacy, deposit certificates and commercial letters issued by primary bankers which are rated at least of high quality credit as defined in Annex 1 to the CBK Regulation on Bank Capital Adequacy, and other instruments that CBK will approve on a case-by-case basis. Exposures collateralized under the requirements of this paragraph shall have margins maintained at any time, at market values, of at least one hundred and thirty per cent (130%) of amounts outstanding, where all such instruments shall be delivered and pledged under an enforceable security agreement.
 - 1.4. Exposures in cases of money transfers involving the execution of payment services, clearing and repayments in various currencies, and other exposures arising from activities with corresponding banks, which occur within the working day or in cases where such transactions are in a process that does not last longer than the next working day. These exposures are also exempt from limitations on transactions with bank-related persons.
 - 1.5. Exposures in cases of transactions for the purpose of foreign exchange occurring over the regular repayment rate within two working days after payment. These exposures are also exempt from limitations on transactions with bank-related persons.
 - 1.6. The amount of deposits with a maturity of one year or less in financial institutions that are classified at least with a strong payment capacity as defined in Annex 1 to the CBK Regulation on Bank Capital Adequacy, which are entirely secured by the deposit insurance scheme.

2. In the case of banks, the CBK may allow an exception to the limitations of fifteen per cent (15%) to maximum twenty-five per cent (25%) of Tier 1 capital for the following categories of credit exposures as provided for with the Law on Banks:

2.1 Credit exposure fully secured by readily marketable collateral. For the purposes of this subparagraph, the term "readily marketable collateral" means the market value of the collateral in the form of a First mortgage discounted by the bank (excluding pledged collateral) at the time of granting the loan, which covers the credit exposure at least one hundred per cent (100%). This property should be evaluated by licensed property appraisers, in accordance with the requirements of the Regulation on Appraisal of Immovable Properties.

2.2 Exposures to or the portion of exposures guaranteed by banks which are classified at least with strong payment capability as defined in Annex 1 to the CBK Regulation on Bank Capital Adequacy and having a maturity of one year or less.

3. The limitations set out in Article 3 of this Regulation, for the cases of the following off-balance sheet exposures, banks and branches of foreign banks, shall apply fifty per cent (50%) of the exposure:

3.1. Unused portions of commitments with a maturity of 1 (one) year or less and the unused portions of commitments that are unconditionally cancellable at any time, regardless of the term, and assigned zero per cent (0%) of their face value for risk weighting purposes.

3.2. Short-term, self-liquidating, trade-related contingencies; including commercial letters of credit and bid guarantees, which are assigned twenty per cent (20%) of their face values for risk weighting purposes.

4. Notwithstanding the provisions of this Article, the CBK reserves the right to require, at any time in its discretion, banks, namely branches of foreign banks, to decrease credit exposures at lower limitations.

Article 6 **Oversight by Board of Directors**

1. The Board of Directors should ensure that the bank fully understands its legal obligations in relation to the limitations on exposures and risk concentrations under Article 46 of the Law on Banks.

2. The Board of Directors should ensure that the bank has policies on controlling large exposures and risk concentrations. The policy and any changes thereto should be reviewed and approved by the Board of Directors.

3. The Board of Directors should be responsible for ensuring that the bank has appropriate procedures and systems to identify, measure and control large exposures and risk concentrations and to monitor compliance with the approved policy.

4. The Board of Directors should receive regular reports to facilitate its review of the bank's large exposures and risk concentrations.

Article 7
Regulatory Reporting

1. Banks are required to report to the CBK their large exposures in the "Return of Large Exposures".
2. Where necessary, the CBK may require a particular bank to adhere to different reporting requirements in relation to large exposures.
3. The bank should notify the CBK immediately of any breach of the statutory limits under Article 46 of the Law on Banks, the provisions of this Regulation or any other prudential limits set by the CBK.

Article 8
Enforcement, Remedial Measures and Civil Penalties

1. Any breach of the provisions of this Regulation shall be subject to remedial and punitive measures, as defined in the Law on the Central Bank and the Law on Banks.
2. If a breach occurs, the CBK may take other appropriate actions, e.g. increasing the bank minimum capital adequacy ratio or limiting its business expansion. It may also require the bank to agree on a timetable to bring the exposure quickly below the statutory limit or any agreed limit and to report progress on a regular basis.

Article 9
Abrogation

Upon the entry into force of this Regulation, the Regulation on Large Exposures approved by the Board of Central Bank of the Republic of Kosovo on 10 May 2013 and any other provision that is in conflict with this Regulation shall be abrogated.

Article 10
Entry into Force

This Regulation shall enter into force 15 days after being approved by the Board of the Central Bank of the Republic of Kosovo.

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

Prof Dr Bedri Peci