

Pursuant to Article 23, paragraph 1, Article 35, paragraph 1, subparagraph 1.1 of the 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 1, 44 and 85, paragraph 1 and 114 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 22 December 2015, approved the following:

REGULATION ON RESIDENTIAL MORTGAGE LENDING

CHAPTER I General Provision

Article 1 Purpose and Scope

- 1. The purpose of this Regulation is to establish the requirements and standards for lending to natural persons, secured by a mortgage on immovable property for residential purposes (hereinafter: *residential mortgage loans*). This regulation is designed to provide favourable loan options to natural persons who met the criteria under this regulation. This regulation does not address nor intends to regulate mortgage loans for investment purposes. This includes the application process, crediting, financing and servicing of residential mortgage loans.
- 2. This Regulation applies to all crediting financial institutions licensed by the CBK to operate in Kosovo (hereinafter: *FIs.*) Licensed financial institutions shall ensure that every loan approved from their side is consistent with safe and sound banking practices which support the institutions decision to engage in a loan transaction.
- 3. This regulation is issued in accordance with the Law No. 03/L-154 on Property and Other Real Rights and with other applicable laws at time of issuance of this regulation.

Article 2 Definitions

- 1. For the purpose of the implementation of this regulation, the definitions used in this regulation have the same meaning with definitions used in Article 3 of the Law No.04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions (hereinafter: Law on Banks), and in regulations: Regulation on Credit Risk Management, Regulation on Bank Capital Adequacy, Regulation on Effective Interest Rate and Disclosure Requirements and Regulation on Appraisal of Immovable Properties, and/or with the following definitions, used for the purpose of this Regulation:
 - 1.1. **Abundance of Caution**: Security taken by a lender for a loan in which the primary reason for the extension of credit was not based on the additional security measure related to the abundance of caution.
 - 1.2. Acceleration Clause: The clause in a mortgage loan agreement that permits a creditor to require from the debtor to pay the outstanding balance of the residential mortgage loan immediately, if the debtor does not meet certain requirements in the mortgage loan agreement.
 - 1.3. Amortization: The process whereby a mortgage loan payment consists of a portion applied to pay interest on a mortgage loan and the remainder applied to pay down the unpaid principal balance of a mortgage loan. Over time, the interest portion decreases as the loan balance decreases, and the amount applied to principal increases until the loan is paid off (amortized) with the last monthly payment at the term of the mortgage loan.
 - 1.4. **Applicant**: Natural person applying for a residential mortgage loan.
 - 1.5. **Balloon Mortgage**: A mortgage loan that requires the principal balance to be paid at a specific point in time prior to or at maturity that differs from a standard amortization schedule. For example, a loan may be amortized as if it would be paid over a thirty-year period, but requires that at the end of the tenth year the entire remaining balance due at the end of the ten year period must be paid.
 - 1.6. **Basis Points**: A basis point is one-one hundredth of a percent (0.01%). For example, one hundred (100) basis points equals one percent (1.00%).
 - 1.7. **Borrower/debtor**: The natural person who borrows money through a residential mortgage loan.

- 1.8. Cadastre: It is land information system containing records of interests in real estate (e.g. property rights, restrictions and responsibilities). It includes a geometric description of land parcels linked to other records describing the nature of the interests, ownership or control of those interests, and in many cases the value of the parcel and its improvements. Reference to Cadastre in this regulation is related to the cadastral records maintained by the Kosovo Cadastral Agency.
- 1.9. **Disbursement Fee**: A fee charged by a FI to a borrower to pledge resources to enter into the mortgage loan agreement with the borrower. The exact amount charged will vary. The FI incurs costs due to the administrative tasks that are associated with the loan. A disbursement fee may be periodic, as a tool used by the FI to partially defer the payment of this cost into instalments. The fee is based on a percentage of the amount of the mortgage. This fee may also be referred to as a commitment fee, administrative fee or management fee.
- 1.10. **Cure**: A debtor cures a defaulted loan by paying all past due payments and fees, thus becoming current and making regular payments on the loan going forward.
- 1.11. **Default**: The failure of a borrower to comply with the terms of the mortgage loan agreement. This can be due to not paying the loan on time or due to violating one of the terms of the mortgage agreement.
- 1.12. **Down Payment**: The amount of money paid by a borrower when buying an immovable property that represents the difference between the purchase price and the amount of the residential mortgage loan. For example, the borrower participated with co-financing or made a down payment of € 20,000 to get an € 80,000 mortgage on a flat that costs € 100,000.
- 1.13. **Delinquent**: Refers to the monthly payment of mortgage loan, which has not been made by the due date.
- 1.14. **Encumber**: The act of placing a lien or a charge such as a mortgage on immovable property. An encumbrance is legal only if it is listed in the Cadastre.
- 1.15. **Encumbrance**: Anything that affects ownership rights to a property, such as mortgages, leases, easements or restrictions.
- 1.16. **First Mortgage**: The mortgage that is in first place among all loans recorded in the Cadastre against an immovable property. Priority of the lien refers to the date on which the mortgage agreement is recorded in the Cadastre.

- 1.17. **Fixed-Rate Mortgage**: A mortgage loan for which the interest rate does not change during the entire term of the loan.
- 1.18. **Foreclosure**: The legal process by which a creditor may sell the immovable property, which is mortgaged as security for a mortgage loan, to pay all outstanding balances and charges on a defaulted mortgage loan.
- 1.19. **Guarantor**: Individual who personally guarantees the loan issued to the borrower. The guarantor has no claim to the immovable property. The lender may encumber the guarantor's property towards a loan as additional security for abundance of caution. Guarantor is not the main source of qualification or payment of the loan.
- 1.20. **Hazard Insurance**: A form of insurance that protects the immovable property insured against physical damage such as fire and other natural forces.
- 1.21. **Immovable Property**: A specific part of the land surface, which has boundaries or boundaries can be set. Immovable properties include land, natural objects affixed to the land, business buildings, residential buildings, and parts of the buildings (apartments) as separate units of residence and natural underground assets.
- 1.22. **Lender**: The FI that provides the funds to the borrower through a mortgage loan. See also mortgagee and creditor.
- 1.23. **LPORR**: Law No. 03/L-154 on Property and Other Real Rights
- 1.24. **Residential Mortgage Loan**: Any loan secured by residential immovable property that is pledged as collateral which allows the mortgage creditor to initiate foreclosure proceedings for the purpose of satisfying the obligation of the mortgage creditor under the terms and conditions on the mortgage loan, and the purpose of the loan is buying, developing and building a residential immovable property. In here is included Qualifying Residential Mortgages and Other Residential Mortgages.
- 1.25. **Rate and Term Refinance -** The refinancing of an existing residential mortgage for the only purpose of changing the interest rate and/or term of a mortgage without advancing new money on the loan except. Rate and term refinancing is done only to offer more favourable conditions for the borrower but not because of deterioration of borrower's financial condition. In these cases the client shall not have delinquent payments at least during the last twelve (12) months. For the rate and term refinance FI-s shall not charge early payment penalties.

- 1.26. **Refinancing** –Refinancing may be done by the current FI (FI which initially has financed the loan) or another FI. If it is refinanced by the current FI, FI shall not apply early repayment penalty fee. Refinancing has to qualify as a new loan which includes also the appraisal of the property. Refinance shall not be done because of deteriorating the performance of the loan which is considered a troubled loan that needs restructuring. The loan which will be refinanced must be in good standing, meaning a minimum of no late payments in the past twenty four (24) months.
- 1.27. **Mortgagor Life Insurance**: FI might require life insurance for the mortgagor, who is a natural person, in terms of mortgage loan. The life insurance value is special for the mortgage amount outstanding over the term of the loan or period required by the FI.
- 1.28. **Mortgage Term**: The length of time that a mortgage is scheduled to be paid and the debtor is obligated to pay the creditor. For example: a 30-year mortgage term is 30 years.
- 1.29. **Mortgagee**: The FI that lends money secured by pledged immovable property to the mortgagor. See also the term Lender and Creditor.
- 1.30. **Mortgagor**: The natural who pledges immovable property as security for the repayment of a mortgage loan.
- 1.31. **Creditor**: The FI that lends money secured by pledged immovable property to the debtor. See also lender and mortgagee.
- 1.32. **Owner**: The natural person identified in the immovable property rights registry of the Cadastre as the verified owner of the immovable property or the person purchasing the property from the current verified owner of immovable property to become the new owner after receiving the funds from the residential mortgage loan to complete the purchase transaction.
- 1.33. **Owner-occupied**: The owner of the immovable property, who is a natural person, uses all or a portion of the immovable property as his/her primary residence.
- 1.34. **Qualifying income**: Stable, recurring, documented components of household income from acceptable sources used to evaluate a potential borrower's capacity to meet financial obligations when making the decision about mortgage lending.
- 1.35. **Second Mortgage**: A mortgage loan that is second in priority to claims against the immovable property based upon the timing of filing of lien against an immovable property in the Cadastre. There can be third mortgages and more.

- 1.36. **Unit**: Separately owned and occupied elements or independent space of a building used for dwelling, commercial or other usage. The unit is separately registered in the Cadastre.
- 1.37. **Variable-Rate Mortgage (VRM)**: A mortgage loan with an interest rate and monthly payment that change periodically over the life of the loan based on changes in a specified index, which is publically available and beyond the control of the FI.
- 1.38. **Residential property**: is an immovable property, that is completed, not under construction, but liveable, and that is used primarily for the purpose of habitation by natural persons. The immovable property may be a unit in a collective building (like a condominium) or a separate building that may contain up to four separate units. The building does not have or will not have the commercial use as a primary base.
- 1.39. **FI:** Financial institutions licensed and regulated by the CBK for crediting, including banks, microfinance institutions and non-bank financial institutions.

CHAPTER II Residential Mortgage Loans

Article 3 Residential Mortgage Loan Requirements

- 1. **A residential mortgage loan** is a loan secured by a residential immovable property as defined in Article 2 of this Regulation, for a natural person for the purposes determined with Article 6 of this Regulation.
- 2. Residential mortgage loan must be established on the basis of a written residential mortgage loan agreement and a mortgage agreement.
- 3. A residential mortgage loan agreement is a written agreement between the creditor and debtor that defines the specific terms and conditions of the loan. The requirements for the content of residential mortgage loan agreement are provided in Article 5.
- 4. Mortgage agreement is a written agreement between the owner of an immovable property, who is the debtor and where applicable also the co-borrower as co-owner, and the FI as creditor, which determines that immovable property as security instrument for residential mortgage loan.
 - 4.1. A co-borrower can be part of the mortgage agreement in cases when he/she is also the co-owner of the immovable property used as security instrument for the residential

- mortgage loan.
- 4.2. The specifics of the mortgage agreement are provided in Article 4.
- 5. Only the owner of the immovable property can encumber the immovable property:
 - 5.1. A person using the residential mortgage loan to purchase the immovable property must be the owner of the immovable property or to become the owner of the immovable property through the purchase of the immovable property with the proceeds of the residential mortgage loan.
 - 5.2. If the co-owner of the immovable property being mortgaged is not listed as a coborrower in the mortgage agreement, the FI must obtain the co-owner's consent for the loan and a waiver of his/her rights to contest the mortgage loan and any actions by the creditor to collect the residential mortgage loan.
 - 5.3. In cases when the borrower's spouse is not a co-borrower in the mortgage agreement, the FI must obtain the spouse's written consent for the loan and a waiver of all his/her rights that may arise from relevant legislation in force.
- 6. If the interest rate on the residential mortgage loan is fixed, the rate shall not change except in the circumstances involving restructuring the loan due to delinquent payments as detailed in the loan agreement. As an exception, the fixed interest rate may also change in case of a rate and term refinance agreed between the FI and the borrower.
- 7. If the interest rate on the residential mortgage loan has a variable rate, then the variable rate must be clearly defined in the loan agreement using the following terms.
 - 7.1. **Variable index** is a publically available rate such as EURIBOR or LIBOR or any other approved index by the CBK that is not within the control of the FI.
 - 7.2. The **margin** is the additional interest added to the index that represents the FI's cost, risks and profit. The stated margin in the agreement shall not change for the life of the loan.
 - 7.3. The sum of the margin and the index rounded off to the nearest one-hundredth percent (0.01%) shall be the interest rate charged on the residential mortgage loan for the designated period.
 - 7.4. The interest rate adjustment frequency is at the discretion of the FI but must be clearly described in the residential mortgage loan agreement.
- 8. The residential mortgage loan must be denominated in Euros or other currency, officially authorized for use by the CBK. FI's may issue residential mortgage loans in another currency only if the currency of the loan is in the currency of the debtor's qualifying income.
- 9. The amount of the residential mortgage loan shall not exceed ninety percent (90%) of the appraised value of the immoveable property used as collateral for the residential mortgage loan. If the residential mortgage loan secured by a residential property which is not the

financed property, then the residential mortgage loan shall not exceed ninety percent (90%) of the appraised value of the immoveable property financed or the immovable property used as collateral for the residential mortgage loan.

10. FI-s may use other security measures as abundance of caution for example by requiring guarantors for the residential mortgage loan. They may also use guarantor's real estate as collateral of the residential mortgage loan, or any other measure, however the residential mortgage loans will be classified as a qualifying residential mortgage loan only if they meet the minimum criteria determined with this regulations for a qualifying residential mortgage loan.

Article 4 Mortgage Agreement

- 1. A mortgage is created by written agreement between the owner of the real estate property and the creditor, as well as through registration in the Property Rights Registry which represents an interest in immovable property in exchange for a loan, which gives the creditor the right to initiate foreclosure proceedings against the debtor for such immovable property placed as a mortgage, for the purpose of fulfilling the loan obligation that is secured by that mortgage, which is past due.
- 2. The mortgage agreement used by a FI must be in writing and contain at least the following:
 - 2.1. name and address of the debtor/mortgagor (where appropriate the co-borrower as the co-owner);
 - 2.2. the type of ownership and relevant ownership percentage of joint owners pursuant to the Certificate of Ownership;
 - 2.3. name and address of the creditor including contact information for addressing the complaints;
 - 2.4. the exact description of the immovable property which is to be encumbered, including its location, full address or other essential information regarding location and identifying cadastral numbers;
 - 2.5. purpose of the loan according to Article 6 of this Regulation;
 - 2.6. the principal amount of the loan secured by the mortgage agreement;
 - 2.7. the interest rate of the loan and in the case of a variable rate also a full description of cases when the rate may be changed and the reference to a relevant index;
 - 2.8. the effective interest rate;
 - 2.9. all other fees and charges payable by the borrower, including costs of mandatory auxiliary services such as insurance, if known at the time of signing the mortgage agreement, or the notification for these necessary services which also bear their cost.
 - 2.10. the total amount payable by the borrower;
 - 2.11. the term of the mortgage including maturity date;

- 2.12. reference to the residential mortgage loan agreement and the payment credit structure for the loan including methods for amortization and adjusting interest rates;
- 2.13. the security interests of the creditor that the debtor must conform to, such as keeping property insurance, paying property taxes, maintaining the value of the property, and restricting both use and sale of the property,
- 2.14. interests, penalties or charges that must be paid in the case of default (including a definition of default).
- 2.15. a written warning in capital bold letters stating that in the case of late payments or violation of the security interests or other conditions in the mortgage agreement, the mortgagee may declare the mortgagor in default and initiate enforcement proceedings which might result in the loss of ownership over the mortgaged immovable property and in eviction from it, as follows:

AT ANY TIME THAT MONIES HEREBY SECURED WITH THIS AGREEMENT SHALL BE PAID AND THE MORTGAGOR FAILS TO CONDUCT TIMELY PAYMENT ACCORDING TO THE TIME DEFINED WITH THIS MORTGAGE AGREEMENT, MORTGAGOR ACKNOWLEDGES THAT HE/SHE SHALL BE IN DEFAULT OR SHALL BE IN BREACH OF THIS AGREEMENT. IF THE MORTGAGOR IS IN BREACH OF THIS AGREEMENT, THE MORTGAGEE SHALL HAS THE RIGHT TO FORECLOSE ON THE MORTGAGE WITH THE INTENT TO TAKE POSSESSION AND SELL THE MORTGAGED PROPERTY TO RECOVER ALL MONIES OWNED BY MORTGAGOR.

- 2.17. identifying all interested parties and reference riders describing any and all waivers of interest in the immovable property being mortgaged,
- 2.18. all riders relevant to the mortgage loan agreement;
- 2.19. the date the agreement was signed and the signatures of the mortgagee, mortgagor and where appropriate the co-borrower; and
- 2.20. Certification of the signatures in accordance with the rules applicable to other legal agreements over immovable property.

Article 5 Residential Mortgage Loan Agreement

- 1. The residential mortgage loan agreement is a written agreement which is signed by all parties involved in the mortgage loan transaction describing the loan made by the FI to the debtor. It must contain the following minimal characteristics in addition to the elements required by the Regulation on Effective Interest Rates and Disclosure Requirements:
 - 1.1. A principal amount due,
 - 1.2. A term or maturity date,

- 1.3. An interest rate and a description on how and when the interest rate may change,
- 1.4. Payment terms describing structure of the payments that will ensure the loan is paid off at maturity,
- 1.5. Effective interest rate,
- 1.7. Early repayment rights and related costs,
- 1.8. Details of consequences in event of a delinquency,
- 1.9. An acceleration clause,
- 1.10. An extinction clause,
- 1.11. An amortization plan that must be signed by the debtor and when applicable by the co-borrower.
- 2. The CBK may issue Instructions on requirements for a mortgage loan agreement for further details, if it deems necessary.

Article 6 Permissible Residential Mortgage Loan Purposes

- 1. Residential mortgage loans can only be made available to natural persons for the following purposes:
 - 1.1. to purchase immovable property for occupancy as a residence (Purchase).
 - 1.2. to refinance an existing mortgage on a residential immovable property (Refinance).
 - 1.3. to finance renovation of a residential immovable property (Home Renovation).
 - 1.4. to finance the construction of residential immovable property (Construction) for natural persons. A construction loan cannot be used for the construction of a unit in a collective housing building.
- 2. Residential Mortgage Loans shall be divided in these categories:
 - 2.1. Qualifying Residential Mortgage Loan and Other Residential Mortgage Loans;
 - 2.2. Qualifying Residential Mortgage Loans shall be divided in Qualifying Mortgage Loan A Category and Qualifying Residential Mortgage Loans B Category;

Article 7 Qualifying Residential Mortgage Loans – A Category

- 1. The qualifying residential mortgage loan A Category (hereinafter: *QRML-A*) shall be secured with a residential immovable property and shall met the following additional requirements:
 - 1.1. The residential property mortgaged for QRML-A shall be occupied as primary residence by the borrower.
 - 1.2. The QRML shall have a fixed rate or variable rate,

- 1.3. The QRML shall have a fixed term,
- 1.4. The QRML shall be a monthly pay, self-amortizing loan,
- 1.5. The QRML must be a first lien on the residential immovable property being financed,
- 1.6. The PTI ratio shall not exceed fifty percent (50%) for QRML, (see Article 16),
- 1.7. The DTI ratio shall not exceed sixty percent (60%) for QRML, (see Article 16),
- 1.8. The interest rate of QRML, term and amortization methods for a QRML cannot change except in cases of variable interest rate of mortgage loans, partial prepayment of the principal of the loan or cases of loan restructuring.

2. The QRML-A cannot:

- 2.1. Have a Loan-to-Value (LTV) ratio greater than sixty percent (60%) (see Article 19, paragraph 1(b)),
- 2.2. Have negative amortization,
- 2.3. Have a balloon payment,
- 2.4. Have an interest-only period and
- 2.5. Allow deferment of principal payment except in cases of a loan restructuring or forbearance to resolve a delinquency.

3. The QRML-A can only be used for the following purposes:

- 3.1. To purchase residential immovable property for occupancy as a primary residence (Purchase).
- 3.2. To refinance an existing mortgage on a residential immovable property used as a primary residence (Refinance).
- 3.3. To finance renovation of a residential immovable property used as a primary residence (Home Renovation).

4. If the QRML has a variable interest rate, the residential mortgage loan agreement must specify exactly how interest rates will change.

- 4.1. The QRML interest rate must be determined by adding a fixed margin to a recognizable interest rate index as approved by the CBK.
- 4.2. The QRML interest rate must be adjusted (changed) on a regular, fixed period (i.e., monthly, annually or other period).
- 4.3. When the QRML interest rate changes, the monthly payment shall be recalculated so that the loan is fully amortizing over the remaining term of the mortgage.
- 4.4. The variable mortgage rate for a QRML cannot increase or decrease by more than 200 basis points per year regardless of the adjustment period and cannot increase or decrease by more than 600 basis points over the term of the mortgage loan.
- 4.5. The creditor must have ne fully convinced that the borrower can repay the loan even if it is used the maximum possible interest rate in the first five years.
- 5. The ORML must fulfil the specific underwriting guidelines described with this Regulation.

Article 8 Qualifying Residential Mortgage Loans – B Category

- 1. **The Qualifying Residential Mortgage Loan B Category** (hereinafter: *QRML-B*) shall met the requirements set for Qualifying Residential Mortgage Loans Category A under Article 7 of this Regulation, except the following differences:
 - 1.1. The financed residential property used as collateral for QRML-B may be a second residential property of the borrower or residential property for rent.
 - 1.2. QRML-B cannot have LTV ratio greater than eighty percent (80%) (see Article 19, paragraph 1 (b)),

2. The QRML-B can only be used for the following purposes:

- 2.1. To purchase residential property for occupancy as a second residence or for rent (Purchase).
- 2.2. To refinance an existing mortgage on a residential immovable property for occupancy as a second residence or for rent (Refinance).
- 2.3. To finance renovation of a residential immovable property for occupancy as a second residence or for rent (Home Renovation).
- 3. Qualifying Residential Mortgage Loans Category A, which do not exceed the limit of LTV for QRML-A, but are within the limits of LTV for QRML-B, will be classified as QRML-B.

Article 9

Classification of Residential Mortgage Loans

- 1. Residential mortgage loans shall be classified at origination of the loan based upon whether they meet the requirements specified in this regulation.
- 2. For the purpose of risk weighing residential mortgage loans shall be classified as either:
 - 2.1. Qualifying residential mortgage loan A Category (QRML-A),
 - 2.2. Qualifying residential mortgage loan B Category (QRML-B),
 - 2.3. Other residential mortgage loans.
- 3. The risk weightings for residential mortgage loans are based on classification of the mortgage loan according to this Article and LTV (as defined in Article 19). The risk weightings are specified in Article 5 of the Regulation on Bank Capital Adequacy based on the classifications of residential mortgage loans determined with this regulation.
- 4. A Qualifying Residential Mortgage B Category (QRML-B), is considered higher risk loan than Qualified Residential Mortgage A Category (QRML-A) and thus it will carry a

higher risk weight. Whereas Other Residential Mortgage loans which do not fulfil the requirements of this regulation for QRML-A or QRML-B will be considered even higher risk therefore will carry a higher risk-weight.

Article 10 Residential Mortgage Lending Policies and Documentation

- 1. All FI must establish and maintain specific written policies of mortgage lending including but not limited to the following sections:
 - 1.1. Sale and marketing processes for the client,
 - 1.2. Application and verification of application,
 - 1.3. Appraisal process, including the mortgage appraisal,
 - 1.4. Underwriting guidelines,
 - 1.5. Approval of the loan,
 - 1.6. Funding, advance,
 - 1.7. Complaint handling,
 - 1.8. Regular servicing,
 - 1.9. Special servicing,
 - 1.10. Foreclosure, and
 - 1.11. Extinction of the mortgage.
- 2. FIs shall maintain a comprehensive mortgage loan files for each mortgage loan. This file shall be maintained according to the FI's records maintenance policy but shall contain at least;
 - 2.1. Original application and signed disclosures,
 - 2.2. Documentation on verification of the application information,
 - 2.3. Credit registry report,
 - 2.4. Appraisal of the immovable property,
 - 2.5. Documentation of underwriting decision including qualification assessment of the client for this loan,
 - 2.6. Mortgage Agreement,
 - 2.7. Residential Mortgage Loan Agreement,
 - 2.8. A copy of a sale-purchase agreement,
 - 2.9. Payment amortization plan,
 - 2.10. Pre-Contractual Disclosure Document,
 - 2.11. All correspondence during the term of the loan,
 - 2.12. Details of occurrences of default, foreclosure and any restructurings, and
 - 2.13. Loan Extinction notice.

CHAPTER III Residential Mortgage Loan Application Process

Article 11

Sale and marketing processes for the client

- 1. Advertisement of mortgage products must comply with the Regulation on Effective Interest Rate and Disclosure Requirements and with other regulatory provisions in force.
- 2. FIs shall not offer misleading or incomplete information on their mortgage loan offerings, the mortgage lending process or rates and fees for their mortgage loan offerings.
- 3. When the FI offers a particular residential mortgage loan product a potential debtor, to that debtor shall be provided a Standard Information Sheet which shall be in compliance with the CBK regulations and it shall be based on the European Standard Information Sheet¹.
- 4. Only FI employees may offer residential mortgage loans on behalf of the FI to natural persons.

Article 12 Loan Application

- 1. The FI will arrange for the potential debtor to complete a formal loan application, in order to gather all information necessary to determine if the mortgage loan represents an acceptable risk to the FI and a suitable burden to the prospective debtor.
- 2. The loan application form shall include the applicant's signature attesting the accuracy of the information on the application, permitting the FI to verify the information that the applicant has provided, and promising to inform the FI if there is any change to the loan application.
- 3. The FI shall collect all documentation needed to verify the accuracy of the application from the prospective debtor.
- 4. The FI shall provide to the prospective debtor any disclosures required by the CBK.
- 5. The FI shall collect all necessary documentation to verify the ownership including the sale/purchase agreement and certificate of ownership.

Article 13 Verification of Loan Application

1. The FI shall verify all the information provided by the borrower in the mortgage application and document the verification of real estate in Cadastre for their purpose of crediting.

¹ Annex II of Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 "European Standardized Information Sheet".

- 2. The FI shall verify the documentation of ownership of the immovable property for their purpose of crediting.
- 3. If a borrower provides misleading or false information on his/her application for a mortgage loan or fails to inform the FI about any significant change in status on his/her mortgage application during the application process, the FI may immediately reject the loan.
- 4. If the debtor receives the loan based upon false or misleading information, the FI may declare the mortgage loan in violation upon discovery of the false or misleading information subject to applicable law.

CHAPTER IV Residential Mortgage Underwriting Process

Article 14 Definition of Crediting

- 1. Crediting is the process of assessing a loan application to determine the risk involved for the creditor. It involves an analysis of the borrower's ability and willingness to repay the loan and the assessment of the value of the immovable property compared to Loan-To-Value ratio.
- 2. The FI shall establish a clear set of requirements that the applicant must meet before the FI approves the residential mortgage loan. The FI shall document through its loan underwriting process that it has concluded that:
 - 2.1. The borrower has the **capacity** or sufficient income to satisfy the payment obligations of the mortgage loan;
 - 2.2. The borrower demonstrates **creditworthiness** or a predisposition to meet financial obligations; and
 - 2.3. The **collateral** has a realizable value that is sufficient to serve as security in the event that the residential mortgage loan goes into default.
- 3 The FI shall define the underwriting requirements for residential mortgages separate from those for commercial mortgages.

Article 15 Qualifying Income for Residential Mortgage Loans

1. Qualifying income is the documented income, calculated on a monthly basis, which is

available to pay housing expenses, debt and living expenses.

- 2. When calculating the qualifying income, the FI:
 - 2.1. May include only documented income from a potential borrower listed on the application as part of the household's total income.
 - 2.2. Must ignore any portion of the applicant's income that appears as a one-time income unless the borrower can prove that he/she receives the income on a regular basis.
 - 2.3. May include income from self-employment if verification from financial records or other means is possible,
 - 2.4. May include income from remittances if it is documented the payment consistency. The verified remittances can only be included at fifty percent (50%) of the lowest remittance amount in the previous 12 months. For QRML, remittances may be used only up to 50% of the total qualifying income,
 - 2.5. May include other sources of verifiable income such as investments in securities.
 - 2.6. May include co-borrower qualifying income when the co-borrower is also co-owner of the mortgage used as collateral after taking into consideration the co-borrower's financial obligations. In case of a co-borrower that is not the co-owner of the mortgage, his/her income may comprise maximum up to thirty (30%) of the total qualifying income required to calculate the minimum PTI and DTI ratios determined with Article 16 of this regulation while the other seventy (70%) of the total income shall be borrower-s qualifying income.
 - 2.7. Other income may be included if it is documented and consistent.
- 3. The FI must verify the amount and sources of funds that the borrower will have available to pay for the down payment/co-financing and closing costs.
 - 3.1. For QRML, the co-financing payment must be in the form of a deposit at a recognized FI or to be verified with receipt and bank payment slip showing payment of down payment to the seller.
 - 3.2. For other residential mortgages, the co-financing payment can take other forms of self-financing.
 - 3.3. The FI shall require from the borrower to provide a written statement verifying that the funds for co-financing the payment were not borrowed.
 - 3.4. If the borrower's co-financing comes from donation:
 - 3.4.1. Only the donations from relatives, employers, government agencies or NGOs are permissible.
 - 3.4.2. The donor of co-financing part must sign a letter certifying that the borrower has no obligation to repay the funds.

Article 16 Determining Credit Capacity for Residential Mortgage Loans

- 1. The FI must demonstrate that the borrower meets the criteria **payment to income ratio** (**hereinafter:** *PTI*), which expresses the amount of the borrower's monthly housing costs as a percent of the monthly income.
 - 1.1. The total monthly housing costs include principal and interest payments on the mortgage loan plus property taxes and hazard insurance (in monthly calculation). The monthly housing expenses are divided by the monthly qualifying income to calculate the ratio in question.
 - 1.2. The PTI ratio shall not exceed fifty percent (50%) for a QRML or sixty percent (60%) for any other residential mortgage loan.
- 2. The FI must also demonstrate that the borrower meets a maximum allowable **debt to income ratio** (**hereinafter: DTI**), which expresses the amount of borrower's monthly financial obligations as a percent of the monthly qualifying income.
 - 2.1. The total debt includes obligations including housing expenses, as defined above, plus other monthly debt payments like car loans, leases and credit card payments. These monthly financial expenses are divided by the monthly qualifying income to calculate the ratio.
 - 2.2. The DTI ratio shall not exceed sixty percent (60%) for a QRML or seventy percent (70%) for any other residential mortgage.
- 3. For mortgage loans, the FI shall use sound and consistent policies to define the credit capacity of the borrower in compliance with the FI's credit policies and CBK rules.
- 4. The income ratios described above provide key guidance for FIs to determining the potential debtor's credit capacity, however these are the maximum limits accepted, but are not recommendations by the CBK. FIs are expected to use sound credit standards for making underwriting decisions.

Article 17 Assessing Creditworthiness

- 1. The FI will evaluate the creditworthiness of the borrower based on the borrower previous experiences in meeting financial obligations.
- 2. The FI shall obtain the borrower's credit report from the Kosovo Credit Registry to use in assessing the creditworthiness of the borrower.
- 3. Besides credit report, in order to assess the borrower's creditworthiness, FI must use other documented and verified sources to assess the borrower's creditworthiness.
- 4. By utilizing all available information, the FI will prepare a summary of creditworthiness

assessment and will qualify the debtor as acceptable or unacceptable.

Article 18 Immovable Property Appraisal

- 1. The appraisal of immovable property used as mortgage for the purpose of securing the residential mortgage loan should be conducted pursuant to CBK Regulation on Appraisal of Immovable Property.
- 2. FI shall conduct appraisals on both the purchased immovable property and the immovable property which is serving as the collateral.
- 3. During the process of appraising the immovable property, in order to determine the value of collateral, the FI may use the tax base of the immovable property established by the Municipalities in accordance with the Law on Taxes on Immovable Property in the Republic of Kosovo.

Article 19 Assessing Collateral Adequacy

- 1. The FI shall determine the **loan-to-value ratio** (**LTV**) for the proposed residential mortgage loan. Calculation of LTV ratio is done by dividing: (a) the amount of the mortgage loan by (b) the *lesser* of the purchase price, or the official appraised value of the property. The LTV is determined at origination of the mortgage loan.
- 2. The LTV on Qualified Residential Mortgage Loans (QRML) shall not exceed eighty percent (80%). In cases when there is a need to use the income of co-borrower that is not the co-owner of the mortgage to meet the PTI and DTI ratios defined in Article 16 of this Regulation, up to the limit of thirty percent (30%) as determined with Article 15 paragraph 2.6 of this Regulation, the LTV shall not exceed eighty percent (80%).
- 3. The LTV on qualifying residential mortgage loans (QRML) shall not exceed eighty percent (80%) of the amount of appraised value of the property being purchased or the sale price of the immovable property being purchased, depending on which one is lower.

Article 20 Lending Decision (The process of approval)

1. The lending decision shall be made by a committee within the FI, and this decision shall be documented in the loan applicant's file.

- 2. A record of mortgage lending decisions shall be maintained in the FIs records.
- 3. If the loan was approved for the debtor, then the debtor must be notified from FI through a pre-contractual document (see paragraph 5 of this Article) and a copy of this letter shall be retained in the debtor's file.
- 4. Debtors to whom is not approved the loan, shall be notified in writing and the letter of denial shall be retained in the debtor's file.
- 5. The **Pre-Contractual Document** shall be prepared and provided to the debtor as evidence of approval of the loan.
 - 5.1. This document shall be in alignment with the requirements of European Standard Information Sheet and with CBK regulation for disclosure of products.
 - 5.2. This document also enumerates the amounts of money exchanged at the end of loan approval process, and will indicate who will be responsible for providing the money/financing and how those monies are to be applied.
 - 5.3. The CBK may issue additional instructions for a more detailed format of Pre-Contractual Document.
 - 5.4. The FI shall obtain written documentation of timing of receipt of the Pre-Contractual Document by the debtor.
 - 5.5. All instructions that need to be provided to the debtor shall be incorporated in this document particularly regarding payments for property taxes and property insurance.
- 6. In the case of **residential mortgage loans** the FI set a deadline to the Debtor no less than four (4) calendar days and not more than ten (10) calendar days to assess the implications of the decision on mortgage loan and his/her decision to reach an agreement. The minimum limit of four (4) calendar days does not limit loan agreements within a shorter period, in cases when the debtor agrees with the terms and conditions of the loan even earlier.

CHAPTER V Residential Mortgage Settlement Process

Article 22 Insurance

1. For qualifying residential mortgage loans (QRML), the FI shall require from the debtor to obtain and maintain property hazard insurance, with an insurance company licensed to operate in Kosovo, in an amount not less than the amount of the mortgage. The debtor may obtain a larger amount of property insurance subject to the insurance company's policies

and procedures.

- 2. The FI may require at any time from the mortgage loan debtor to obtain and maintain life insurance or some other form of securing loan payment in order to provide better protection to allow the debtor to have the possibility to meet the FI's underwriting requirements. The amount required for life insurance of the borrower of mortgage loan shall be no greater than the mortgage.
- 3. Debtors shall be given the option to choose between insurance products offered through licensed insurance agents or brokers, insurance or broker agencies, or insurance companies.

Article 22 Administrative Fee

- 1. The FI may charge a fee for issuing a mortgage loan called an administrative fee to recover the lending costs and risk of lending approval.
- 2. The administrative fee shall not exceed two percent (2%) of the principal amount of the relevant mortgage loan.

Article 23 Disbursement

- 1. The FI shall give the borrower a list of the documents that the FI will prepare and the borrower will be required to sign them before disbursement.
- 2. The FI shall assure that the property seller provides evidence that any outstanding liens against the property has been cleared.
- 3. The FI prior disbursement of funds, shall assure that the mortgage agreement is registered in the immovable property rights registry at the Cadastre.
- 4. The FI shall provide the debtor with final, executed copies of all documents, including the mortgage agreement, the mortgage loan agreement, and any other relevant contractual obligations of the debtor and where appropriate of the co-borrower.
- 5. The disbursement of loan proceeds by the FI to the borrower will be in accordance with the regulations in force for disbursement of loan proceeds.
- 6. If the debtor uses any part of the proceeds of the mortgage loan for purposes other than the purpose mentioned in the mortgage application, the FI may declare the mortgage loan

agreement in breach pursuant to applicable law.

CHAPTER VI Residential Mortgage Loan Servicing

Article 24 Notifications to Debtor

- 1. All notifications to the debtor shall be made through one or any combination of the following means:
 - 1.1. Direct mail.
 - 1.2. Notice for specific amount for payment included in bank account statement,
 - 1.3. Phone calls,
 - 1.4. SMS,
 - 1.5. E-mails, or
 - 1.6. Other reasonable method agreed to in the mortgage loan agreement.
- 2. The FI may allow the debtor to avoid the payment notification regime by written request from the debtor.

Article 25 Transitional Account "Escrow"

- 1. Instead of requiring from the debtor to separately pay for property insurance, property taxes, and other fees required under the mortgage agreement, the FI may establish an escrow account to collect and pay those fees on behalf of the debtor.
- 2. An escrow account is an account linked to a mortgage loan used to collect fees from the debtor to pay expenses required under the mortgage agreement.
- 3. The escrow account can take one of three forms:
 - 3.1. The account can be an advance escrow account wherein the debtor is required to prepay a portion of the expected expenses at settlement and then the debtor pays a portion of the expenses every month. The FI uses those collected funds to pay the property insurance, property taxes and other fees when due.
 - 3.1.1. The amount paid at settlement and monthly amount should be sufficient to pay the anticipated expenses associated with the mortgage agreement.
 - 3.1.2. The FI shall pay the insurance premium, property taxes and other expenses on a timely basis on behalf of the debtor.
 - 3.1.3. The account must be reconciled annually to ensure that the debtor's contribution

- is sufficient to pay the anticipated expenses. The debtor may be required to pay more or less depending on the requirements to pay all of the expenses within the year.
- 3.1.4. The balance of the escrow account shall earn interest for the debtor at the FI's prevailing deposit rate.
- 3.2. The account can be an transitional account for debt where the FI pays the advances (loans) of the premiums for property insurance, property taxes or other expenses to the debtor to pay the property insurance, property taxes and other fees when due. The monies advanced shall be considered a loan to the debtor.
 - 3.2.1. The debtor repays the cost of these payments on monthly instalments.
 - 3.2.2. The account must be reconciled annually to ensure that the debtor's contribution is sufficient to pay the fees paid by the FI. The debtor may be required by the FI to pay more or less depending on the requirements to pay all of the expenses within the year.
 - 3.2.3. The balance of the transitional account shall earn interest for the FI at the interest rate of the mortgage loan.
- 3.3. The account may be a current transitional account where the FI arranges with the insurance company and/or the municipality or other contractors to pay the insurance premium, property taxes or other fee on a monthly basis.
 - 3.3.1. The debtor pays the cost of the expenses to the FI as necessary.
 - 3.3.2. The account must be reconciled annually to ensure that the debtor's contribution is sufficient to pay the required expenses. The debtor may be required to pay more or less depending on the requirements to pay all of the expenses within the year.
 - 3.3.3. There is no interest charged or earned by the FI or the Debtor on the payments. There may be a slight service charge.
- 3.4. The fees may be paid by using any combination of the above account options.

Article 26

Control, Monitoring (Servicing) and Standard of Residential Mortgage Loan

- 1. Loan servicing summarizes the tasks that a FI performs to protect mortgage loan investment, including collecting monthly instalments from creditors and dealing with delinquencies, including but not limited to foreclosure.
- 2. The FI shall maintain accounting records and procedures to ensure that mortgage loan payments are applied to the correct loan, and that the payment is allocated accurately between interest, principal, default interest charges or other fees.
- 3. The FI shall ensure that the debtor is aware of his/her obligations to make timely payments of the mortgage loan instalments in accordance with the mortgage loan agreement.

- 4. An **early repayment** occurs when a debtor pays more principal than is scheduled to pay.
 - 4.1. FI shall not limit the full early repayment of a **residential mortgage loan**.
 - 4.1.1. If the debtor requests it, the FI shall allow a debtor to make partial early repayments of the principal, for each year, up to twenty (20%) percent of the remaining balance of the principle. The FI shall allow partial early repayment at least once per year. In case of partial early repayment the FI shall not apply any early repayment penalty
 - 4.2. FIs may charge the debtor an early repayment penalty fee on a full repayment of the residential mortgage loan determined as follows:
 - 4.2.1. For the first year of the loan, the FI may charge up to five percent (5%) of the amount of the early repayment of principal.
 - 4.2.2. For the second year of the loan, the FI may charge up to four percent (4%) of the amount of the early repayment of principal.
 - 4.2.3. For the third year of the loan, the FI may charge up to three percent (3%) of the amount of the early repayment of principal.
 - 4.2.4. For the fourth year of the loan, the FI may charge up to two percent (2%) of the amount of the early repayment amount of principal.
 - 4.2.5. For the fifth year of the loan, the FI may charge up to one percent (1%) of the amount of the early repayment amount of principal.
 - 4.2.6. There shall be no penalty assessed after the fifth year of the loan.
 - 4.2.7. Despite the above provisions, FI shall not apply an early repayment penalty fee if there is a full repayment of the residential mortgage loan due to the sale of the immoveable property.
 - 4.2.8. The fee shall be charged on the date of repayment or at the time a partial early repayment schedule is set to be completed.
 - 4.2.9. The FI upon request of the debtor shall within ten (10) working days provide a written explanation of the calculation of the early repayment fee, when the early repayment fee is charged.
- 5. FIs may allow a grace period, not more than twenty (21) calendar days, during which time the mortgage payment is past due but not considered late for the purpose of applying default interest.
- 6. Payments received after due time may be subject to a default interest charge and a change in interest rate pursuant to FI Policies and existing law.
- 7. The FI may attempt to collect the delinquent payment(s) from the debtor or co-borrower (if applicable) and/or develop a loan restructuring plan that will bring the residential mortgage loan current any time after the payment is past due but no later than after it is sixty-one (61)days past due.

- 8. FIs shall notify in writing the debtor when payments are past due **no later** than the following schedules:
 - 8.1. **Fifteen (15) days past due** The first delinquent notice shall be sent when the loan is no later than 15 days past due with a reminder that default interest charges will begin to accrue according to the schedule specified in the mortgage loan agreement and the interest rate may be increased on the entire loan.
 - 8.2. **Thirty-One** (31) days past due FI shall send a second delinquent notice when the loan is no later than 31 days past due with a warning about the risks and consequences of foreclosure. If the collateral is co-owned by the co-borrower, the FI shall also notify the co-borrower.
 - 8.3. **Sixty-One** (61) days past due -- Send third delinquent notice when the loan is no later than 61 days past due, pointing out that the debtor violated the terms of the mortgage and foreclosure is a real possibility.
 - 8.4. Ninety –one (91) days past due Send demand letter for payment in full to the debtor under the terms of the mortgage agreement and the acceleration clause of the mortgage loan agreement stating that foreclosure proceedings will begin immediately unless the loan delinquency is cured.
 - 8.5. One Hundred and Eighty-One (181) days past due If not already in process, the FI shall notify the borrower that the FI is instituting foreclosure proceedings.
- 9. The FI shall document the results of each significant interaction with a delinquent debtor.
- 10. FI may begin foreclosure proceedings at any time if FI determines that the debtor is unable to cure the delinquency in the near future.
 - 10.1. Before beginning any foreclosure proceedings, the FI must issue to the debtor a written demand requesting payment in full under the terms of the mortgage agreement and the premature loan termination clause according to the mortgage loan agreement.
 - 10.2. The FI shall begin foreclosure proceedings no later than 181 days past due unless the FI and the debtor are in mediation or arbitration proceedings. If mediation and/or arbitration does not resolve the delinquency, foreclosure proceeding must begin as soon as possible.
 - 10.3. The FI may choose not to foreclose on a mortgage if FI took a decision and documented that there is no economic benefit from this foreclosure.
- 11. The FI may re-inspect the property periodically until the mortgage loan is either brought current or foreclosure is completed. The FI may undertake and pay for any reasonable and appropriate action to protect the FI's interest in the property and its rights under the mortgage agreement.

Residential Mortgage Loan Restructuring

- 1. The FI may use any loan restructuring or resolution plans or a combination of plans pursuant to CBK regulations and applicable law in order to solve the defaulted debtor's mortgage loan if it documents the rationale for helping the debtor avoid foreclosure.
- 2. The following are currently CBK approved options for pursuing a default restructuring or solution. The FI may use one or a combination of options to cure the defaulted mortgage loan.
 - 2.1. **Supplementary Payment Plan.** The FI may offer a debtor the option to make a series of supplementary payments along with the regular monthly payments until the loan is current.
 - 2.2. **Loan Restructuring.** The FI may amend one of the terms and conditions of the loan, such as the maturity or the interest rate charged to make the payment more suitable to the debtor.
 - 2.3. Grants or Subsidies. In some cases a third party such as an employer or a nongovernmental organization may grant funds to make up for a debtor's missed mortgage payments. FIs may permit funds from such sources to be used as a part of a restructuring plan.
 - 2.4. **Sale on Behalf of Lender.** FI may permit a debtor in default of his/her loan to sell the collateral property and transfer the proceeds to the lender, in order to satisfy the debtor's remaining obligation under the loan. The FI may reserve the right of refusal of such a sale.
 - 2.5. **Datio in Solutum.** A debtor conveys to the FI all his/her interests in immovable property to satisfy a loan for which it is serving as collateral. Also called a deed-in-lieu-of-foreclosure, this legal instrument immediately releases the debtor from his indebtedness associated with the defaulted loan and it allows the debtor to avoid the public notoriety of a foreclosure proceeding. The FI can reduce the time and expense that it would face by enforcing its collateral through foreclosure.
- 3. If the FI determines it is a more expedient and/or financially advantageous, the FI may pursue **mediation or arbitration** to resolve the default.
- 4. Residential mortgages loans that are modified or restructured shall be treated according to CBK regulations on Credit Risk Management. The mortgage loan shall be re-evaluated for loan classification after the restructuring is completed.

CHAPTER VII Foreclosure

Article 28

Enforcement of the Residential Mortgage Loan

- 1. The FI will attribute to the loan account all expenses associated with managing the default, including but not limited to attorneys' fees, property inspections, and appraisal fees.
- 2. FI shall place a memorandum in the loan file, documenting the activity that has taken place leading up to the decision for loan enforcement.
- 3. The FI commences with the foreclosure procedure according to applicable Law.
- 4. In the event that the property is sold to a bidder other than the FI, the FI shall apply the proceeds after closing of that sale as follows:
 - 4.1. The FI applies the monies from the sale of the collateral as a recovered credit, and the FI closes out the mortgage file.
 - 4.2. The FI applies the proceeds initially to fees and expenses, then to default interest charges, to unpaid interest and finally to unpaid principal.
- 5. If the net proceeds of the sale of the immovable property are not sufficient to cover all of the FI's mortgage loan principal amount, delinquent interest, default interest plus applicable fees and expenses, the FI shall write off the unpaid balance pursuant to laws and regulations in force.
 - 5.1. The FI may sue the debtor for the remaining monies subject to relevant law.
 - 5.2. The reasons for such a suit shall be documented to the loan file.

Article 29 Extinction of Residential Mortgage Loan

- 1. When a mortgage loan can be extinguished under the LPORR, the FI shall extinguish the mortgage loan through preparation of a loan extinction notice for the debtor. The extinction notice shall disclose that the mortgage loan is fully paid and the debtor has no further obligation to the creditor, since that loan is concluded for the creditor.
- 2. The extinction notice shall be delivered to the debtor in written form within fifteen (15) days from the date of closing all obligations to FI and a copy shall be kept in the loan file. The FI shall notify the debtor that he/she is responsible for removing the encumbrance from the Cadastre.
- 3. The FI shall record the mortgage loan as extinguished in the Credit Registry of Kosovo.
- 4. The mortgage loan shall be removed from the FI's payment system.

CHAPTER VIII Final Provisions

Article 30 Reporting to CBK

All FI's shall separately report on quarterly basis to the CBK on their residential mortgage loan production and outstanding portfolio in a manner specified by the CBK.

Article 31 Enforcement, Remedial Measures and Civil Penalties

Any violation of this Regulation shall be subject to remedial measures and penalties as determined by the Law on Central Bank and Law on Banks.

Article 32 Instructions

The CBK may issue instructions as deemed necessary for the implementation of this regulation.

Article 33 Transitory Provisions

- 1. The FI-s shall be in compliance with the requirements of this regulation until 01 April 2016.
- 2. The provisions of this regulation will not apply to loan agreements realized before the entry into force of this regulation.

Article 34 Abrogation

Upon the entry into force of this Regulation, it will abrogate the Regulation on Mortgage Lending approved by the CBK Board on 26 February 2015.

Article 35
Entry in to Force

This Regulation shall enter in force on 01 January 2016.
Chairman of the Board of Central Bank of the Republic of Kosovo
Prof. Dr. Bedri Peci