



Pursuant to Article 35, paragraph 1, subparagraph 1.1 and Article 65 paragraph 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), Article 8, paragraph 1, subparagraph 1.1, paragraph 2, subparagraph 2.3, Article 12 as well as Article 13 of Law no. 04/L-155 on Payment System (Official Gazette of the Republic of Kosovo, no. 12/03 May 2013), the Board of the Central Bank of the Republic of Kosovo at the meeting held on 29 November 2019, approved the following::

REGULATION ON AGENTS AND SUBCONTRACTING OF ACTIVITIES OF THE PAYMENT SERVICE PROVIDERS

CHAPTER I GENERAL PROVISIONS

Article 1

Purpose and Scope

1. The purpose of this Regulation is to define and regulate the use of agents and subcontracting of activities of the payment service providers.
2. This Regulation shall apply to all payment service providers licensed/registered by the Central Bank of the Republic of Kosovo and their agents in the Republic of Kosovo.
3. Payment service providers can engage agents to provide payment services through agents as defined in this Regulation.
4. Payment service providers can subcontract only the operational functions of payment services in line with this Regulation.

Article 2

Definitions

1. All terms in this Regulation shall have the same meaning as terms defined in the Law on Banks, Microfinance Institutions and Non-Bank Financial Institutions, Law on Payment System and/or as defined below for the purpose of this Regulation:
 - 1.1. **Payment Services Provider** - a bank, MFI, NBFIs that is licensed/registered by CBK to carry out the activity of payment services and/or issuance of electronic money.
 - 1.2. **Agent** - a business organization established under the Law on Business Organizations, acting on behalf and for the account of the payment service provider, set forth in the relevant contract between the payment service provider and agent;
 - 1.3. **Contract of the** payment service provider - contract or contractual agreement between the payment service provider and agent;

1.4. **Electronic money** - electronically, including magnetically, stored monetary value as represented by a claim on the issuer, which is issued on receipt of funds for the purpose of making payment transactions and which is accepted as a means of payment by persons other than the issuer;

1.5. **Payment service (money transfer and receiving or payments service for payments at home and abroad)** - any activity, individually or jointly permitting the execution of payment transactions, including the issuance and management of payment instruments, those activities enabling cash deposits and withdrawals, and any other service functional thereto. The term does not include the provision of solely online or telecommunication services;

1.6. **CBK** – Central Bank of the Republic of Kosovo;

1.7. **MFI** – Microfinance Institution;

1.8. **NBFI** – Non-Bank Financial Institution;

Article 3

Responsibility of Payment Service Provider

1. According to the CBK authorization, payment service providers shall be allowed to use agents regarding the provision of payment services and/or to allocate or redeem funds stored as electronic money.
2. Payment service providers shall be allowed to subcontract their operational functions to third parties.
3. When payment service providers use agents regarding the provision of payment services and/or subcontract their operational functions activities, they shall ensure that their agents and/or subcontractors take all the necessary measures in order to perform their activity in compliance with applicable regulations.
4. Payment service providers shall be fully accountable for any activity of any agent and/or subcontractor who they engage.
5. For the purpose of paragraph 3 of this Article, any act or omission of the engaged agent and/or subcontractor shall be deemed as the act or omission of the payment service provider.

Article 4

Record keeping

Payment service providers shall keep proper records and documentation for at least five (5) years regarding the registration (engagement), termination of cooperation and activity of its agents, including the data for all complaints of customers and the manner of addressing such complaints as defined in Article 14 of this Regulation.

Article 5

Payment service providers licensed/registered to carry out the activity of electronic money issuance

Payment service providers licensed/registered to carry out the activity of the electronic money issuance shall not issue electronic money through agents; however, they can allocate and/or repay funds through one or more agents that act on its behalf.

CHAPTER II REGISTRATION OF AGENTS

Article 6 Request for registration of agents

1. Agents shall be registered with the CBK in order to carry out the activity of payment service providers.
2. In cases the agent is a bank, branch of a foreign bank, microfinance institution, non-bank financial institution or insurance intermediary, the payment service provider shall only notify the CBK regarding the engagement of such agents.
3. The request for registering an agent shall be done by the payment service provider as well as must be in writing, and accompanied by the following documentation/information:
 - 3.1. name and address of the agent;
 - 3.2. business registration certificate of the agent;
 - 3.3. description of the internal control system's mechanisms that will be used by agents in order to fulfil the obligations deriving from the Law on the Prevention of Money Laundering and Combating Terrorist Financing;
 - 3.4. identity of shareholders (owners), directors, if applicable, and responsible persons for the management of the agent that will be used for providing payment services as well as the evidence that they are fit and proper persons;
 - 3.5. the contract concluded between the payment service provider and agent, where rights and relevant obligations regarding the performance of financial activity are set forth;
 - 3.6. information on the office, technical and security conditions for performing the activity of payment services and/or issuance of electronic money;
 - 3.7. evidence for meeting the requirements for capital defined in Article 4, paragraph 6 of the Regulation on the Registration of Non-Banking Financial Institutions (applies only to MFIs and NBFIs).
4. Pursuant to this Article, the documentation shall be in one of the official languages of the Republic of Kosovo, in original or notarized copy.
5. The CBK can carry out on-site inspections to agents of payment service providers prior to commencing the activity for which is requiring registration. The purpose of this examination is to assess whether the office of the agent concerned has established conditions to fulfil the obligations laid down in the technical and security conditions of premises where the entity will

operate.

Article 7

Registration of agents

1. According to Article 6 of this Regulation, CBK shall, within thirty (30) days from the submission of the request, approve or reject the request for registering an agent.
2. If the CBK considers that the information provided in the notice is incomplete or inaccurate, it can take further actions to verify the information.
3. The CBK shall approve the registration of an agent only if the following conditions are met:
 - 3.1. shareholders (owners), directors, if applicable, and/or senior managers of the agent hold a good reputation and meet the fit and proper criterion as per the CBK assessment;
 - 3.2. the agent's office is operationally ready to serve the public with the conditions of its computer system, staff and security;
 - 3.3. the premises for agents' activities shall be physically separated from other commercial activities, in case the agent is not a financial institution registered/licensed by the CBK;
 - 3.4. meets the requirements for capital as set out in Article 4 of the Regulation on the Registration of Non-Banking Financial Institutions (applies only to NBFIs and MFIs, if applicable);
4. When deciding whether to approve the registration of an agent, the CBK shall take into account also other criteria in terms of achieving its objectives defined by the applicable legislation.
5. The agent may serve for more than one payment service provider.
6. Payment service providers cannot impose obligations of exclusivity to agents.
7. For the purposes of exclusivity, all current contracts or other agreements between the payment service providers and agents shall be interpreted in line with this Regulation.
8. The CBK, at any time, may inspect agents that provide payment services, in order to verify whether the conditions and requirements set forth in the Law on Banks, MFIs and NBFIs, Law on Payment System and this Regulation are met.
9. CBK shall refuse to approve the registration of the agent when the requirements of this Regulation are not met in the following cases:
 - 9.1. the conditions set above, in paragraph 3 and 4 of this Article are not met;
 - 9.2. false/forged information were provided to CBK during the application or at any other time.

Article 8

Revocation of registration

1. Registration of an agent can be revoked by the CBK for one or more of the following reasons:
 - 1.1. the contract between the service provider and agent is terminated;
 - 1.2. if, within 30 days upon the receipt of the CBK's approval for registration, the agent does not commence the payment services and/or issuance of electronic money for what it is registered;

- 1.3. the agent registered to perform the activity of payment service and/or issuance of electronic money has terminated the activity of providing payment services and/or issuance of electronic money for an uninterrupted period of more than 30 days;
- 1.4. there are reliable data that shareholders, directors and/or senior managers are involved in activities of money laundering and terrorist financing;
- 1.5. if the Agent has violated any legal provision, ordinance or regulation of the CBK, or any condition or limitation related to the authorization issued by the CBK even after the notification of CBK;
- 1.6. if the Agent is, according to the determination of the CBK, engaged in unsafe or unsound practices;
- 1.7. does not meet the requirements based on which the agent is registered;
- 1.8. if registration is attained based on false information presented by the application or someone related to it.

Article 9

Public register

1. All agents of payment service providers shall be included and listed in a public register, which shall be published and maintained by the CBK.
2. This register presents the following information:
 - 2.1. name and address of agent, including each of the offices where agent performs payment services;
 - 2.2. services that can be provided by the agent;
 - 2.3. agent's responsible persons and their contact information;
 - 2.4. the payment service provider responsible for the agent;
 - 2.5. customer complaints procedure.
3. Payment service providers shall keep such a register also in their official websites.
4. The CBK shall register in the public register any revocation of agent registration, either due to the cooperation termination between both parties or due to revocation of the registration unilaterally by the CBK.

Article 10

Termination of contract between the agent and payment service provider

Payment service providers shall promptly notify the CBK on the occasion of termination of the contract with the agent and the reason for termination.

Article 11

Prior approvals

1. Transactions of agents requiring prior approval by the CBK shall be as follows:
 - 1.1. name changing;

- 1.2. office opening and relocation;
 - 1.3. all transactions and actions related to shareholders (owners) that result in the change of the list of shareholders (owners) who hold ten percent (10%) or more of the share capital (ownership);
 - 1.4. replacement of directors, if applicable, and senior managers.
2. The CBK shall approve or reject the transaction under paragraph 1 of this Article within 30 days of the complete filing of the request, based on the documentation specified in paragraph 3 of this Article.
 3. As regards the approval of transactions under paragraph 1 of this Article, the payment service provider shall file a written request accompanied by the following documentation:
 - 3.1. name changing:
 - 3.1.1. the decision of the decision-making body; and
 - 3.1.2. the documents reasoning this change.
 - 3.2. office opening and relocation:
 - 3.2.1. the decision of the decision-making body;
 - 3.2.2. the description of the reasoning for opening/relocating the office;
 - 3.2.3. the written notice of compliance with technical and safety requirements. This notice should specify the steps undertaken to meet these conditions as well as images proving such actions.
 - 3.3. all transactions and actions related to shareholders (owners) that result in the change of the list of shareholders (owners) who hold ten percent (10%) or more of the share capital (ownership);
 - 3.3.1. name, nationality, place of residence and business and professional background for the last five (5) years;
 - 3.3.2. the following certificates issued by the competent authorities under the territorial jurisdiction:
 - 3.3.2.1. that the person is not under criminal prosecution;
 - 3.3.2.2. that the person is not in trial for criminal offenses;
 - 3.3.2.3. that the person is not criminally convicted;
 - 3.3.2.4. from the Chamber of Private Bailiffs, that the person is not in the process of compulsory execution for unpaid asset liabilities;
 - 3.3.2.5. that the person has no personal bankruptcy files, disqualification from the exercise of the profession or past or present involvement in the management function of any corporation or other entrepreneurial body that has been subject to insolvency proceedings;
 - 3.3.2.6. consent/authorization that allows the CBK to verify the past criminal record and obtain other information regarding the provided information;
 - 3.3.2.7. the documents required under this paragraph must be issued no earlier than 3 (three) months from the date of application to the CBK.
 - 3.3.3. the source and amount of funds used in exercising appropriation.
 - 3.4. replacement of directors, if applicable, and senior managers;

- 3.4.1. name, nationality, place of residence and business and professional background for the last five (5) years;
- 3.4.2. the following certificates issued by the competent authorities under the territorial jurisdiction:
 - 3.4.2.1. that the person is not under criminal prosecution;
 - 3.4.2.2. that the person is not in trial for criminal offenses;
 - 3.4.2.3. that the person is not criminally convicted;
 - 3.4.2.4. from the Chamber of Private Bailiffs, that the person is not in the process of compulsory execution for unpaid asset liabilities;
 - 3.4.2.5. that the person has no personal bankruptcy files, disqualification from the exercise of the profession or past or present involvement in the management function of any corporation or other entrepreneurial body that has been subject to insolvency proceedings;
 - 3.4.2.6. consent/authorization that allows the CBK to verify the past criminal record and obtain other information regarding the provided information;
 - 3.4.2.7. the documents required under this paragraph must be issued no earlier than 3 (three) months from the date of application to the CBK.
- 3.5. CBK shall also consider other criteria when deciding whether to approve these transactions for the purpose of achieving its goals as set forth in the applicable legislation.
- 3.6. Requests for prior approvals set out in this Article shall be submitted to the CBK by the payment service provider.
- 3.7. Where no fee is set for agents' transactions requiring prior approval from CBK, fees for NBFIs shall apply.
4. The closing of agents' offices requires only the notice to CBK. The payment service provider and the agent shall notify clients on the closing of office 15 days prior to termination of payment service and/or issuance of electronic money by the agent.

CHAPTER III

REQUIREMENTS FOR THE USE OF AGENTS BY PAYMENT SERVICE PROVIDERS

Article 12

Internal regulatory acts of payment service providers

1. The payment service provider shall be responsible for developing policies, procedures and guidelines that:
 - 1.1. regulate the manner in which the payment service provider delivers its services to its clients through agents;
 - 1.2. ensure that the risks associated with agent activities are well identified and managed;
 - 1.3. specify the system of customer protection; and
 - 1.4. ensure that agents' activities are monitored and that agents adhere to the internal rules, policies and procedures of the payment service provider, as well as applicable laws and

regulations regarding the prevention of money laundering and the fight against terrorist financing.

2. Payment service providers shall submit, at the request of the CBK, copies of the internal rules, policies, procedures and guidelines set forth in paragraph 1 of this Article.

Article 13

Assessment and selection of agents

1. The payment service provider shall be responsible for assessing an agent's suitability and performance prior to his/her contracting.
2. The payment service provider shall undertake the necessary measures in selecting, training, and operating an agent so that the agent does not expose the payment service provider to operational and reputational risks.
3. The payment service provider shall make sure that the agent information is relevant and accurate and shall keep that information up to date.
4. The payment service provider shall keep the information provided by an agent confidential, as required by applicable law and the CBK requirements.

CHAPTER IV

CUSTOMER PROTECTION AND DISCLOSURE OBLIGATIONS

Article 14

Customer protection

1. In addition to other obligations set out by the law or regulation, the payment service provider and/or the agent shall, in order to ensure adequate customer protection, fulfil the following obligations:
 - 1.1. establish appropriate mechanisms that enable customers to identify payment service provider agents and services provided by the respective agents;
 - 1.2. establish a channel for communicating customer complaints to the payment service provider. The payment service provider must provide customer care lines or other facilities for the communication of customer complaints. Customers may also use these channels to verify with their payment service provider the identity, location and the activity of the agent;
 - 1.3. establish mechanisms for complaints and ensure that customers are fully informed with regard to these mechanisms, as set out in the CBK Regulation on the Internal Complaints Handling Process;
 - 1.4. ensure that all customer complaints are addressed within a reasonable time as set out in the CBK Regulation on the Internal Complaints Handling Process;
 - 1.5. keep records of all customer complaints and the manner in which such complaints are addressed;

- 1.6. submit reports on customer complaints to the CBK, at regular intervals as required by the CBK;
- 1.7. provide the agent with standardized signs indicating that the agent is a service provider of the payment service provider;
- 1.8. use safe systems that ensure the protection and confidentiality of customer information as defined by applicable legislation;
- 1.9. supply agents with devices that generate receipts (invoices or other evidence) for transactions performed by an agent in accordance with applicable legislation; and
- 1.10. supply the agent with flyers or brochures informing customers regarding the manner of handling security credentials, authentication codes and passwords related to payment instruments.

Article 15 Disclosure

1. The Agent shall clearly disclose the information mentioned below in a visible place of its premises:
 - 1.1. name and logo of the agent and payment service providers;
 - 1.2. list of payment services provided by the agent;
 - 1.3. a list of applicable fees and charges for each service provided; and
 - 1.4. name, phone numbers, e-mail and location of payment service providers or the office of payment service provider where the agent reports his activities.

Article 16 Confidentiality

1. Agents of payment service providers shall ensure the confidentiality of any information regarding the customers and transactions of customers of payment service providers on behalf of whom they operate.
2. The contract concluded between the agent and the payment service provider shall contain a provision of confidentiality for the purposes of paragraph 1 of this Article.

CHAPTER V SUBCONTRACTING OF THE ACTIVITY

Article 17 Subcontracting requirements

1. The payment service provider shall, subject to prior approval by CBK, be allowed to subcontract operational functions of payment services.

2. Subcontracting of important operational functions, including IT systems, shall not be undertaken in such a manner that materially impairs the quality of the internal control carried out by the payment service provider as well as the ability of CBK to monitor and review the compliance of the payment services provider as stipulated by the Law and this Regulation.
3. For the purposes of paragraph 2 of this Article, an operational function shall be regarded as important if a defect or failure in its performance would materially impair the continuing compliance of a payment service provider with the requirements of its authorization or license, or its financial performance, or the soundness or the continuity of its activities.
4. Subcontracting of important operational functions by payment service providers shall be subject to the following conditions:
 - 4.1. subcontracting should not result in the delegation of senior management responsibilities;
 - 4.2. payment service provider's relationship and obligations to payment service users under applicable laws and regulations shall not be changed;
 - 4.3. the conditions that the payment service provider will fulfil in order to be licensed/registered and which must remain as such should not be changed;
 - 4.4. none of the other conditions under which the license/registration is granted should be omitted or modified;
5. Payment service providers shall inform the CBK, without delay, of any changes to the entities to which the operational function has been subcontracted.

Article 18

Transitional provisions

Payment service providers and their agents shall comply with the requirements of this Regulation within 6 months of the date of entry into force of this Regulation.

Article 19

Violations, remedial measure and civil penalties

Any violation to the provisions of this Regulation shall be subject to remedial measures and civil penalties as set forth in the Law on the Central Bank of the Republic of Kosovo, the Law on Banks, Microfinance Institutions and Non-Bank Financial Institutions and the Law on Payment Systems.

Article 20

Entry into force

This Regulation shall enter into force on 1 January 2020.

Flamur Mrasori

Chairperson of the Board of the Central Bank of the Republic of Kosovo