



Based on Article 35, Paragraph 1.1 of the Law No. 03/L-209 on the Central Bank of the Republic of Kosovo (Official Gazette of the Republic of Kosovo, No. 77/16 August 2010), Article 4, Paragraph 3 and Article 39, Paragraph 5 of Law No. 05/L-045 on Insurance (Official Gazette of the Republic of Kosovo, No. 38/24 December 2015), the Board of the Central Bank of the Republic of Kosovo in the meeting held on 27 June 2016 adopted the following:

## **REGULATION ON DELEGATION OF FUNCTIONS**

### **Article 1**

#### **Purpose and Scope**

1. The purpose of this regulation is to establish the conditions and criteria for the delegation of insurer's functions to another person (receiver of the delegated functions).
2. This regulation applies to all insurers and branches of foreign insurers, licensed by the CBK to operate in the Republic of Kosovo.

### **Article 2**

#### **Definitions**

1. All terms used in this regulation have the same meaning as the terms defined in Article 3 of the Law No. 05/L-045 on Insurance (hereinafter Law on Insurance) and/or as is defined further for the purposes of this regulation.
  - a) Receiver of the delegated functions, means a natural or legal person, to which the insurer can delegate its functions according to the provisions of this regulation.
2. For the purposes of this regulation, unless specified differently with special provisions, the term "Insurer", shall also mean branch of a foreign insurer.

### **Article 4**

#### **Delegation of Functions**

1. According to Article 39 of the Law on Insurance, the insurer may delegate functions that can be delegated according to this regulation, to the receiver of the delegated functions, only after obtaining the prior written approval of the CBK;

2. Insurers may delegate the following functions:
  - a) claim handling and assessment, licensed by the CBK;
  - b) actuarial services, licensed by the CBK;
  - c) marketing and promotion services;
  - d) information technology services;
  - e) accounting (book keeping);
  - f) management of reinsurance and relations with foreign insurers.
  
3. Insurers functions may be delegated only through a written contract, based on which the insurer transfers a part of its functions to the other person/receiver of the delegated functions.
  
4. The insurers must make sure that the delegation of functions:
  - a) does not endanger financial results and the stability of the insurer and the continuation of its activities;
  - b) does not endanger management and decision-making quality of the insurer;
  - c) does not endanger the ability of the insurer to provide to the insured a continuous service;
  - d) does not create an unjustifiable increase in operational risks.
  
5. The insurer before selection a receiver of the delegated functions, should:
  - a) ensure that the receiver of the delegated functions is able and fit to carry on the delegated functions;
  - b) conduct a detailed analysis on the ability and professional competencies of the receiver of the delegated functions;
  - c) ensure that the receiver of the delegated functions has taken all necessary steps in avoiding conflict of interest.

#### **Article 4**

##### **Policy on Delegation of Functions**

1. The insurer should draft and approve internal policies on delegation of functions. such policies should at least include the following elements:
  - a) identifying functions that will be delegated, and an assessment of the impact that the delegation of these functions will have;
  - b) procedures for delegation on functions, including selection criteria for the receiver of the delegated functions;
  - c) deadlines and methods of reporting by the receiver of the delegated functions to the insurer;
  - d) manners of monitoring the receiver of the delegated functions by the insurer;
  - e) setting applicable fees for the delegated functions.

**Article 5**  
**Delegated Functions Contract**

1. The contract on delegated functions between the insurer and the receiver of the delegated functions should contain the following:
  - a) rights and duties of the parties;
  - b) a provision that determines that the insurer that delegates the duties is responsible for the transferred functions to the other person and, in no case, does it avoid responsibilities of the insurers governing bodies.
  - c) a provision that determines that the receiver of the delegated functions is obligated to provide to the insurer requested information according to Article 6, Paragraph c);
  - d) engagement of the delegated person to conduct his activities in accordance with the legislation in force, regulatory requirements as well as policies approved by the insurer as well as cooperate with CBK as far as delegated functions are concerned;
  - e) a provision that determines that the person receiving the delegated functions, will be subject to supervision by CBK;
  - f) obligation of the delegated person to immediately inform the insurer on any fact that can have a significant impact on its ability to efficiently and effectively conduct its activity according to the legal requirements in force;
  - g) a period of notice for the contract ending by the delegated person, which would be sufficient for the insurer to find an alternative solution;
  - h) the right of the insurer to be informed on the progress of the delegated functions by the delegated person, as well as the right of the insurer to draft and approve general or specific instructions related to conduction of the delegated functions;
  - i) keeping confidentiality by the delegated person, on the data relating to the insurer or the insured;
  - j) the right of the insurer to withdraw from the contract, if such a thing is required by the CBK because of not respecting legal criteria.

**Article 6**  
**Request for the Approval of Delegated Functions**

1. The insurer should make a written request to the CBK, through which it asks for the approval of the delegated functions. An approval request for the delegated functions should be accompanied by the following documentation:
  - a) a decision of the insurer's board of directors where it was decided to delegate the functions;
  - b) description of the functions that the insurer wants to delegate, as well as the conditions that need to be fulfilled by the potential receiver of the delegated functions, and the time period for the delegated functions;

- c) data on the potential receiver of the delegated functions, such as: name, business registration certificate, qualifications, financial statements for the last three years (if applicable according to the financial reporting legislation in force), as well as other data in cases of potential delegated persons from foreign countries: address, telephone number, fax number, e-mail address, official page, name, surname and contact details for the authorized representative person of the receiver of the delegated functions; in cases when the receiver of the delegated functions is a foreign person, besides the abovementioned data in this subparagraph, the CBK, if it deems it necessary, can ask for other data.
- d) results of analysis and estimations conducted by the insurer according to the determinations of Article 3, Paragraph 5, Subparagraph b) of this regulation;
- e) a draft of the contract with content as determined in Article 5 of this regulation;
- f) documents that prove the experience of the receiver of the delegated functions for activities same as the delegated functions of the insurer (if any);
- g) documentation proving any other experience of the receiver of the delegated functions.

## **Article 7**

### **Approval or refusal of delegated functions**

1. CBK shall reject the delegation of specific functions of the insurer and reinsurer if requirements are not met as set forth in current legislation and this regulation, or in cases when based on the type and volume of delegated functions interests of the insured are put at risk, or because delegation of these functions may compromise or render impossible the exercising of supervisory oversight of delegated functions.
2. CBK shall withdraw the approval for the delegation of functions:
  - a) If the interests of the insured/policyholders are put at risk;
  - b) If the requirements of this regulation and the current legislation on Insurance are not complied with;
  - c) If it becomes difficult or impossible to adequately supervise the insurance or reinsurance activity being delegated.
  - d) If it becomes evident that there were deliberate falsifications or omissions in the information submitted in the request to the CBK by any party of the agreement.
3. CBK, within a period of 30 calendar days after receiving the request, will approve or refuse the request on approval of delegated functions.
4. During the review of the request, CBK may ask from the insurer additional documentation or information. In such cases, the period of 30 days starts counting down from the moment

when the additional documentation or information was received by the CBK.

5. CBK refuses the delegation of special functions of the insurer if requirements foreseen in the Law on Insurance and this regulation are not met.

### **Article 8**

#### **Withdraw of the Approval for Delegated Functions**

CBK may withdraw the approval of delegated functions if it concludes that the further conduct of delegated functions by the receiver, endangers the interest of the policyholders, supervision by CBK becomes more difficult and the receiver of the delegated functions does not have professional competences to conduct the delegated function.

### **Article 9**

#### **Supervision of Delegated Functions**

1. Provisions of the Law on Insurance covering the supervision of insurers shall also apply accordingly on supervision of the receiver of the delegated functions.
2. The insurer and the receiver of the delegated functions, after a request from CBK shall present data on the legal status, financial condition and activity of the legal entity that has signed a contract on delegation of special functions, as well as any documents and other information required by the CBK.
3. The external auditor of the insurers has the right to require from the receiver of the delegated functions any information relating to the performance of the audit.
4. The receiver of the delegated functions shall cooperate with CBK relating to supervision provided for in paragraph 1 of this Article.

### **Article 10**

#### **Enforcement, Remedial Measures and Civil Fines**

Any violation of other provisions of this regulation is subject to remedial and punitive measures, as set forth in Law No. 03/L-209 on the Central Bank of the Republic of Kosovo and Law No. 05/L-045 on Insurance.

**Article 11**  
**Abrogation**

With entry into force of this regulation, Rule 18 on Membership and External Contract, as well as any other provision that is in contradiction with this regulation are abrogated.

**Article 12**  
**Entry into force**

This regulation shall enter into force 15 days after the date of its approval.

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

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Prof. Dr. Bedri Peci