



Pursuant to Article 36, paragraph 1, sub-paragraph 1.17, and Article 65, paragraphs 1 and 2, of Law No. 03/L-209 on the Central Bank of the Republic of Kosovo; Article 61, Article 71, Article 85, Article 108, Article 109 and Article 114 of Law No. 04/L-093 on Banks, Microfinance Institutions and Non-Banking Financial Institutions: as well as Article 4, Article 93, Article 94 and Article 102 of Law No. 05/L-045 on Insurances, the Executive Board of the Central Bank of the Republic of Kosovo, in the meeting held on 5 July 2023, approved the following:

INSTRUCTION ON THE CRITERIA FOR THE APPOINTMENT OF ADMINISTRATORS AND LIQUIDATORS OF FINANCIAL INSTITUTIONS

Article 1

Purpose and scope

1. The purpose of this Instruction shall be to define the criteria for the appointment of administrators and liquidators of financial institutions by CBK, in accordance with the relevant applicable legislation for financial institutions.
2. This Instruction shall apply to all financial institutions for which CBK, according to the relevant applicable legislation, is responsible for appointing official / temporary administrators and/or liquidators during compulsory liquidation process.

Article 2

Definitions

1. All terms in this Instruction shall have the same meaning as the terms defined in Law No. 03/L-209 on the Central Bank of the Republic of Kosovo, Law No. 04/L-093 on Banks, Microfinance Institutions and Non-Banking Financial Institutions, as well as Law No. 05/L-045 on Insurance, or/and with the following definitions for the purpose of this instruction:
 - 1.1. **Administrator** — shall mean a person appointed by CBK as administrator/ temporary official, to manage the financial institution during the temporary official administration process.
 - 1.2. **Liquidator** — shall mean a person appointed by CBK to manage the financial institution during the liquidation process.
 - 1.3. **Financial institution** — shall mean banks, insurers, microfinance institutions, non-banking financial institutions, insurance brokers and claims handlers.

1.4. **CBK** — shall mean the Central Bank of the Republic of Kosovo.

1.5. **MFI** — shall mean microfinance institutions.

1.6. **NBFI** — shall mean non-banking financial institutions.

Article 3

Reasons for appointing the administrator of the financial institution

1. CBK may appoint an administrator for a bank, microfinance institution or non-banking financial institution, when the conditions set forth in Article 60 and Article 109 of Law No. 04/L-093 on Banks, Microfinance Institutions and Non-Banking Financial Institutions are met.
2. The CBK may appoint an administrator for an insurer, insurance broker or claims handler when the conditions set forth in Article 93 of Law No. 05/L-045 on Insurance are met.
3. Decision of CBK for the appointment of the administrator must specify the reasons for which it was taken.

Article 4

Criteria for appointment of bank administrators

1. The bank administrator shall be appointed by the CBK for a term that does not exceed six (6) months, as specified in the CBK's decision. The appointment mandate can be extended by the CBK only twice, for a period that does not exceed, in each case, three months. If the administrator does not resolve issues for which it was appointed after a period of twelve (12) months, the liquidation process of the bank will commence.
2. Each bank administrator should have suitable knowledge, skills and experience to manage the bank, and fulfil the criteria set by the CBK regarding qualification, experience and integrity. The CBK shall assess whether a person is adequate and suitable to be appointed administrator, based on the following criteria:
 - 2.1. have a university degree in any of the following fields: banking and finance, economics, jurisprudence, accounting, auditing, business administration, financial regulation or other fields that can be considered important for the financial sector;
 - 2.2. have at least seven (7) years of experience in the banking and/or financial field, of which at least three (3) years in managerial function or not less than ten (10) years of professional experience in the relevant banking and/or financial field, relevant for exercising the position of administrator.
 - 2.3. the administrator's personal history must prove that she/he is fully independent and possesses personal qualities, primarily integrity, which is necessary to perform his/her duties:

2.4. the administrator must prove the timely fulfilment of financial obligations;

2.5. the administrator must be able to demonstrate that there is currently no perceived or actual conflict of interest between his role as administrator of the financial institution and any business or personal role that he carries. This requirement must be met at all times as an administrator of the financial institution.

3. Despite the demands of sub-paragraphs 2.1 and 2.2 of paragraph 2 of this Article, persons with the professional qualifications of legal auditor, certified auditor, certified accountant and other equivalent qualifications may qualify as bank administrators, provided that they have at least 7 years of work experience in auditing banks or preparing financial statements of banks.

4. The bank administrator will exercise his powers and duties according to the provisions of the Law on Banks, Microfinance Institutions and Non-Banking Financial Institutions.

Article 5

Criteria for appointment of MFIs and NBFIs administrators

1. The MFI or NBF administrator shall be appointed by the CBK for a term not exceeding six (6) months, as specified in the decision by CBK. The term of appointment can be extended by the CBK only twice, for a period not exceeding, in each case, three months. If the administrator has not resolved the issues it was appointed to resolve after a period of twelve (12) months, the liquidation process of the MFI or NBF will commence.

2. Each MFI and NBF administrator must be fit and proper with good repute, fulfilling the criteria related to qualification, experience and integrity. The CBK shall assess whether a person is fit and proper to be appointed administrator of the MFI or NBF, based on the following criteria:

2.1. have a university degree in any of the following fields: economy, finance, insurance, jurisprudence or another relevant field;

2.2. have at least five (5) years of professional experience in the financial industry or other relevant fields, or experience in the administration or liquidation of at least two legal entities of similar size to the MFI or NBF under administration;

2.3. the administrator's personal history must prove that he/she is completely independent and that he/she possesses personal qualities, first of all the integrity, necessary to perform her/his duties;

2.4. the administrator must prove timely fulfilment of financial obligations;

2.5. the administrator must be able to demonstrate that there is currently no perceived or actual conflict of interest between his role as administrator of the financial institution and

any business or personal role he holds. This requirement must be met throughout his/her term as administrator of the institution.

3. Despite the demands of sub-paragraphs 2.1 and 2.2 of paragraph 2 of this Article, persons with professional qualification of legal auditor, certified auditor, certified accountant and other equivalent qualifications can qualify as administrators of MFIs or NBFIs, provided that they have at least 3 years of work experience in the auditing of financial institutions or the preparation of financial statements of financial institutions.

4. The administrator of the MFI and NBFIs will exercise its powers and duties according to the provisions of the Law on Banks, Microfinance Institutions and Non-Bank Financial Institutions.

5. If according to the CBK's assessments, the administration process is not carried out in a professional manner, or the administrator no longer meets the above requirements, the CBK can dismiss him from the administrator position.

Article 6

Criteria for appointment of administrators for insurers, brokers and insurance claims handlers

1. The administrator of the insurer, insurance brokers and insurance claims handlers shall be appointed by CBK for a term not exceeding six (6) months, as specified in the decision of CBK. The appointment mandate can be extended by the CBK only twice, for a period not exceeding, in each case, three months. If the administrator has not resolved the issues for which he was appointed to resolve them after a period of twelve (12) months, then the process of forced liquidation of the insurer, insurance broker or insurance claims handler will begin.

2. Any administrator of the insurer, insurance broker and insurance claims handler must be fit and proper with good reputation who meets the criteria of eligibility, experience and integrity. The CBK shall assess whether a person is fit and proper to be appointed administrator, based on the following criteria:

2.1. have a university degree in any of the following fields: economics, finance, insurance, jurisprudence or another relevant field;

2.2. have at least five (5) years of professional experience in the financial field or other relevant fields, or experience in the liquidation or administration of at least two legal entities of similar size to the insurer / broker / claims handler in liquidation;

2.3. the personal history of the administrator must prove that he/she is completely independent and that he/she possesses personal qualities, in the first place the integrity, necessary to perform her/his duties.

2.4. the administrator must prove the timely fulfilment of financial obligations;

2.5. the administrator must be able to demonstrate that there is currently no perceived or actual conflict of interest between his role as administrator of the financial institution and any business or personal role he holds. This requirement must be fulfilled throughout the mandate as administrator of the institution.

3. Despite the demands of sub-paragraphs 2.1 and 2.2 of paragraph 2 of this Article, persons with professional qualification of legal auditor, certified auditor, certified accountant and other equivalent qualifications may qualify as administrators of MFI or NBFI, provided that they have work experience of at least 3 years in the auditing of financial institutions or the preparation of financial statements of financial institutions.

4. The administrator will exercise his powers and duties according to the provisions of the Law on Insurance and relevant regulations in its implementation.

Article 7

Criteria for appointment of bank liquidators

1. In case of revocation of a bank's license, the CBK immediately appoints a relevant liquidator.
2. The liquidator can be a person from the private sector or an official of CBK that meets the criteria defined in Article 4 of this Instruction.

Article 8

Criteria for the appointment of liquidators for MFIs and NBFIs

1. In case of revocation of the registration of an IMF/NBFI, the CBK immediately appoints a relevant liquidator.
2. The liquidator can be a person from the private sector or an official of CBK that meets the criteria defined in Article 5 of this Instruction.

Article 9

Criteria for appointment of liquidators for insurers and insurance brokers

1. In case of revocation of the license of an insurer/insurance broker/insurance claims handler, CBK immediately appoints a relevant liquidator.
2. The liquidator can be a person from the private sector or an official of CBK, which meets the criteria defined by the Regulation on the Liquidation of Insurers.
3. In addition to the criteria defined by the Regulation on the Liquidation of Insurers, the criteria defined by this Instruction are also applicable insofar as they are not contrary to the Regulation on the Liquidation of Insurers.

Article 10

Exclusionary criteria for appointment of administrators and liquidators of financial institutions

1. A person cannot be appointed as administrator or liquidator of a financial institution, if that person:

1.1. is convicted of crimes or has been found guilty of economic crimes under the Criminal Code;

1.2. has left his post at a financial institution from CBK;

1.3. has been convicted by a criminal court for a criminal offense for which the person is or could have been sentenced to imprisonment of one year or more, where the option of a fine did not exist;

1.4. was a debtor in a bankruptcy proceeding or insolvency within the last ten (10) years;

1.5. has been excluded or suspended by the competent authority from the exercise of the profession due to personal misconduct, unprofessional performance of duties or abuse of official position;

1.6. has been a director or senior manager of a financial institution whose license/registration has been revoked or insolvency or other forced non-voluntary liquidation was initiated during the term of that director or senior manager;

1.7. has a conflict of interest and is a person related to the financial institution in which he intends to be appointed;

1.8. was the external auditor of the relevant financial institution during the last year from the time the institution was placed under administration or liquidation;

1.9. has requests/claims against the relevant financial institution; and

1.10. has been engaged as examiner of the CBK, in that financial institution, at any time during the six (6) months before the placement of the institution under administration or liquidation.

Article 11

Dismissal of administrators and liquidators of financial institutions

1. The CBK may terminate the mandate of administrators and/or liquidators for the following reasons:

1.1. if the administrator and/or liquidator does no longer fulfils the criteria defined under this Instruction;

1.2. if the administrator and/or liquidator is appointed as administrator or liquidator in another financial institution;

1.3. if the administrator and/or liquidator performs the activity of administration or liquidation unprofessionally, not in good faith or is unable to perform its activities;

1.4. if the administrator and/or liquidator submits a resignation (in writing).

2. In cases of change of administrator or liquidator, the dismissed/resigned administrator or liquidator must continue until the appointment of a new administrator or liquidator, unless otherwise required by CBK.

Article 12

List of administrators and/or liquidators

1. The CBK, through a public call, will invite all those interested who meet the criteria to be appointed as administrator or liquidator in accordance with the provisions of this Instruction, to apply for administrator and liquidator of financial institutions.

2. During their assessment, the CBK may request to interview the potential administrator or liquidator.

3. After assessing fulfilment of the criteria under this Instruction, the CBK will compile a list of qualified persons for administrator and liquidator.

4. The CBK may appoint the administrator and/or liquidator from the list of qualified persons for administrator and/or liquidator, or any person outside this list, provided that the same person cannot be selected from the list.

Article 13

Entry into force

This Instruction shall enter into force on 1 August 2023.

/signed/

Bashkim Nurboja

Chairperson of the Executive Board