BANKA QENDRORE E REPUBLIKËS SË KOSOVËS
CENTRALNA BANKA REPUBLIKE KOSOVO
CENTRAL BANK OF THE REPUBLIC OF KOSOVO

Pursuant to Article 36, paragraph 1, subparagraph 1.1, the Executive Board of the Central Bank of the Republic of Kosovo, in the meeting held on 27 August 2020, approved the following:

INSTRUCTION ON LOAN RESTRUCTURING DUE TO COVID-19

Article 1
Purpose and Scope

1. The purpose of this Instruction is to provide borrowers, lenders and other institutions with information on the principles and guidelines related to the loan restructuring process. The purpose of the Instruction is to set the criteria on which the loan restructuring process should be based, so that borrowers in financial difficulties have the opportunity to fulfil the obligations stipulated in the contract, and return to normal business activity or improving the solvency of individuals in relation to the current obligations.
   With this Instruction the CBK shall encourage lending institutions during the period of economic recovery due to COVID-19 not to engage in collateral liquidation using mechanisms outside the court and/or legal proceedings for loans restructured according to this Instruction.

2. This Instruction shall apply to all financial institutions licensed/registered by the CBK to exercise lending activity under applicable legislation.

Article 2
Definitions

1. For the purposes of this Instruction, the terms used shall have the following meaning:

   1.1 "Loan restructuring" - means the facility that lending institutions provide for borrowers because of their financial difficulties caused by COVID-19 and the support for their recovery. These measures (or facilities) include:

   1.1.1 facilities on loan terms by changing one or more of the terms of the contract, which are mainly related to the term (including grace period for the start of loan repayment), principal and interest rate (not including interest capitalization, which should not happen);

   1.1.2 taking collateral or other assets for partial repayment of the loan;

   1.1.3 replacing the original borrower or involving an additional borrower.

2. “Borrowers” (debtors and/or co-debtors) - are natural or legal persons who have received business loans or other financing product and have outstanding obligations towards the lending institution.

3. “Lenders” - are banks and financial institutions licensed by the CBK for lending.

4. “Moratorium” - is the temporary cessation of legal action against the other party and temporary suspension of loan payment obligations.

Article 3
Loan restructuring

1. Loan restructuring should be done carefully so that loan restructuring modifications are in the best interest of the lending institution and borrower, in order to improve loan performance, on the one hand, and reduce credit risk on the other. Lending institutions are encouraged to restructure loans and use flexibility within the accounting framework to avoid unfair penalties on affected borrowers, with short-term liquidity problems; they should also ensure that losses are not hidden and prudential standards are not relaxed. Restructuring does not necessarily mean a failure of the borrower by reasonably interpreting regulatory requirements, and it is not necessary for the transaction to be considered impaired in the accounting framework if the borrower is not in financial difficulty and/or the current net loan value has not been diminished. In cases when credit institutions provide new loans or increase the current exposures of borrowers who are subject to the loan restructuring, this shall not mean that the exposure is automatically classified as failed. Loans with moratorium approved after 16 March 2020 shall be subject to this Instruction and may be restructured in compliance with this Instruction.

2. Due to the great impact of COVID-19 on the economy and the performance of borrowers, lending institutions are instructed to restructure loans for the purpose of:
   2.1. Facilitating companies in financial difficulties to choose to continue operating and overcome financial difficulties;
   2.2. Enabling lending institutions to reduce losses;
   2.3. Creating opportunities for avoiding the negative social and economic impacts that may arise as a result of the bankruptcy of companies;
   2.4. Supporting other stakeholders (customers, employees, suppliers and investors), because borrowers involved in loan restructuring can continue their business; and
   2.5. Avoiding litigation, which may require time until its completion, and increasing the efficiency of loan collection.

3. CBK encourages lending institutions to work constructively with borrowers so that restructuring is careful and with appropriate terms.

4. Creditors may ask their lenders for loan restructuring, if they qualify.

5. Lending institutions that provide facilities on loan terms according to this Instruction should compile policies for the implementation of these facilities. The decision to apply/implement these facilities is a business decision of the bank, based on the assessment of the capacity of the borrower to pay under the new modified terms.

6. Lending institutions are allowed to restructure borrowers who, during the assessment of lending institutions, have been identified to have been adversely affected by the COVID-19 pandemic. Such a restructuring should:
   6.1. Include changes in the repayment period by suspending, postponing or reducing the principal amounts, interest or full payments, for a limited period of not more than 12 months, as agreed between the lending institution and the borrower;
   6.2. The regular interest calculated during the suspension period will be distributed over a minimum of the next 6 months, or until maturity, if the loan maturity is less than 6 months.
   6.3. Restructuring or facilitating the payment of loan instalments (grace period, smaller principal, and similar) cannot be granted for a period longer than 12 months. Requests for loan restructuring must be made and accepted from the date of entry into force of this Instruction to 30 September 2020.
   6.4. Loan restructuring does not necessarily mean that the borrower has failed and transaction is classified and considered as non-performing. Lending institution shall count the days past due based on the new payment schedule resulting from the application of moratorium.
   6.5. Given the high rate of restructuring that includes the debt moratorium and the high priority of issues related to business continuity during the crisis, it is understandable that banks may not be able to assess, in the short term, the impact of the crisis on their borrowers, as well as the ability to repay their liabilities, taking into account the effect of the debt moratorium.
   6.6. While lending institutions receive more secure and reliable information on the financial condition of borrowers and their ability to make payments, based on modified loan terms, they should assess whether there is a need to change the credit classification and to assess the Expected Loan Losses. A lending institution may use an individual or collective approach for assessing the *Expected Loan Losses* (ELL), depending on how the lending institution manages credit risk exposures.
   6.7. Lending institutions should ensure that the procedures used to measure the ELL, whether determined collectively or individually, are sound and timely and take into account various criteria, such as additional credit risk mitigations (such as guarantees), cash flow estimates, based on estimates of macroeconomic conditions and the situation (financial position) of the borrower after the crisis, along with other important information for the future, which affect the expected collection of bank credit exposure.
   6.8. Lending institutions should make clear and detailed disclosures on the criteria used to determine the loan classification and the assumptions and scenarios made in assessing the adequacy of loan loss provisions.

6.9. Lending institutions will have to exercise sound judgment in the implementation of International Financial Reporting Standard 9 (IFRS 9), especially at a time when there is a situation of uncertainty. In the current economic environment, ELLs assessment should take into account the temporary nature of the virus's impact, the best available information, and appropriate fiscal support measures, and the use of a range of scenarios to support credit risk analysis, including the unfavourable scenario in the current situation. At the same time, lending institutions should keep in mind that IFRS 9 is based on principles and therefore should not be applied mechanically and automatic application should be avoided. For example, the moratorium should not automatically result in the movement of credit risk exposures in phase 2 as this does not necessarily mean that there has been a significant increase in credit risk.

6.10. Lending institutions must apply the guiding principles “IFRS 9 and COVID-19” for the application of ELL according to IFRS 9 published on 27 March 2020 by the IFRS Foundation.

6.11. In case of delays in loan repayment, according to the new post-restructuring payment schedule, lending institutions are obliged to implement the requirements of the CBK regulations in force.

6.12. Lending institutions may offer loan restructuring or borrowers may require loan restructuring.

Article 4

Repealing

Upon the entry into force of this Instruction, the Instruction on Loan Restructuring due to COVID-19 approved by the Executive Board on 8 June 2020.

Article 5

Entry into force

This Instruction shall enter into force on the day of its approval.

[signed]

Fehmi Mehmeti

Chairperson of the Executive Board

Instruction will be submitted to:

- Banking Supervision Department (BSD) and Foreign Relations Department (FRD)
- Institutions to which it is applicable (*BSD should submit the instruction electronically*)
- General public (*FRD should publish the Instruction in the CBK website*)