

LAW NO. 08/L-304

ON BANKS

The Assembly of the Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Adopts:

LAW ON BANKS

**CHAPTER I
GENERAL PROVISIONS**

**SUBCHAPTER I
INTRODUCTORY PROVISIONS**

**Article 1
Purpose**

1. This Law regulates banking and financial activity of the bank in the Republic of Kosovo in order to promote and run a stable financial system providing an appropriate level of protection for depositors' interests through regulating:

- 1.1. establishment and licensing criteria for banks;
- 1.2. sound operation, organisation and management of banks;
- 1.3. prudential supervision of banks; and
- 1.4. recovery, resolution and liquidation of banks.

2. This Law in in accordance with EU Acquis as follows:

2.1. Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

2.2. Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

2.3. Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU,

2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council.

Article 2

Scope

This Law shall apply to all banks exercising banking and financial activities, their shareholders, Board of Directors and Senior Managers, employees, agents and affiliates as well as the accounting and financial reporting system of banks and auditing requirements.

Article 3

Definitions

1. Terms used in this Law shall have the following meanings:

1.1. **Affiliate** - a subsidiary entity of a bank, a legal entity of which such bank is a subsidiary or a legal entity that is under common control with such bank.

1.2. **Asset separation tool** - the mechanism for effecting a transfer of assets, rights or liabilities of a bank under resolution to an asset management vehicle in accordance with Article 110 of this Law.

1.3. **Ancillary financial services** - shall have the meaning as defined in Article 11 of this Law.

1.4. **Bail-in tool** - the mechanism for effecting the exercise by the CBK of a power to write down or convert in relation to liabilities of a bank under resolution in accordance with Article 111 of this Law.

1.5. **Bank** - a shareholder company engaged in the business of banking, including a subsidiary or a branch of a foreign bank.

1.6. **Banking agent** - means a natural or legal person who acts on behalf of a bank in providing services as per the applicable laws and regulations.

1.7. **Banking and financial activity** - an activity identified as banking and financial activities in Article 11 of this Law.

1.8. **Bank-Related Person** - any person that maintains with the bank at least one of the following relationships:

1.8.1. any Senior Manager or Director of the bank and any principal shareholder of the bank;

1.8.2. any person who is related to a Senior Manager or Director or principal shareholder of the bank up to the degree as defined in sub-paragraph 1.54. of this Article;

1.8.3. any legal entity in which a Senior Manager or Director or principal shareholder of the bank is also a principal shareholder;

1.8.4. any person that has a significant interest in a legal entity in which the bank has a significant interest;

1.8.5. any affiliate of the bank; and

1.8.6. any other person, that the CBK determines by regulation or order to be a bank-related person.

1.9. Bank-related person transactions - include on-balance sheet and off-balance credit exposures and claims, as well as, dealings such as service contracts, asset purchases and sales, construction contracts, lease agreements, derivative transactions, borrowings and write-offs. The term transaction should be interpreted broadly to incorporate not only transactions that are entered into with related person but also situations in which an unrelated (with whom a bank has an existing exposure) subsequently becomes a related person.

1.10. Bank under resolution - a bank in respect of which a resolution action is taken.

1.11. Banking group - a bank and its affiliates and any other entities that the CBK determines by regulation or order should be taken into account for purposes of consolidated supervision.

1.12. Branch office - a place of business which forms a legally dependent arm of a bank that is not separately incorporated, through which a bank may be permitted to engage in the business of banking.

1.13. Bridge institution - a legal person meeting the requirements laid down in paragraph 3. of Article 109 of this Law.

1.14. Bridge institution tool - the mechanism for transferring shares or other instruments of ownership issued by a bank under resolution or assets, rights or liabilities of a bank under resolution to a bridge institution, in accordance with Article 109 of this Law.

1.15. Debt instruments - bonds and other forms of transferable debt, instruments creating or acknowledging a debt, and instruments giving rights to acquire debt instruments.

1.16. Secured liabilities - liabilities where the right of the creditor to payment or other form of performance is secured by a charge, pledge or lien, or collateral arrangements including liabilities arising from repurchase transactions and other title transfer collateral arrangements.

1.17. **Business of banking** - the business of accepting deposits from the public and employing such funds either in whole or in part for the purpose of granting credit or making investments at the bank's own risk.

1.18. **Capital distribution** - a distribution of cash or other properties by a bank to its owners made on account of that ownership, consisting only of shares of the institution or rights to purchase such shares but not including any dividend.

1.19. **Conditions for resolution** - the conditions referred to in Article 106 of this Law.

1.20. **Control** - a relationship where a person or group of persons, directly or indirectly:

1.20.1. owns a majority of the shares of a legal entity;

1.20.2. has the power to appoint or remove the majority of the Board of Directors of the legal entity; or

1.20.3. has the ability to exert a significant influence on the management or policies of a legal entity.

1.21. **Core business lines** - business lines and associated services which represent material sources of revenue, profit or franchise value for a bank or for a group of which a bank forms part.

1.22. **Critical functions** - activities, services or operations the discontinuance of which is likely to lead to the disruption of services that are essential to the real economy or to disrupt financial stability due to the size, market share, external and internal interconnectedness, complexity or cross-border activities of a bank or a banking group, with particular regard to the substitutability of those activities, services or operations.

1.23. **Country risk** - is the risk that economic, social, and political conditions and events in a foreign country will affect the current or projected financial condition or resilience of a bank.

1.24. **Deposit** - a sum of money paid by a person or legal entity to a Bank, which is accepted by that Bank on condition that it is to be repaid in full, with or without interest or premium either on demand or at an agreed time to that person or legal entity.

1.25. **Director** - any person appointed by the shareholders to serve as a member of a bank's Board of Directors and approved by CBK.

1.26. **Early intervention measures** - measures adopted by the CBK, in its capacity as supervision authority, in application of Article 88 of this Law.

1.27. **Eligible liabilities** - liabilities and capital instruments that do not qualify as own funds of a bank which are not excluded from the scope of the bail-in tool as established by the CBK in the relevant Regulation.

1.28. **Emergency liquidity assistance (ELA)** - means liquidity assistance by CBK provided to a bank by way of a temporary reduction of the minimum reserves, or by a loan to a bank licensed by the CBK, or by a combination of both when the bank is solvent but requires ELA to meet its short-term (temporary) liquidity needs.

1.29. **Equity interest** - any ownership right with respect to a legal entity.

1.30. **Exposure** - any asset or off-balance sheet item.

1.31. **Extraordinary public financial support** - means public financial support at national or supra-national level provided in order to preserve or restore the viability, liquidity or solvency of a bank or a group of which such bank forms part, as authorised by the applicable regulations.

1.32. **Financial institutions** - has the same meaning as defined in the Law on CBK.

1.33. **Financial activity** - an activity identified as banking and financial activities in Article 11 of this Law.

1.34. **Foreign bank branch** - a person that has its head office incorporated and holds a license to engage in the business of banking in a jurisdiction other than the Republic of Kosovo, and is incorporated as a legally dependent branch to operate in the Republic of Kosovo with banking and financial activities.

1.35. **Home country supervisor** - the competent regulatory authority in the jurisdiction in which the parent of a bank is incorporated, or in which the head office of a branch is incorporated.

1.36. **Bank Insolvency** - means a situation when the bank is not paying its obligations as they fall due or the value of its liabilities exceeds the value of its assets. The value of a bank's assets, liabilities and regulatory capital shall be determined in accordance with valuation standards and procedures prescribed by the CBK. In determining the value of a bank's assets and liabilities for a future date, the bank's reasonably anticipated future income and expenses until that date shall be taken into account.

1.37. **Instruments of ownership** - means shares, other instruments that confer ownership, instruments that are convertible into, or give the right to acquire, shares or other instruments of ownership, and instruments representing interests in shares or other instruments of ownership.

1.38. **Group of connected persons/clients** – means any of the following:

1.38.1. two or more natural or legal persons who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other or others;

1.38.2. two or more natural or legal persons between whom there is no relationship of control as described in point 1.38.1. of this Article but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, in particular funding or repayment difficulties, the other or all of the others would also be likely to encounter funding or repayment difficulties.

1.38.3. Notwithstanding sub-paragraph 1.38.1. and 1.38.2. of this Article, where a central government has direct control over or is directly interconnected with more than one natural or legal person, the set consisting of the central government and all of the natural or legal persons directly or indirectly controlled by it in accordance with sub-paragraph 1.38.1. of this Article, or interconnected with it in accordance with sub-paragraph 1.38.2. of this Article, may be considered as not constituting a group of connected clients. Instead the existence of a group of connected clients formed by the central government and other natural or legal persons may be assessed separately for each of the persons directly controlled by it in accordance with sub-paragraph 1.38.1. of this Article, or directly interconnected with it in accordance with sub-paragraph 1.38.2. of this Article, and all of the natural and legal persons which are controlled by that person according to sub-paragraph 1.38.1. of this Article or interconnected with that person in accordance with sub-paragraph 1.38.2. of this Article, including the central government. The same applies in cases of regional governments or local authorities.

1.39. **Large exposure** - any exposure to a single person or group of connected persons that exceeds the proportion of Tier 1 capital specified by the CBK under Article 24 of this Law.

1.40. **Legal Entity** - a general term meaning any organisation, including a business organisation that has, as a matter of Law, a legal identity that is separate and distinct from its members, owners, or shareholders.

1.41. **License** - a discretionary authorization issued by the CBK granting the right to engage in activities specified by that authorization.

1.42. **National Resolution Fund** - the financing arrangement which shall be established under Article 124 of this Law for the purpose of ensuring the effective application by the CBK of the resolution tools and powers provided in Chapter III of this Law.

1.43. **Normal insolvency proceedings** - the liquidation regime provided in Chapter III of this Law, or any other collective insolvency proceedings which entail the partial or total divestment of a bank's management and the appointment of a liquidator or an

administrator normally applicable to banks or any legal persons in general, including the liquidation regime provided in Chapter III of this Law, from time to time.

1.44. **Order** - a written directive issued by the CBK implementing this Law or a regulation adopted by the CBK.

1.45. **Own funds** - means own fund of the bank as defined by CBK for the purpose of Article 21 of this Law.

1.46. **Paid-in capital** - funds received by the bank from shareholders in exchange for their equity interest.

1.47. **Parent bank** – a bank that owns or otherwise controls other banks within a banking group and is not controlled by another entity, i.e. the ultimate parent at the top of the group or the highest intermediate parent that is subject to prudential supervision.

1.48. **Person** - refers to a natural or legal person.

1.49. **Principal shareholder** - a person that owns, directly or indirectly, alone or in concert with another person, ten percent (10%) or more of any class of voting shares of a bank or company or ten percent of the equity interest in a bank or company.

1.50. **Recipient** - the person or entity to which shares, other instruments of ownership, debt instruments, assets, rights or liabilities, or any combination of those items are transferred from a bank under resolution.

1.51. **Recovery plan** - a recovery plan drawn up and maintained by an institution in accordance with Article 87 of this Law.

1.52. **Regulation** - a sub-legal act adopted by the CBK in implementation of this Law or other relevant Laws.

1.53. **Ministry** - the responsible ministry for finance.

1.54. **Related Individuals** - the spouse, the children or adopted children, nephew and niece, mother, father, brothers, sisters, persons under his care or other persons as defined by the CBK with a special regulation.

1.55. **Relevant capital instruments** - means Additional Tier 1 instruments and Tier 2 instruments and additional capital instruments which CBK specifies by regulations.

1.56. **Representative office** - a place of business that forms a legally dependent arm of a bank, and that is not separately incorporated, where activities are limited to the provision of information and liaison activities and studying markets and investment opportunities, and the representative office is not permitted to engage in the business of banking.

1.57. **Resolution** - the application of a resolution tool referred to in paragraph 2. of Article 107 of this Law in order to achieve one or more of the resolution objectives referred to in Article 100 of this Law.

1.58. **Resolution action** - the decision to place a bank under resolution, pursuant to Article 106 of this Law, the application of a resolution tool or the exercise of one or more resolution powers.

1.59. **Resolution objectives** - the objectives referred to in Article 100 of this Law.

1.60. **Resolution plan** - a resolution plan for a bank drawn up in accordance with Article 104 of this Law.

1.61. **Resolution power** - a power referred to in Article 121 of this Law;

1.62. **Resolution tool** - a resolution tool referred to in paragraph 2. of Article 107 of this Law.

1.63. **Risk management**- means a process and methods to identify, measure, evaluate, contain and monitor risks, including reporting on the risks to which a bank is or might be exposed in its operation.

1.64. **Sale of business tool** - the mechanism for effecting a transfer by the CBK of shares or other instruments of ownership issued by a bank under resolution, or assets, rights or liabilities, of a bank under resolution to a purchaser that is not a bridge institution, in accordance with Article 108 of this Law.

1.65. **Central counterparties** - legal persons interposing themselves between the counterparties to the contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer.

1.66. **Senior Manager** - the chief executive officer, chief financial officer, chief operating officer, and chief risk officer of a bank and any person, other than a director, who (i) reports directly to the board or participates or has authority to participate in major policymaking functions of the bank, whether or not such person has an official title or receives compensation for such actions, and (ii) is designated as a senior manager by the CBK. In the case of a foreign bank is licensed to operate one or more branches in Kosovo, the manager of the principal branch in Kosovo and any other manager or deputy manager of a branch in Kosovo will be deemed to be a member of senior management.

1.67. **Ownership interest** - shall mean rights in the capital of other legal persons, whether or not represented by certificates, which, by creating a durable link with those legal persons, are intended to contribute to the bank's activities and it is categorised as follows:

1.67.1. qualifying interest exists when one person has:

1.67.2. direct or indirect right or ability to exercise five percent (5%) or more of voting rights in a legal person, and/or direct or indirect ownership of five percent (5%) or more of capital of such legal person; or

1.67.3. the ability to effectively exercise influence over the management of a legal person or over the business policy of such legal person.

1.67.4. significant interest exists when one person has:

1.67.5. direct or indirect right or ability to exercise twenty percent (20%) or more of voting rights in a legal person, and/or direct or indirect ownership of twenty percent (20%) or more of capital of such legal person; or

1.67.6. the ability to effectively exercise significant influence over the management of a legal person or over the business policy of such legal person.

1.67.7. controlling interest exists when one person has:

1.67.8. direct or indirect right or ability to exercise fifty percent (50%) or more of voting rights in a legal person, and/or direct or indirect ownership of fifty percent (50%) or more of capital of such legal person; or

1.67.9. the ability to elect at least half of the members of the managing board or other management body in such legal person; or

1.67.10. the ability to effectively exercise dominant influence over the management of a legal person or over the business policy of such legal person.

1.68. **Special manager** – the manager of a bank under resolution appointed by the CBK, as resolution authority, under paragraph 7. of Article 107 of this Law.

1.69. **Subsidiary** - any legal entity in which another person or group of persons acting in concert holds directly or indirectly:

1.69.1. more than fifty percent (50%) of any class of voting shares; or

1.69.2. a significant interest that permits such person or group of persons to exercise control over the legal entity in which such shares are held.

1.70. **State aid** - has the meaning ascribed to it by the applicable law on State aid.

1.71. **Systemic crisis** - means a disruption in the financial system with the potential to have serious negative consequences for the internal market and the real economy. All types of financial intermediaries, markets and infrastructure may be potentially systemically important to some degree.

1.72. **Tier 1 and 2 capital** - has the meaning prescribed by the CBK in a separate regulation for the purposes of Article 21 of this Law.

1.73. **Transfer risk** - means probability of loss due to currency conversion (exchange) restrictions imposed by a foreign government that make it impossible to move money out of the country.

1.74. **Voting shares** - common shares in the capital of the person and any other shares of any designation or description that carry the right to vote on any resolution at a general or extraordinary meeting of the issuer.

1.75. **Netting** - the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant or participants in a settlement system either issue to, or receive from, one or more other participants in that system with the result that only a net claim or a net obligation remains.

1.76. **Net termination value** - the net amount obtained after setting off the mutual obligations between the parties to an eligible financial contract in accordance with its provisions.

1.77. **Winding up** - the realisation of assets of a bank.

1.78. **Write down and conversion powers** - the powers referred to in Article 112 of this Law.

1.79. **Capital Equivalency Deposit (CED)** - is the amount of initial minimum capital provided and paid in cash form parent bank to carry out the activity from its branch in the Republic of Kosovo.

1.80. **Deposits from any one source of funds** - is defined to be one legal entity, or a person directly or indirectly related to this legal entity as a final beneficiary owner or the total amount of public revenues from government entities which are classified as Kosovo Budget Organizations, unless specified differently by CBK.

1.81. **Participation Bank** - is a bank which carries out banking activity according to the principles of islamic banking or participation banking as specified by regulation by CBK, in accordance with international applicable standards.

1.82. **Customer of financial services** - means any natural and legal person who accepts financial services, which is defined by CBK regulation.

1.83. **CBK** - the Central Bank of the Republic of Kosovo.

SUBCHAPTER II COMPETENT AUTHORITY

Article 4 Licensing authority

1. The CBK shall be the sole competent and responsible authority for bank licensing in accordance with this Law and the Law on CBK.
2. The CBK shall have sole authority to decide in its discretion for the issuance of licenses to all banks and permit for the establishment of representative offices.
3. The CBK shall keep a central register available for inspection by the public that shall record the following details for all banks operating in the Republic of Kosovo:
 - 3.1. the name,
 - 3.2. the head office and branch office addresses, web-site, and
 - 3.3. current copies of its charter or equivalent establishing documentation and by-laws.
4. A list of all banks the licenses of which have been revoked, shall also be maintained in the register, but their chartering documentation and by-laws shall be removed.

Article 5 Supervisory authority

1. The CBK shall be the sole competent and responsible authority for macroprudential supervision in terms of defining measures to mitigate macro-prudential or systemic risk associated with banks and in terms of defining capital buffer requirements to the extent and in the manner set out in this Law.
2. The CBK shall be the competent and responsible authority for the microprudential supervision of banks in accordance with this Law.
3. In performing its supervisory tasks and exercising its supervisory powers in accordance with this Law, the CBK shall ensure that entities subject to supervision act in accordance with this Law, and other sub-legal acts issued by the CBK on the basis thereof.
4. In addition to paragraph 3. of this Article, banks and foreign bank branches also must ensure they act in accordance with the following:
 - 4.1. Regulation's guidelines, recommendations and other relevant legal acts applicable in the Republic of Kosovo;

4.2. International standards and recommendations regarding the operations of banks and the prudential supervision of banks, as long as they are not in conflict with the legal and regulatory framework applicable in the Republic of Kosovo.

5. In carrying out its supervisory duties, CBK, in cooperation with the Ministry, will establish a Financial Stability Committee, as an inter-institutional body for the purpose of Crisis Management and Financial Stability. The Terms of Reference and the operationalization of this Committee will be regulated through a Memorandum of Understanding between the relevant institutions.

Article 6 **Consumer protection authority**

1. The CBK shall be the competent and responsible consumer protection authority in terms of consumers of banking and financial products and services.

2. In performing its supervisory tasks and exercising its supervisory powers in terms of consumer protection accordance the CBK shall ensure that entities subject to supervision act in accordance with this Law, the Law of CBK and the Law on Consumer Protection accordingly.

Article 7 **Resolution authority**

1. The CBK shall be the resolution authority of banks in the Republic of Kosovo, being empowered to apply the resolution tools and exercise the resolution powers provided in this Law.

2. The resolution function of the CBK shall be operationally independent and separate from other functions within the CBK. The CBK shall implement the relevant organizational arrangements for the purpose of this paragraph.

3. Unless otherwise indicated, references to the CBK in Chapter III of this Law shall be construed as to the condition of the CBK acting in its capacity as resolution authority.

Article 8 **Regulatory instruments**

1. The CBK shall issue regulatory instruments that contain general and more detailed rules for the uniform interpretation and application of the articles of this Law and for the formulation of best practices.

2. The CBK's regulatory instruments shall be published on the CBK's website, in accordance with the Law on CBK.

CHAPTER II LICENSING AND SUPERVISION

SUBCHAPTER I BANK LICENSING

Article 9 Permission to exercise banking and financial activities

1. Banking and financial activities in the Republic of Kosovo, permitted by this Law, shall be carried out by:

1.1. a bank licensed to operate in the Republic of Kosovo by the CBK;

1.2. a subsidiary and a branch of a foreign bank licensed operate in the Republic of Kosovo by the CBK.

Article 10 General prohibitions and exemptions

1. No person shall engage in the business of banking or conducting any financial activity without an effective license issued by the CBK under this Law, Law of CBK or any special law in force.

2. No foreign bank shall be permitted to engage in the business of banking or conducting any financial activity in Kosovo unless the foreign bank has obtained a license issued by the CBK to conduct such activity through a branch office in Kosovo or has established a subsidiary bank in Kosovo for which a license has been issued by the CBK.

3. The words 'bank' or derivatives of this word, if contained in the firm name, may be entered in the register of companies or used in legal transactions only by:

3.1. a legal person authorised by the CBK as a bank;

3.2. banks providing services under this Law; and Members of a group of banks.

4. Banks from other countries may use within the territory of the Republic of Kosovo the same name as they use in the home country. Exceptionally, in the situation where there is already a bank operating within the territory of the Republic of Kosovo under the same or similar name, the CBK may, for the purposes of clarification, require that the name of the bank of another country be accompanied by certain explanatory particulars.

5. No person shall use the word "bank" or derivatives of this word in respect of a business, product, or service or in promotional business without having a license issued by the CBK to engage in the business of banking, unless such usage is established or recognized by this Law, an international agreement or where the context in which the word "bank" is used does not concern the conduct of any financial activity as set forth in this Law.

6. No representative office shall use the word “bank” in their name, except in cases where the word “bank” forms an integral part of the name of the foreign bank to which they belong, provided that, in such cases, the words “representative office” shall be added.

7. No bank shall use words in its title that are misleading concerning its financial condition, legal status or connection with government, international institutions or other significant private sector organization.

8. No person shall make a misstatement of material fact or a false or misleading representation or do anything to create a false or misleading appearance or engage in any manipulative device or practice in relation to taking deposits.

Article 11 **Banking and financial activities**

1. Banks may be authorised in their licenses to engage in the following banking and financial activities and subject to limits on exposures specified by Regulation or Order of the CBK.

2. Banking activity is the taking of deposits or other repayable funds from the public. For the purposes of this Law, the following shall not constitute the taking of deposits or other repayable funds from the public:

2.1. receipts of funds that are immediately exchanged for electronic money by an electronic money institution;

2.2. receipts of funds by payment institutions from payment service users for the provision of payment services in accordance with a special Law.

3. Financial activities are the following:

3.1. extending credit, including consumer and mortgage credit;

3.2. factoring and financing of commercial transactions;

3.3. providing payment and collection services;

3.4. providing payment services and issuing electronic money as defined and regulated in the applicable laws and/or by the CBK;

3.5. issuing and administering other means of payments not covered in the subparagraph 3.4. of this Article, such as paper including payment cards, travellers' checks and bankers' drafts and mobile phone payments;

3.6. issuing and managing means of payment (including payment cards, travellers' checks and bankers' drafts and mobile phone payments), including the issuing of electronic money;

3.7. buying and selling foreign exchange for cash for the account of a customer;

- 3.8. providing services for buying, selling and safekeeping of securities and other valuables;
 - 3.9. borrowing funds and buying and selling for a bank's own account or for the account of customers of money market instruments; debt securities; futures and options and other instruments relating to debt securities, interest rates, foreign exchange rates, commodity prices;
 - 3.10. acting as intermediary between borrowers and lenders (money brokering);
 - 3.11. financial leasing;
 - 3.12. providing services as a financial agent or consultant;
 - 3.13. dealing in gold or one or more currencies other than the currency in which the bank's balance sheet is denominated, including contracts for the future purchase or sale of foreign currencies;
 - 3.14. providing trust services, including, the investment and administration of funds received in trust and administration of securities;
 - 3.15. underwriting and distribution of debt and equity securities and dealing in equity securities;
 - 3.16. banking activity according to the principles of alternative or participatory banking with the consent of the CBK and according to the conditions and in compliance with the regulations that may be determined by the CBK;
 - 3.17. granting loans in the form of co-financing by banks (syndication loans) or other forms according to the relevant determinations with guidelines or regulations of the CBK.
4. Any other activity that the CBK shall determine by regulation is related to a financial activity and that does not conflict with the provisions of this Law.
5. Ancillary financial services, for the purpose of this Law are the following:
- 5.1. intermediation in the sale of insurance policies pursuant to the Law on insurance;
 - 5.2. payment system administration in Euro as a single currency for payments and operations services;
 - 5.3. custody services provided by a bank pursuant to any other Law and custody-related services;
 - 5.4. the import and export of cash in euros or other currencies which can only be done by banks licensed and expressly authorised for this activity by the CBK.

6. The income from non-financial services is allowed up to ten percent (10%) of total net interest income of the last financial year.

Article 12 **Prohibited activities**

1. Banks shall refrain from entering into transactions or engaging in practices of any kind that would provide them, alone or together with others, a position of dominance in the money, payments, capital or foreign exchange markets, and from engaging in manipulative devices or predatory pricing practices that could result in an unfair advantage for themselves or for third parties.

2. Banks shall not engage in industry, commerce, or economic activities other than the activities identified by this Law and/or approved by the CBK according to Article 11 of this Law.

3. Banks shall not engage in activities that exceed those specifically authorised by its license. Banks seeking to engage in activities beyond those authorised by its license must obtain the prior approval of the CBK.

4. The CBK may also prohibit or restrict banks from engaging in any of the permitted activities set out in Article 11 of this Law. In such a case, the CBK will provide reason(s) in writing for its decision.

5. Banks shall not require any person to purchase any financial service or any goods or other service from the bank or an affiliate as a condition of being permitted to contract with the bank to purchase any other financial service from the bank.

6. Banks shall not have an exposure secured by its own equity securities or lend for the purposes of acquiring such securities.

7. Banks shall not purchase its own equity securities or any other instrument that qualifies as regulatory capital without prior authorization from the CBK.

SUBCHAPTER II **LICENSING PROCESS**

Article 13 **License application**

1. Applications for a license to establish a bank or a branch of a foreign bank shall be in such form as prescribed by the CBK and shall be accompanied by the following information:

1.1. the constituent documents of the proposed bank or the foreign bank, including an original document or a notarized copy under which it was formed, and the proposed address of the main office;

1.2. the name, nationality, place of residence, qualifications and experience of the Directors and Senior Managers of the proposed bank, including the entire business and professional history. In the case of the branch of foreign bank this sub paragraph is applicable only for Senior Managers of the proposed branch in Kosovo.

1.3. the amount of the subscribed capital of the proposed bank or the branch of foreign bank and the legal source of the capital.

1.4. a business plan setting out, inter alia, the organisational structure of the proposed bank or branch of the foreign bank, including proposed internal controls, risk management and corporate governance processes the types of banking/financial activities envisaged, the target market and innovation, the impact on the banking system and the expected contribution to the real economy and projected financial statements for three (3) years;

1.5. a list of shareholders that hold or would hold five percent (5%) percent or more of the proposed bank or the foreign bank's shares (which plans to open a branch in Kosovo), and the ultimate beneficial owners of those shares, stating their name, address and respective shareholdings;

1.6. the name, nationality, place of residence, business and professional history for the past five (5) years, and audited financial statements for the past three (3) years (if applicable), of each principal shareholder of the proposed bank. In case of the branch of foreign bank audited financial statements of the foreign bank.

1.7. for each Director, Senior Manager and principal shareholder of the proposed bank, an official statement from the Court in the country in which the person is a resident disclosing any convictions for offences by a criminal Court, personal bankruptcy filings, disqualifications from practicing a profession, in the past or present involvement in a managerial function of a body corporate or other undertaking subject to insolvency proceedings, if any. In the case of a branch of a foreign bank the criteria in this sub paragraph is applicable only for Senior Managers of the proposed branch in Kosovo.

1.8. in any case where the applicant is a foreign bank proposing to establish a subsidiary bank or branch in Kosovo, it must be provided: (i) a statement from the home country supervisor that it has no objection to the proposed establishment of operations in Kosovo, (ii) exercises global consolidated banking supervision over the foreign bank and (iii) the bank is meeting all major regulatory requirements in the home country and other countries where it operates and is not subject to enhanced supervision or penalties'; in the case of a foreign bank branch, a statement from the parent bank accepting responsibility for ensuring the financial health of the branch.

1.9. additional information as the CBK reasonably deems appropriate.

2. The CBK may request additional requirements regarding licensing information and documentation, and specify application procedures and deadlines for review.

3. The documentation provided as specified in this article shall be submitted in one of the official languages of the Republic of Kosovo. The documents shall be original or in a notarized copy.

Article 14 **Preliminary approval**

1. Within three (3) months from the date that the CBK considers the application received for a license complete, the CBK shall preliminarily approve or deny it, and notify the applicant of its discretionary decision in writing; the notification of the denial of a license shall state the grounds on which the license was denied.

2. The CBK shall deny a license if:

2.1. the licensing conditions specified in this Law and other sublegal acts in implementation of this Law issued by CBK have not been met;

2.2. the CBK considers the supervision of the home supervisor or the global consolidated supervision of the banking group to be inadequate;

2.3. the applicant is, in the opinion of the CBK, engaged in unsafe, unsound or predatory practices in its home jurisdiction or any other jurisdiction in which it operates;

2.4. the CBK is of the opinion that the proposed activities of the bank or the terms on which it intends to offer its products and services would not contribute positively to the financial markets and economy of Kosovo.

2.5. besides the paragraph 2. of this Article, the CBK shall deny a license if, in its reasonable judgement, issuing such a license would:

2.6. jeopardise the financial soundness of the proposed bank or the banking system more generally;

2.7. endanger the interests of the potential depositors of the proposed bank;

2.8. substantially lessen competition, or

2.9. there are aspects that endanger national security.

3. The CBK shall preliminarily approve a license if:

3.1. the business plan is based on sound analysis under reasonable assumptions;

3.2. the organisational structure of the proposed bank, its affiliates and its subsidiaries will permit CBK to effectively exercise supervision on a consolidated basis;

- 3.3. the proposed bank or the branch of foreign bank will comply with all provisions of this Law;
 - 3.4. Directors and Senior Managers should meet the conditions set forth in Article 55 of this Law;
 - 3.5. the principal shareholders of the proposed bank should be fit and proper as determined in Article 55 of this Law; and
 - 3.6. the ownership structure of the bank will not hinder effective supervision or the implementation of corrective measures in the future; and
 - 3.7. other conditions specified with regulations and sublegal acts issued by the CBK.
4. In addition to the conditions set forth in paragraph 3. of this Article, preliminary approval of licenses concerning a subsidiary or branch office of a foreign bank shall be granted only if:
- 4.1. the foreign bank is authorised to engage in the business of receiving deposits or deposit-like funds in the jurisdiction where its head office is located;
 - 4.2. the competent authorities that supervise the foreign bank at its headquarters have given their written consent to the granting of such license;
 - 4.3. the CBK in its judgement determines that the foreign bank is adequately supervised on a global consolidated basis by its home country supervisor. The Home Country Supervisor must acknowledge in writing that is aware of the granting of a new license and agrees to provide information to the CBK upon request;
 - 4.4. national security is not compromised or exposed to a high risk related to it.
5. In the case of preliminary approval of an application for a license, the CBK shall enumerate any conditions for the bank to receive the license and to commence its operations. Such conditions may include:
- 5.1. the payment by shareholders to the bank of its minimum paid-in capital;
 - 5.2. the hiring and training of the staff of the bank;
 - 5.3. the lease or purchase of bank premises, operations equipment and the establishment of operations systems;
 - 5.4. the engagement of an external auditor in accordance with Article 68 of this Law; and
 - 5.5. any other condition that the CBK deems appropriate.
6. Subsequent to preliminary approval banks cannot engage in banking activities until the issuance of the license.

7. If within one (1) year a bank fails to comply with the conditions to receive the license set forth in this Article, the preliminary approval of the application shall be revoked.

Article 15 **Issuance of a license**

1. If the CBK determines that the conditions in Articles 13 and 14 of this Law have been met, it shall issue a license and the bank shall become member of Deposit Insurance Fund of Kosovo in accordance with the Law in force on Deposit Insurance System for deposit-taking Financial Institutions in Kosovo.

2. A license shall be granted in writing for an indefinite period of time and shall not be transferable. The license shall specify the banking and financial activities in which the bank is allowed to be engaged in accordance with Article 11 of this Law.

3. The decision for granting a license shall be announced by the CBK in the website of the CBK.

4. Subsequent to initial licensing, banks may apply to the CBK to engage in additional activities in accordance with Article 11 of this Law.

Article 16 **Representative office permits**

1. A foreign bank may establish or operate with representative office in Kosovo only with a permit issued by CBK.

2. The CBK may grant a permit for a representative office in Kosovo, provided that the CBK is satisfied that the foreign bank will limit the activities of the representative office to the provision of information, liaison activities and studying markets and investment opportunities, and that the foreign bank will not engage in banking/financial activities in Kosovo through the representative office.

3. Applications by a foreign bank for a permit to establish and operate a representative office shall be in such form as prescribed by the CBK and shall be accompanied by such information as the CBK shall require.

Article 17 **Transformation from a branch to a subsidiary**

1. The CBK may require a branch of a foreign bank that is licensed to operate in the Republic of Kosovo to transform to a subsidiary of that foreign bank if:

1.1. there is a material change in the ownership or management of the foreign bank for which CBK has reasonable grounds for concern;

- 1.2. there is a material decline in the financial condition of the foreign bank or the foreign bank is subject to sanctions by its home country supervisor for material violations of Law or regulations or unsafe or unsound practices;
 - 1.3. the CBK considers that the operations of the branch might endanger financial stability of the banking sector or be detrimental to the interest of the depositors;
 - 1.4. the CBK considers that the operations of the branch have become systemically important to the financial system in Kosovo because of its size or any other feature, as determined by the CBK;
 - 1.5. the CBK considers that the branch of the foreign bank is not managing to create value and impact in the financial system and the country's economy, after the passing of a reasonable term from licensing, according to the assessment of the CBK; and
 - 1.6. the CBK considers that supervision is becoming difficult or the supervision from the home country supervisor is inadequate.
2. The foreign bank can request to transform its branch into a subsidiary which is subject to approval by the CBK.
 3. The CBK may refuse the transformation if it considers that:
 - 3.1. it has a negative impact on the national economy, fair competition or state interests;
 - 3.2. it has a negative impact on the financial stability of the country;
 - 3.3. it endangers its own financial soundness and if the transformed bank cannot ensure full compliance with regulatory and supervisory norms of the CBK.
 4. The transformation process of a foreign branch into a subsidiary is compulsory when determined to be necessary by a decision of the CBK, in accordance with paragraph 1. of this Article. The deadline for realisation should not be longer than three (3) years, immediately or gradually.
 5. With transformation the foreign bank subsidiary inherits all the rights and obligations deriving from the operations and activities of the foreign bank branch, including the total of deposits accumulated.
 6. The CBK may further regulate the transformation procedure from a branch into a subsidiary if deemed necessary.

Article 18

Revocation of a license

1. The license of a bank or branch of foreign bank may be revoked by decision of the CBK on one or more of the following grounds:

1.1. the CBK has approved a plan for the bank to terminate its operations in Kosovo;

1.2. the bank has violated any provision of this Law, any order or regulation of the CBK, or any condition or restriction attached to an authorization issued by the CBK;

1.3. the bank has engaged in unsafe unsound or aggressive practices in the judgement of the CBK or predatory practices;

1.4. the license has been obtained on the basis of false information submitted by or concerning the applicant;

1.5. the bank has not commenced operations within ninety (90) days after the receipt of the license, or such further period as may be determined by the CBK, or has ceased for more than three (3) months to engage in the business of receiving deposits;

1.6. the license of the parent bank (which has significant interest in this bank) has been revoked;

1.7. a merger, acquisition or sale of substantial assets of the bank has occurred without CBK's approval;

1.8. the activities of the bank differ substantially from those presented in the application for a license and, in the opinion of the CBK such difference is not justified, nor approval for such changes has been granted by CBK; and

1.9. there has been a significant change in the ownership as provided in Article 57 of this Law, without approval of the CBK.

2. The license of a bank shall be revoked by a decision of the CBK if the CBK determines that the bank no longer meets the prudential requirements, including requirements on capital and liquidity requirements and large exposures, or can no longer be relied on to fulfil its obligations towards its creditors, and, in particular, no longer provides security for the assets entrusted to it by its depositors.

3. A decision by the CBK to revoke a license shall be communicated in writing to the bank, shall give the grounds for the decision and shall be effective on the date determined in the decision.

4. A decision to revoke a license shall be published in one or more newspapers of general circulation wherever the offices of the bank are located and on the CBK website.

SUBCHAPTER III CAPITAL AND LIQUIDITY REQUIREMENTS

Article 19 Minimum paid-in capital for banks

1. Each bank shall at all times maintain paid-in capital of not less than ten million (10.000.000) Euro in cash, or such higher amount as specified by regulation or order of the CBK.
2. The minimum paid-in capital required for the purposes of obtaining a banking license shall be deposited in the CBK in a deposits account, in the form of a guarantee bearing no interest and shall be frozen until the acquisition of the license. The depositing shall be carried out through a giro in the account.
3. Paid-in Capital cannot be treated as such if the funds originate from:
 - 3.1. loans granted by the public;
 - 3.2. loans granted by banks;
 - 3.3. money paid in advance from third parties and legal person.
4. Shares issued in exchange for services shall not be treated as paid-in capital.

Article 20 Source of capital

1. Each shareholder of the bank shall give information on the sources of the initial paid-in capital for the establishment of the bank, as well as any addition to the capital during the course of the banks activity in accordance with criteria set out by the CBK.
2. Any payment of the initial capital and any addition in the structure of the capital of the bank shall be accompanied with the submission in the CBK of information relating to the source of the creation of such capital, as required below:
 - 2.1. for legal persons:
 - 2.1.1. evidence of the source of the creation of funds submitted in a legally acceptable form authorised auditor`s report, annual accounting balance, gifts or other sources designated to be used for the purchase of the shares of the bank;
 - 2.1.2. certificates by competent authorities which provide data on the balance of the company and compliance with taxation duties.
 - 2.2. For natural persons:

2.2.1. the evidence of the source of funds presented in a legally acceptable form that includes but is not limited to gift, wages, monetary deposits in the bank or other evidence of the source of funds;

2.2.2. certificates of the competent state authorities evidencing payment of tax duties.

3. The methods and procedures for the submission of documentation shall be stipulated by the CBK.

Article 21 **Minimum requirements for regulatory capital**

1. Each bank shall at all times ensure an amount of capital that is proportionate to the nature, scale and complexity of its activities as well as the risks to which it is or might be exposed to, while providing services.

2. Each bank shall at all times maintain regulatory capital determined on a risk-adjusted basis as specified by the CBK.

3. The CBK shall specify by regulatory instruments:

3.1. the detailed conditions and manner of calculating risk-weighted assets;

3.2. the approaches a bank may use in calculating such assets;

3.3. the conditions and criteria a bank need to meet to obtain the approval of the CBK for using a specific approach;

3.4. additional regulatory capital requirements, including establishment of a leverage ratio.

4. Bank capital consists of Tier 1 and Tier 2 capital, as well as of any other forms of capital as specified by the CBK.

5. The CBK shall specify the manner in which the regulatory capital requirements of this Article shall be applied on a group-wide basis to a banking group.

6. CBK shall specify by regulatory instruments the use of credit ratings assigned by a credit rating agencies for the purpose of calculation of credit-risk weighted assets.

7. The CBK if it deems necessary, may at any time request that banks hold their capital levels at a higher ratios than minimum requirements specified by regulatory acts or orders.

Article 22
Adequacy of internal capital

1. Banks shall have in place and implement sound, effective and comprehensive strategies and procedures to assess and maintain on an ongoing basis the amounts, types and distribution of their internal capital.
2. CBK may require the assessment procedures, the method of and time limits for reporting on the adequacy of bank's internal capital and the internal capital calculation on an individual and consolidated basis.

Article 23
Leverage ratio

1. Leverage ratio acts as a credible supplementary measure to the risk-based capital requirements to restrict the build-up of leverage in the banking sector to avoid destabilising deleveraging processes that can damage the broader financial system and the economy.
2. Banks and foreign bank branches shall calculate their leverage ratio in accordance with the methodology specified by the CBK.

Article 24
Lending exposures and deposit concentration

1. The maximum aggregate principal amount of credit exposures, expressed as a percentage of its Tier 1 capital, that a bank shall be permitted to have committed or outstanding to or for the benefit of any single person or to group of related persons shall not be higher than twenty-five percent (25%).
2. Irrespective from paragraph 1. of this Article, Banks to allow exposures above fifteen percent (15%) of the Tier 1 capital must receive prior approval from the CBK in a bank level, depending on the risk profile, the position in the financial market, a level which is proportional to the nature, scale and complexity of its activities, as well as to the risks which is or may be exposed to during the granting of loans as determined by the CBK with special regulation.
3. The exposure of a bank to single person or to group of related persons shall be considered as large exposure if it is equal to or larger than ten percent (10%) Tier 1 capital.
4. The maximum aggregate principal amount of large credit exposures, expressed as a percentage of its Tier 1 capital should not be higher than three hundred percent (300%) at any time or such lower percentage as specified by regulation.
5. The aggregate amount of investments for the bank's own account in financial instruments such as securities, investment funds, interest bearing deposits and similar instruments that are regulated by jurisdictions other than that of the Republic of Kosovo shall not exceed one hundred percent (100%) of Tier 1 capital. Exemptions from this limit can only be made with

the prior approval from the CBK for nostro accounts and zero percent (0%) risk weighted assets according to the requirements of the CBK.

6. The CBK may prescribe by regulation exemptions from the limitations of paragraph 1. and 2. of this Article.

7. Bank policies on credit risk shall at a minimum require board approval of any large exposure.

8. A bank cannot hold deposits from any one source of funds in an amount greater than twenty percent (20%) of its total deposits.

9. Irrespective of the provisions of this article, the CBK reserves the right at any time at its discretion to request banks, to reduce exposures to lower limits.

10. The CBK shall prescribe by regulation in a more detailed manner, the treatment of large exposures for banks and banking groups.

Article 25 **Exposures to bank-related persons**

1. No bank shall enter into a transaction with or for the benefit of a bank-related person, if such transaction would be entered into on less favourable terms and conditions to the bank, or not at all, if such counterparty were not related to the bank.

2. The bank shall apply the following limits for the exposures to bank related persons, that are applicable on individual and consolidated basis.

2.1. total exposure of a bank to all bank related persons other than its subsidiaries that operate in the Republic of Kosovo subject to CBK Consolidated Supervision may not exceed the amount of ten percent (10%) of bank's Tier 1 capital in aggregate level. Exemptions from this limit can only be made for interbank exposures in nostro accounts necessary for payment and settlement processing, according to the requirements of the CBK;

2.2. sum of the total exposures of a bank to its subsidiaries that operate in Kosovo and are subject to CBK Consolidated Supervision may not exceed twenty-five percent (25%) of bank's Tier 1 capital in aggregate level;

2.3. total exposure to a person that is member of the Board of Directors, board committees or senior management, including members related to them as defined in Article 3, sub-paragraph 1.54. of this Law, may not exceed one percent (1%) of banks' Tier 1 capital and may not exceed five percent (5%) of bank's Tier 1 capital on aggregate level;

2.4. a bank cannot approve loans to its shareholders during the initial three (3) years of its operations, unless CBK approves another deadline in writing.

3. The CBK exercises the discretion to set on a case-by-case basis, limits for exposures to related person, and to deduct such exposures from capital when assessing capital adequacy.

4. Exposure extended by any bank to any bank-related person shall be subject to such additional conditions or restrictions as shall be prescribed by regulation or order by CBK.

Article 26
Exposures to bank employees

A bank shall not exceed exposure to any of its employees, or for their benefit, in excess of limits established by the CBK by regulation.

Article 27
Exposures in foreign currency

The CBK may set the maximum foreign currency exposures that banks may incur. The maximums may apply to foreign currency exposures generally, to any specific currency or currencies, or to both.

Article 28
Financial asset classification and impairment

1. Each bank shall maintain adequate provisions for depreciation or impairment of the value of its assets.

2. Each bank shall develop and maintain written policies and procedures regarding the classification and valuation of assets and provisions to be made on the basis of such classifications and valuations.

3. All banks shall classify all credit exposures and allocate loan loss reserves in accordance with IFRS as required by the CBK.

Article 29
Requirements for foreign bank branches

1. Each foreign bank branch operating in the Republic of Kosovo shall maintain claims on residents of Kosovo in excess of its liabilities to residents of Kosovo by such amount as specified by regulation or order of the CBK.

2. Each foreign bank branch which operates in the Republic of Kosovo, shall maintain a Capital Equivalency Deposit not less than ten million (10.000.000) Euro in cash, or a higher amount as specified by regulation or order of the CBK. This amount shall be deposited in CBK.

3. The deposit must remain in the custody of the CBK as long as the foreign bank operates a branch in Kosovo unless the CBK has approved another agreement.

4. The minimum regulatory capital requirements for banks set forth in Article 21 of this Law shall not apply to foreign banks branches in Kosovo.
5. The total maximum amount of exposures, expressed as a percentage of the Deposit Equivalency Capital, that a foreign bank branch is allowed to lend or have outstanding to or for the benefit of any single person or a group of related persons must be limited to fifteen percent (15%) or other percentage as specified by CBK regulations. Foreign bank branches to allow exposures up to twenty-five percent (25%) of Deposit Equivalency Capital must receive prior approval by CBK.
6. The maximum aggregate amount of large exposures expressed as a percentage of Deposit Equivalency Capital shall not be higher than three hundred percent (300 %) at any time, or a smaller percentage as specified by regulation.
7. The exposure of the foreign bank branch to a single person or group of related persons will be considered as large exposure if it is equal to or greater than ten percent (10%) of the Deposit Equivalency Capital.
8. A foreign bank branch cannot hold deposits from any one source of funds in an amount greater than twenty percent (20%) of its total deposits.
9. Irrespective of the provisions of this article, the CBK reserves the right at any time at its discretion to request banks, to reduce exposures to lower limits.
10. The CBK shall prescribe by regulation in a more detailed manner, the treatment of large exposures for foreign bank branches.

Article 30 **Dividends and other capital distributions**

1. No bank shall pay a dividend or make any other capital distribution without the approval of the CBK. In no event will approval be granted if, in the opinion of the CBK, after making such distribution, the bank would have less than the minimum paid-in equity determined with the Article 19 of this Law or the regulatory capital required by Article 21 of this Law or by regulation or order of the CBK.
2. Apart from the criteria provided in paragraph 1. of this article, the bank cannot pay dividends or make any other distribution of capital in the following cases:
 - 2.1. if the bank fails to meet the liquidity requirements as defined by CBK regulations;
 - 2.2. if due to the payment of dividends or any other distribution of capital, the bank will not be able to meet the liquidity requirements as defined by CBK regulations;
 - 2.3. if the bank has failed to act in compliance with CBK orders to eliminate regulatory and legal irregularities;

- 2.4. if the bank's income statement for the reporting period presents a negative result (loss);
 - 2.5. if the bank's profits are not in line with and do not support the risks taken by the bank for the bank's business profile at the discretion of the CBK; and
 - 2.6. if, according to the judgement of the CBK, the bank needs to be capitalized, to increase financial resiliency, as additional capital or similar addition.
3. No foreign bank branch shall pay any dividend or make any other distribution without the approval of the CBK.
 4. No foreign bank branch shall pay any dividend or make any other distribution of capital in the following cases:
 - 4.1. if the foreign bank branch fails to meet the liquidity requirements as defined by CBK regulations;
 - 4.2. if due to the payment of dividends or any other distribution of capital, the foreign bank branch will not be able to meet the liquidity requirements as defined by CBK regulations;
 - 4.3. if the foreign bank branch has failed to act in compliance with CBK orders to eliminate regulatory and legal irregularities;
 - 4.4. if the foreign bank's branch income statement for the reporting period presents a negative result (loss);
 - 4.5. if the foreign bank's branch profits are not in line with and do not support the risks taken by the foreign bank branch for its business profile, at the discretion of the CBK;
 - 4.6. if the payment of dividend or other distribution would impact that the amount of CED would be below the minimum of initial requirements of ten (10) million euros or any other regulatory amount as specified by CBK;
 - 4.7. if according to CBK judgement, the foreign bank branch should be converted to subsidiary and needs to be capitalised and increase resiliency.

Article 31 **Liquidity requirements**

1. The CBK should specify by regulation or order the liquidity requirements for banks and banking groups.
2. Such liquidity requirements should include a minimum aggregate amount of liquid assets or specific categories of such assets to be held by the bank.

3. Each bank and each banking group shall develop written policies and procedures for management of liquidity risk.
4. Where a bank's foreign currency business is significant or the country and transfer risk of a currency is significant, separate analysis and monitoring specified by the CBK shall apply to these currencies.
5. A copy of policies and procedures from paragraph 3. of this Article shall be reviewed annually by the Directors of the bank and must be submitted to the CBK. Updated versions of the policies and procedures must also be provided to the CBK.
6. CBK may require the assessment procedures, the method of and time limits for reporting on the adequacy of bank's internal liquidity and the internal liquidity calculation on an individual and consolidated basis.

SUBCHAPTER IV CORPORATE GOVERNANCE AND OWNERSHIP OF BANKS

Article 32 Organisation

1. All banks, excluding foreign bank branches, shall be initially organised as joint stock companies and registered at the respective agency responsible for trade registry where shares are registered in the name of their beneficial owners, the shareholders. A share in the joint stock company is the property of the shareholders. However, in order to operate as a bank, evidence of the registration shall first be presented to CBK and thereafter the joint stock company shall be regulated solely by the CBK under this Law, the Law on CBK, and other CBK regulatory instruments.
2. However, to function as a bank under this Law, the bank must initially provide the CBK with evidence of registration as per paragraph 1. of this Article. Subsequently, corporate governance is exclusively regulated by the CBK in accordance with this Law, the pertinent CBK legislation, and other regulatory instruments adopted by the CBK.

Article 33 Charter and statute

1. All banks operating in Kosovo must have a Charter and/or statute, a copy of which has been approved by the CBK. No bank, other than a foreign bank licensed to operate one or more branches in Kosovo, may amend its charter or by-laws without the prior written approval of the CBK.
2. A foreign bank with a licensed branch in Kosovo shall provide notice to the CBK of any amendment to its charter or equivalent establishing documentation or statute within thirty (30) days of the effective date of any such change.

3. Each bank including foreign bank branches, shall maintain on file with the CBK a duly certified copy of its charter or equivalent establishing documentation, its statute, and a list of the officials of the bank who are currently authorised to obligate the bank, together with their specimen signatures and a description of the limits of their authority.

Article 34 Independence

1. Banks and foreign bank branches are managed and governed based on free market and fair competition principles. No subject or public person may interfere without authorization to influence the management or the governing structures of the bank or foreign bank branch, except in cases when such interference is complying with regulatory instruments or decisions of the CBK, execution of orders from the judiciary organs or when it is so stipulated in the Law.

2. Following the instructions or practices of international banking groups that operate within the framework of the European Union legislation, does not constitute interference in the sense of paragraph 1. of this Article, as long as they are in compliance with this law, the regulation and requirements of the CBK or other relevant laws of Kosovo.

Article 35 Organisational structure

1. A bank shall establish a clear organisational structure with well-defined, transparent and consistent lines of responsibility and accountability within the bank, established so as to avoid conflicts of interest where it:

1.1. enables an effective communication and cooperation at all organisational levels, including an appropriate information flow within the bank;

1.2. limits and prevents conflicts of interest in a timely and appropriate manner; and

1.3. provides for a transparent and documented decision-making process.

2. The CBK may further regulate the requirements related to the organisational structure through other regulatory acts.

Article 36 Bank bodies

1. Bodies of the bank are:

1.1. Shareholders Assembly;

1.2. Board of Directors; and

1.3. Senior Management.

2. The powers of the bodies of the bank shall be determined in this Law and in the bank statute.

Article 37 **Shareholders assembly composition**

1. A bank's assembly shall consist of the bank's shareholders.
2. Shareholders shall exercise their voting rights directly or through their representatives.
3. Any Shareholder who was placed on the list of shareholders at the Registry thirty (30) days before the date of the General Meeting of Shareholders session shall have voting rights in the General Meeting of Shareholders.

Article 38 **Shareholders assembly competences**

1. The shareholders assembly has the following competences:
 - 1.1. establishment of bank's Paid in Capital through the issuance or increase of Common Shares and the issuance or increased of Preferred Shares;
 - 1.2. appointment of external auditor;
 - 1.3. annual financial reports with the reports of external auditor and the Board of Directors;
 - 1.4. distribution of profit and payment of dividend;
 - 1.5. manner of loss coverage;
 - 1.6. consolidation with other enterprises and merger and acquisition of other enterprises with the bank, including consolidation or merger and acquisition of subsidiaries;
 - 1.7. division and termination of the bank;
 - 1.8. purchase, sale exchange, leasing and other transactions with property, directly or through subsidiaries within a business year, to the extent that exceeds twenty percent (20%) of the bookkeeping value of assets of the bank;
 - 1.9. election and removal of the members of the Board of Directors;
 - 1.10. establishment, reorganisation and liquidation of subsidiaries, and approval of their respective charters;
 - 1.11. compensations for the members of the Board of Directors and external members of the Board Committees;

1.12. adoption, changes and amendments to the charter; and

1.13. other issues important for business operation of the bank, in accordance with this Law and charter of the bank and/or statute of the bank.

Article 39

General meeting of shareholders

1. The General Meeting of Shareholders of the bank shall:

1.1. be chaired by the Chairman who shall be elected by the shareholders at the beginning of the General Meeting of Shareholders session;

1.2. appoint members of the General Meeting of Shareholders' Voting Committee;

1.3. chairman and the majority of members of the Board of Directors and at least one member of Senior Management shall be present during Meeting of Shareholders session;

1.4. members of the Board of Directors in a bank consisting of five (5) shareholders or less are not obliged to be present at General Meeting of Shareholders session;

1.5. in a bank with a single shareholder the authorities of the General Meeting, be carried out by the shareholder;

1.6. be held at least once a year; and

1.7. shall be published in at least one of the daily newspapers published (printed or electronic) within Kosovo, no later than ten (10) days before the date determined. This paragraph is not applicable when the bank has only a single shareholder.

2. A majority of members of the Board of Directors may vote to hold an Emergency General Meeting of the Shareholders and may vote to hold this Emergency General Meeting of the Shareholders of this Article. However, every shareholder must be notified of the emergency General Meeting of the Shareholders, including its purpose and the proposed Agenda. Further, any action taken at the Emergency General Meeting of the Shareholders must be approved by two thirds (2/3) of the number of shares.

3. A request for convening the General Meeting of shareholders may be submitted by:

3.1. shareholder or group of shareholders with more than ten percent (10%) of the total number of shares with voting rights:

3.2. two or more members of the Board of Directors; or

3.3. the Board Audit Committee.

4. General Meeting of Shareholders may make decisions only if shareholders with more than fifty percent (50%) of the shares with voting rights are represented in person or through proxies.

5. Voting at General Meetings of Shareholders shall be performed as follows:

5.1. The General Meeting of Shareholders shall make decisions by majority of shares with voting rights;

5.2. The Voting Committee shall determine results of voting; and

5.3. Minutes shall be signed by the chairman of the General Meeting of Shareholders and the person in charge of minutes.

Article 40 **Decision-making through Proxies**

1. Decision Making Through Proxies shall be performed based on the following:

1.1. shareholders' proxy shall have authorization for representation by shareholders signed by a shareholder who is a natural person or representatives of the shareholder who is a legal person;

1.2. a written authorization shall be delivered to the Voting Board;

1.3. voting Committee shall check validity of authorization and identity of the proxy.

2. If a shareholder or his proxy, within five (5) days from the day of General Meeting of Shareholders, deliver certified statement of the shareholders to the Voting Committee, public document or other verifiable evidence that denies validity of authorization to the Voting Committee, it shall declare votes based upon such authorization to be invalid and inform the Board of Directors about in writing.

3. The Board of Directors shall suspend enforcement of the decision, passing of which was decisively influenced by invalid votes and it shall convene the General Meeting of Shareholders for repeated decision making on these issues no later than thirty (30) days from the day of receipt of notification of the voting Committee on invalid votes.

Article 41 **Minutes of General Meeting of Shareholders**

1. Minutes of General Meeting of Shareholders:

1.1. shall at least note details about: agenda, decisions, data about voting and objections of shareholders and members of Board of Directors to the General Meeting of Shareholders decisions.

1.2. the Board of Directors shall ensure that the minutes be approved no later than thirty (30) days from the day of organizing the General Meeting of Shareholders.

Article 42

Contest of the general meeting of shareholders' decisions

1. A decision of the General Meeting of Shareholders shall be null and void if:

1.1. General Meeting of Shareholders was not convened in a manner determined under Article 39 of this Law;

1.2. was not approved into the minutes;

1.3. nullity is determined by a court decision.

2. A procedure to contest and annul the decision of the General Meeting of Shareholders, with the Court, may be initiated by:

2.1. a shareholder or shareholders representing minimum of thirty-three percent (33%) ownership and who attended the General Meeting of Shareholders, whose objection to the decision was entered into the minutes, or was not entered correctly; or

2.2. a shareholder who was not present at the General Meeting of Shareholders due to convening the General Meeting of Shareholders contrary to the provisions under the Article 39 of this Law.

2.3. The Board of Directors and Senior Management and each member of the Board of Directors and Senior Management, if enforcement of the decision would constitute an economic offence or crime or create damage to the bank.

3. Procedures provided under paragraph .1 and 2. of this Article may be initiated no later than sixty (60) days from the day of General Meeting of Shareholders.

4. According to the Procedures provided under paragraph 1. and 2. of this Article, bank shall be represented by Chief Executive Officer or other member of the Senior Management, upon authorization issued by Chief Executive Officer.

Article 43

Board of directors

1. Each bank shall be administered by a Board of Directors, and subject to the following requirements:

1.1. The Board of Directors shall consist of an uneven number of not less than five (5) members with voting rights. At least two (2) members should be independent directors and at least one of them, should be a resident and citizen of Kosovo;

1.2. The Board of Directors shall be elected by the bank's shareholders at Meeting of Shareholders Assembly and shall be responsible for establishing its policies, and for supervision of their implementation;

1.3. The Board of Directors will elect a Chairman from amongst its members, except that the Chief Executive Officer of the bank cannot be the Chairman;

1.4. Members of the Board of Directors, including the Chief Executive Officer shall be appointed for term of four (4) years with the possibility of re-election. The members of the Board of Directors who are re-elected for two (2) subsequent terms or serve for more than twelve (12) years, shall not be considered Independent according to the provisions of this Law;

1.5. The Chief Executive Officer serves on the board according to the official duty and without right to vote so long as he or she holds office, whereas other executive members or other staff of the bank, cannot serve on the board of directors; The Chief Executive Officer should be resident of Kosovo.

1.6. The Board of Directors may not delegate its responsibilities to others;

1.7. The names of the members of the Board of Directors shall be entered into a Registry maintained at the CBK, and

1.8. The Board Members are considered effective when they are approved by CBK. The process of approval is repeated according to the CBK regulation for each reappointment or extension of the mandate.

2. The remuneration for Board members, along with the remuneration of the Senior Managers of a bank shall be taken into account as part of the CBK's examination of the condition of the bank pursuant to Article 80 of this Law, to consider whether the remuneration arrangements constitute an unsafe and unsound practice.

3. A Director is considered independent for purposes of this Article if he is independent of management and shareholders and his judgement will be exercised for the sole benefit of the bank and there is no conflict of interest arising from his or her relationships with the bank and with bank-related parties, and if he has not serve for more than three (3) terms or twelve (12) years. An independent Director may hold shares in the bank directly subject to such limitation on holdings as the CBK may determine.

4. A shareholder or a group of shareholders with at least five percent (5%) of the shares with voting rights may nominate a candidate for member of the Board of Directors, or file a resolution at a shareholder meeting for the removal of a member of the Board of Directors.

5. Each proposal provided under paragraph 4. of this Article shall be submitted in writing no later than eight (8) days from the day of publication of notification on convening the General Meeting of Shareholders that has on its agenda election of the members of the Board of Directors.

6. Candidates for members of the Board of Directors, before voting, shall give statement in writing on their acceptance of nomination.

7. In the election of or removal of the members of the Board of Directors, each shareholder may cast one vote for each share with voting rights. Each shareholder with voting rights may cast all votes for one person, or distribute their votes to more than one person.

8. The Board of Directors shall prepare compensation policies that are consistent with and promote sound and effective risk management and that do not encourage risk taking that exceeds the bank's tolerated level of risk with benefits in rewards or compensation for the Board or Senior management. CBK will determine by regulation the criteria related to the compensation of the Board of Directors, Senior management and personnel according to the relevant functions of the bank.

9. This Article shall not apply to a foreign bank branches, except if CBK requires otherwise by regulation.

Article 44 **Board of Directors' competences**

1. The Board of Directors of the banks shall have the following powers and tasks:

- 1.1. approve the bank's strategy and supervises business operations of the bank;
- 1.2. supervise work of Senior Management;
- 1.3. adopt a report of Senior Management on the business operations based upon the semi-annual balance sheet, profit and loss statement, annual balance sheet and internal and external audit reports;
- 1.4. submit an annual report to the General Meeting of Shareholders on business operations of the bank, which shall include internal and external audit reports, report on work of the Board of Directors as well as the plan for business operations for the following business year;
- 1.5. appoint Senior Management of the bank;
- 1.6. propose distribution and manner of use of profit and manner of loss coverage;
- 1.7. approve all purchase, sale, exchange, leasing and other property transactions directly or through Subsidiaries during the business year that are equal to or exceed ten percent (10%) of the capital of the bank;
- 1.8. ensure that appropriate internal controls for the bank are established and maintained;
- 1.9. ensure that appropriate internal and external audits are performed;

- 1.10. establish adequate policies for provisions for loan losses; establish necessary reserves out of the net profit of the bank and propose dividends;
 - 1.11. establish ad hoc commissions and determine their compositions and tasks;
 - 1.12. convene the General Meeting of Shareholders;
 - 1.13. approve internal acts on business activities and other policies of the bank; and
 - 1.14. decide on issues specifically governed by this Law, other applicable Laws and/or their Statute.
2. Chairman and members of the Board of Directors shall carry out their commitments and responsibilities in accordance with the interest of the shareholders and bank and may not perform any activity that would compete with activities of the bank.
 3. Chairman and members of the Board of Directors shall each be required to disclose and report to the Board of Directors any personal or financial interest with the persons with which bank has or intends to enter into business relationship. In such a case that Director may not take part in the discussions or make a decision on issues that concern relations of bank and any persons in which Chairman and member of the Board of Directors shall have direct or indirect financial interest.
 4. Chairman and members of the Board of Directors may be held either individually or jointly liable for damages caused by failure to comply with the provisions of this article.
 5. Chairman and members of the Board of Directors shall have right to request all the data on business operations and the presence of members of the Senior Management to the sessions of the Board of Directors.

Article 45

Meetings of the board of directors

1. A session of the Board of Directors shall be held when necessary, and at least once a quarter. At least twice a year the quarterly meetings must be held in Kosovo. Other than the annual meetings held in Kosovo, all other meetings may be held via teleconferencing or other electronic means, if this method expressly is determined and regulated in the bank Statute.
2. Chairman of the Board of Directors shall convene the sessions upon request of the Chief Executive Officer of the bank or two (2) members of the Board of Directors no later than fourteen (14) days from the day of submission of the request, otherwise person who submitted the request shall be authorised for convening the session. Extraordinary meetings of the board of directors may be called at any time by the chairman of the board, or, in the event of his failure to do so, by any director at the written request of any director made to the chairman. The person calling an extraordinary meeting shall give notice of the time and place of the meeting. All provisions of this Article apply to emergency meetings of the Board of Directors.

3. Decision of the Board of Directors shall be valid when majority of its members are present and vote either physically or via teleconferencing or other electronic means.

4. Decisions shall be taken by simple majority of votes of the members present, excluding the case when in the bank Statute is foreseen a higher majority.

5. Minutes must be kept during the meetings, which should summarise the views, discussions, and the way of decision making, which express also the individual stance and independence of the board member for the safeguarding the interest of the bank.

Article 46 **Board committees**

1. Board of Directors of each bank shall establish an Audit Committee, the members of which are selected from among the directors and at least one member of the Audit Committee shall be an outside expert in the field of accounting or audit who meets the criteria for fit and proper and independent in accordance with this Law and regulations of CBK. All members of the Audit Committee shall be non-executive directors, including the local Board Member. The Audit Committee shall:

1.1. meet at least quarterly and at such other times as provided for in the by-laws, where at least two (2) of the meetings are held in Kosovo;

1.2. recommend appropriate accounting, operational and administrative internal controls;

1.3. supervise the bank's compliance with policies and procedures;

1.4. request and review reports from the bank's chief internal auditor;

1.5. recommend compensation for the head of internal audit function and other internal audit staff;

1.6. monitor compliance with this Law and applicable regulations or orders;

1.7. recommend the appointment of an external auditor pursuant to Article 68 of this Law;

1.8. monitor the performance of the external auditor, review the external auditor's report on the bank's financial statements and report any findings to the Board of Directors; and

1.9. deliver opinions to the Board of Directors on any matters submitted to it by the Board of Directors, or that the committee wishes to address.

2. Minutes must be kept during the meetings, which should summarise the views and discussions, which express also the individual stance and independence of the member of the committee.

3. Each bank shall establish a Risk Management Committee that shall consist only of members of the Board of Directors. The Risk Management Committee shall:

3.1. meet at least quarterly and at such other times as provided for in the by-laws;

3.2. monitor implementation of the bank's policies and procedures for risk management, including the effectiveness and independence of risk management functions within the bank;

3.3. monitor the risk profile of the bank, including the credit, market, liquidity, operational, compliance, reputation, legal and other risks of the bank;

3.4. monitor compliance with this Law and regulations and orders there under; and

3.5. deliver opinions to the Board of Directors on any matters submitted to it by the Board of Directors or that the committee wants to address.

4. The CBK may require all or some Banks to have additional Board Committees. Each bank may also decide to have other board committees as the Board of Directors consider necessary or appropriate.

5. Committee meetings may be held by means of telecommunications equipment so long as the committee members participating in the meeting can simultaneously hear all other committee members participating in the meeting and such arrangement is allowed in the Bank Statute and Statute of the committee.

6. This article shall not apply to a foreign bank branches, so long as the CBK otherwise requires by regulations.

7. Minutes must be kept during the meetings, which should summarise the views and discussions, which express also the individual stance and independence of the member of the committee.

Article 47 **Senior management**

1. The Chief Executive Officer will be appointed by the Board of Directors of the bank. The Deputy Chief Executive Officer and other Senior Managers will be appointed by the Board of Directors on the recommendation of the Chief Executive Officer.

2. The term in office for the Chief Executive Officer shall be four (4) years, which may be renewed each term, without any limitations as to the number of terms. However, each reappointment or extension of term is subject of CBK approval.

3. The authorities, responsibilities, and remuneration of Chief Executive Officer shall be regulated by contract between Board of Directors and with statute of the bank as much as it is applicable. While, positions, respective authorizations, responsibilities and remuneration of Senior Management including the Chief Executive Officer is regulated by contract between Chief Executive Officer and other senior managers and with statute of the bank as much as it is applicable. The employment of senior management by the Chief Executive Officer is carried out with prior approval of the Board of Directors.

4. The Chief Executive Officer, Deputy Chief Executive Officer and other senior managers cannot be appointed and reappointed without the prior approval of the CBK.

5. The Chief Executive Officer of a bank shall according to this Law bear the following responsibilities:

5.1. be responsible for the legality of the bank's operation and implementation of the established business strategy of the bank;

5.2. represents the bank and acts as its agent;

5.3. execute decisions of the General Meeting of Shareholders, the Audit Board and the bank's Board of Directors;

5.4. organise and manage the bank's operations;

5.5. make decisions about all matters which are not in the jurisdiction of the General Meeting of Shareholders, the Audit Committee or the Board of Directors of a Bank; and

5.6. perform other functions in accordance with the Law, the bank's charter and its general acts.

6. The Chief Executive Officer may delegate part of his powers to the others. This delegation does not release from his responsibilities the Chief Executive Officer.

7. Senior managers responsible for one function cannot be in the same time responsible for other functions of senior managers.

8. Individuals appointed as members of Senior Management of a bank must meet all requirements set by the CBK regulations and general acts of the bank.

9. If the CBK rejected a request to approve an individual, in accordance with Article 54 of this Law, the bank cannot file another request for the appointment of that individual for the same position until the reasons stated in the CBK decision on rejection are eliminated.

Article 48

Senior managers

1. Deputy Chief Executive Officer shall substitute for the Chief Executive Officer in case of his/her absence, and if the bank has no Deputy Chief Executive Officer appointed, the Chief Executive Officer shall authorise in writing one of the Senior Managers to substitute for him and determine his/her authorities.
2. Chief Executive Officer, Deputy Chief Executive Officer and the Senior Managers shall declare in writing to the Board of Directors each direct or indirect interest with Related Individuals or any person with which bank has or intends to enter into business relationship.
3. In case provided under paragraph 2. of this Article, a Senior Manager may participate in such business relationship upon written consent of the Board of Directors.
4. In any case when the Chief Executive Officer is released of duty, resigns, dies or is ill or otherwise absent from his/her duties without the prior approval of Board of Directors for a period of more than thirty (30) consecutive calendar days, the Board of Directors must confirm the Deputy Chief Executive Officer in this position or appoint an interim Chief Executive Officer from Senior Management or bank official previously approved by CBK (in actual position) to serve until such time as the Board of Directors appoints a new Chief Executive Officer and for this the bank informs the CBK in written.
5. Notwithstanding paragraph 4. of this Article, the appointment as an acting official cannot last more than six (6) months, unless the CBK approves in writing an additional term. In any case, this additional period does not exceed the duration of twelve (12) months.

Article 49

Control functions

1. A bank or foreign bank branch shall establish three control functions:
 - 1.1. an internal audit function;
 - 1.2. a risk control function; and
 - 1.3. a compliance function.
2. The bank, depending on its size and complexity, must create permanent and effective control functions. Control functions should be independent of the business processes and activities in which the risk occurs or which are monitored and supervised by the control functions.
3. No individual control function may be organised within other control functions.
4. A bank shall organise its control functions in a manner to cover all material risks to which the bank is or might be exposed in its operation.

5. A bank shall establish control functions in a manner to avoid conflicts of interest.

Article 50

Internal audit function

1. The Board of Directors of a bank shall appoint the Head of Internal Audit Function. The bank shall provide that the Head of Internal Audit Function reports directly to the Audit Committee of the Board of Directors. The head of Internal Audit Function cannot be appointed without the prior approval of the CBK. Dismissal or resignation of the Head of Internal Audit Function, and the grounds for it shall be communicated to the CBK within seven (7) working days after the dismissal or resignation.

2. The Head of Internal Audit Function shall operate independently of management and shall be given sufficient status as to reflect the significance of the function and meaningful access to management and members of management to discuss matters relevant to their functions. The Head of Internal Audit Function shall have the right to obtain from them any information or documentation of the bank.

3. The Head of Internal Audit Function or its deputy (if deputy position is applied by the bank) shall be appointed by the Board of Directors or the Audit Committee of the bank and shall report to the Audit Committee.

4. Salary and other material rights of the Head of Internal Audit Function or its deputy (if deputy position is applied by the bank) shall be determined by the Audit Committee and the contracts of their jobs shall be approved by the Board of Directors.

5. The Internal Audit is responsible for identifying, monitoring and assessing risks in the operation of a bank and determines whether the system of internal control is in place that insure that those risks are managed in the manner so that the risks are mitigated in an acceptable measure. The bank shall provide to the Internal Auditor sufficient resources to enable him/her to carry out his/her responsibilities.

6. In performing his/her responsibilities, the Internal Audit shall have authorities for unrestricted and unimpeded work and he/she is obliged to report to the Audit Committee of the bank.

7. The internal auditor shall in particular:

7.1. review systems of internal controls and monitor and critique policies and procedures with respect to accounting, administration, operations and the safeguarding of assets;

7.2. review internal audit programs, satisfactory to test for non-compliance and irregularities based on the internal auditor's risk assessments;

7.3. report non-compliance and irregularities to the Audit Committee at least quarterly and pursuant to such procedures set by the Audit Committee and where exigent circumstances so dictate, to the Board of Directors and the CBK;

7.4. assist and cooperate with the external auditor in the performance of his or her duties; and

7.5. perform such investigations and other duties as may be provided in the bank's bylaws or assigned to the internal auditor by the Board of Directors or the Audit Committee.

8. The internal auditor shall have no authority to represent the bank in contracts or to enter on behalf and for the benefit of the bank.

9. Individuals appointed as Internal Auditor cannot be related by marriage or blood to the second degree of consanguinity to any member of the Board of Directors, Senior Management or any person who holds a significant ownership interest.

10. In case of foreign bank branch, internal audit of the branch in Kosovo shall be appointed by the decision-making bodies of the foreign bank and shall report to Audit Committee of the foreign bank and must operate independently of management.

11. The CBK shall prescribe by regulation in more details the principles of organising and functioning of internal audit for banks and foreign bank branches.

Article 51 **Risk management function**

1. A bank shall set up a special organisational unit to be in charge of risk management that is separate from the revenue generating activities of the bank.

2. Risk management shall be adjusted to the size and organisational structure of the bank, to the volume of operations, and types of activities it performs in order to effectively and efficiently identify, measure, assess and manage/mitigate the risks the bank is exposed to in its operations.

3. The risk management system of a bank shall cover credit risk, concentration risk, securitization risks, residual risk, market risks, operational risk, liquidity risk, interest rate risk in the banking book, risk of excessive leverage and other risks to which the bank is or might be exposed to, in its operation.

4. Each bank shall ensure that adequate resources are allocated to the management of all material risks, including an adequate number of employees possessing the necessary knowledge and experience to be involved in risk management, and for the valuation of assets, the use of external credit ratings and internal models related to those risks.

5. Each bank shall establish adequate reporting lines to the management and the Board of Directors that cover all material risks and risk management policies and changes thereof.

6. Each bank shall establish and apply consistently over time adequate internal control systems, including sound administrative, accounting and other procedures, in particular for:

- 6.1. calculating and monitoring capital requirements in relation to these risks;
 - 6.2. identifying and monitoring large exposures and subsequent changes to them;
 - 6.3. monitoring those exposures in the light of each bank's own exposure policies.
7. As part of its overall policies and procedures for risk management, each bank at a minimum shall develop and maintain written policies and procedures regarding:
- 7.1. the maximum aggregate amount of real estate and fixed assets, or specific categories thereof to be held by the bank and real estate evaluation methodologies as specified by the CBK; and
 - 7.2. prohibitions, restrictions or conditions concerning the management of interest rate risk in banking book and management of market risk including:
 - 7.2.1. the types or forms of exposures made, and liabilities assumed (contingent or otherwise);
 - 7.2.2. matching as to maturity and interest rate in respect of assets and liabilities (contingent or otherwise);
 - 7.2.3. unhedged positions in foreign currencies, precious metals or precious stones, exchange and interest rate instruments; stocks and other transferable securities; and
 - 7.2.4. forward contracts, swap agreements, futures, options, and other derivatives relating to currencies, stocks, bonds, precious metals or interest rates.
 - 7.3. management of all types of operational risks including but not limited to plant security, technology and personnel.
8. All risk management strategies, policies, processes and limits approved by the Board must be properly documented and regularly reviewed.
9. The head of the risk management function is approved by CBK.
10. The CBK through a regulation may specify further requirements and the manner of identification, measurement, assessment and management of the risks referred to in this Article.

Article 52

Compliance function

1. The bank shall ensure that the compliance function operates on a proactive basis, identify, document and assess the compliance risks associated with the bank's business activities,

including the development of new products and shall monitor potential risks from the disregard of laws and regulations in force by banks.

2. The bank shall ensure that the compliance function has the necessary authority and influence to carry out its function and is equipped with sufficient human and financial resources for effective identification of compliance risk.

3. The head of the compliance function shall inform senior management and report to the Board of Directors, which will also decide on his/her compensation. Dismissal or resignation of the head of the compliance function, and the grounds for it shall be communicated to the CBK within seven (7) working days after the dismissal or resignation.

4. The compliance function shall perform duties related to compliance risk such as:

4.1. identify and monitor the risk of non-compliance of the bank operations with the legal and regulatory framework;

4.2. monitor and test the compliance function and report to the Board of Directors for the determined non-compliance and corrective measures taken;

4.3. advise the Senior Management members and the Board of Directors constantly and efficiently on the implementation of the legal and regulatory framework;

4.4. informing senior management and reporting directly to the Board of Directors or a committee of the Board of Directors appointed for compliance in accordance with the policy of the compliance function;

4.5. assess the potential influence of the legal and regulatory framework and amendments in the bank operations and the environment the bank operates in;

4.6. assess new products and business processes in the bank in line with the legal and regulatory framework in force.

5. The head of compliance is approved by CBK.

6. The CBK shall prescribe by regulation in more details the principles of organising and functioning of compliance function for banks and foreign bank branches.

Article 53

Conflict of interest

1. Each Director and Senior Manager, on assuming office, shall be required to provide an annual notice in writing to the Board of Directors disclosing the names, addresses and particulars of such Director and Senior Manager's then-current material commercial, financial, agricultural, industrial or other business or family interests.

2. In addition, on a continuing basis, and prior to the execution of any material contract with the bank that comes or ought reasonably to come to the attention of the Board of Directors. Senior Managers shall disclose in writing to the Board of Directors, any material interest in, or a material relationship to, any person who is a party to a material contract or a proposed material contract with the bank.

3. Any Director or Senior Manager who has a material interest or a material relationship within the scope of this section shall leave any meeting at which the matter is discussed while the matter is under consideration or subject to vote, and shall refrain from voting on any matter related thereto that comes before the Board of Directors.

4. An interest shall be material if it is Significant Interest with reference to the financial, or business interests of the person or to a Related Individual of that person having the interest, and a person has a material interest in any company if the person owns, directly or indirectly, a Significant Interest in the company, or is a Director or Senior Manager of the company and has a Significant Interest in any partnership if the person is a partner.

5. Where a Director and Senior Manager fails to disclose a material interest or relationship in accordance with this section a court of competent jurisdiction may, on the application of the bank, a bank shareholder, or the CBK, set aside the contract, if any, on such terms as it thinks fit, in line with legislation in force. In addition, the CBK may, by written order, suspend the Director and Senior Manager from office for any period not exceeding one (1) year, remove the Director and Senior Manager from office permanently, or impose any other sanctions provided for under this Law.

6. Banks shall introduce suitable policies and procedures so that they and their Directors, Senior Managers and employees are not placed in a situation where their duty to one customer conflicts with their duty to another client, or where their own interest conflicts with their duty to a customer.

7. Directors, Senior Managers and employees of banks have a fiduciary duty of independence, loyalty and diligence to the bank that they serve and to the bank's depositors to place the bank's interests before their own interest.

8. No Director or Senior Manager may enter into a contractual relationship as a person or on behalf of a bank with a Related Individual unless the contractual agreement is approved by the Board of Directors of the bank.

Article 54

Appointment or replacement of directors and senior managers

1. No person shall become a Director or Senior Manager of a bank without obtaining the prior approval of the CBK.

2. Paragraph 1. of this Article shall apply to a foreign bank branch licensed to operate one in Kosovo only with respect to the appointment of the Senior Managers of the branch operating in the Republic of Kosovo.

3. Branches of foreign bank licensed to operate one in Kosovo, must notify the CBK of any replacement of Directors and Senior Managers of the foreign bank.

Article 55
Appropriateness of directors and senior managers

1. Each Director and Senior Manager of a bank must be fit and proper and of good repute and must meet the criteria established by the CBK regarding qualifications, experience and integrity; provided, however, that no person shall be regarded as a fit and proper person if the person:

1.1. is sentenced by a final court decision for a criminal offence, with six (6) or more months imprisonment;

1.2. has been a debtor in a bankruptcy or/and insolvency proceeding within the past ten (10) years;

1.3. pursuant to the court decision was denied ability to conduct activities within competence of Board of Directors or Senior Managers or has been disqualified or suspended by a competent authority from practicing a profession on grounds of personal misconduct; and

1.4. has been a Director or Senior Manager of a bank whose license has been revoked or whose insolvency or other involuntary liquidation has been initiated during the Director's or Senior Manager's term of office.

1.5. it is found by the CBK that he has been engaged in unsound financial practices or has been in a conflict of interest,

1.6. has been replaced in the context of resolution of a bank under Chapter III of this Law.

2. In exceptional circumstances, having been satisfied as to the qualifications, professional experience and conduct of a person, the CBK may exempt a Director or a Senior Manager from the provisions of sub-paragraph 1.4. of this Article after the expiration of an appropriate period following the relevant event,

3. A person may not be appointed or elected as a Director or Senior Manager of a bank if, at any time during appointment or immediately or six (6) months preceding the appointment, the person has served in a position with the CBK.

4. Elected officials, Ministers and Deputy Ministers of State and Municipal Governments and their respective Institutions may not serve as members of the Board of Directors of any bank while they are so employed and for a period of one (1) year thereafter.

5. All public officials who serve as members of a Board of Directors of any bank must rescue themselves and refrain from involvement in any discussions or decisions within the government having to do with the bank for which they are a member of the Board of Directors.
6. Any bank becoming aware of circumstances that indicate that any of the Directors or Senior Managers may not be a fit and proper person shall notify the CBK. Failure to comply with this requirement may result in administrative sanctions under Chapter II of this Law.
7. Directors and senior managers approved by the CBK on an annual basis submit to the CBK evidence from the court and the police about their past criminal records. The evidence must be brought to CBK no later than thirty (30) days after the end of the previous year.
8. Each Director and Senior Manager must have university degree and has adequate experience, as required by CBK regulation.
9. CBK may further regulate other fit and proper criteria for directors and senior managers.

Article 56 **Removal of directors and senior managers**

1. Upon determining that a Director or Senior Manager does not satisfy the criteria set forth in Article 55 of this Law, the CBK shall provide a notice of disqualification of the Director or Senior Manager to the bank and directly to the Director or and Senior Manager.
2. If ten (10) days from the date of the notice of the disqualification from the CBK, the Director or Senior Manager has not been removed from office by the bank, the CBK shall order the removal of the Director or Senior Manager and may impose sanctions on the bank and on the Director or Senior Manager for non-compliance in accordance with Chapter II of this Law.

Article 57 **Approval of principal shareholders**

1. No person, acting directly or indirectly, alone or in concert with another person, shall become a principal shareholder in a bank without obtaining prior written authorization from the CBK.
2. No principal shareholder, acting directly or indirectly, alone or in concert with another person, shall increase their ownership interest in a bank above ten (10%), twenty (20%), thirty-three (33%), fifty (50%) or seventy-five (75%) percent of the equity without obtaining prior authorization from the CBK.
3. Applications for the acquisition of equity interest in a bank or increases in holdings of equity interests in a bank shall be in such form as prescribed by the CBK and shall include:
 - 3.1. the name, nationality, place of residence, and business or professional history of the applicant, and any ultimate beneficial owner of the applicant that, as a result of

the transaction, would indirectly acquire five percent (5%) or more of the equity interests of the bank;

3.2. a list of undertakings in which the proposed owners, including the ultimate beneficial owners (as described above), holds participations, specifying the size of such participations and the registered address of those undertakings;

3.3. for each natural person applicant, an official statement from the Court disclosing any convictions for criminal offences, personal bankruptcy filings, disqualifications from practising a profession, or past or present involvement in a managerial function of a body corporate or other undertaking subject to insolvency proceedings, if any;

3.4. for each legal entity applicant, audited financial statements for the past three (3) years, if applicable;

3.5. the terms and conditions of the proposed acquisition;

3.6. the source and amount of the funds to be used in making the acquisition;

3.7. any plans or proposals regarding a major change in the bank's business, corporate structure or management;

3.8. in any case where the acquisition would cause the bank to become a subsidiary of a foreign bank, a statement that the foreign supervisory authority responsible for the prudential supervision of the foreign bank in its home country has no objection to the proposed establishment of operations in Republic of Kosovo, and exercises global consolidated banking supervision over the foreign bank; and

3.9. such other information as the CBK may require.

4. Each bank shall notify the CBK of any acquisition of shares within five (5) days after the acquisition if the amount of shares acquired/ equals or exceeds five percent (5%) of the equity but does not exceed ten percent (10%). The notification shall be in such form and contain such information as the CBK may require.

5. The restrictions of paragraphs 1. and 2. of this Article shall not apply to acquisitions of shares in a foreign bank that is licensed to operate one or more branches in Kosovo, but foreign bank notifies the CBK of any acquisition where the amount of shares acquired equals or exceed five percent (5%) of the equity of the foreign bank.

Article 58 **Outsourcing**

1. A bank may not outsource its control functions. A bank may entrust the performance of a part of activities related to the control functions to service providers in accordance with this Law and regulations adopted under this Law. The outsourcing of any critical operations and functions by the banks (apart of functions that are not allowed to be outsourced) is subject to previous authorisation from the CBK, as specified by regulation.

2. For the purpose of this Law, 'Outsourcing' means a contractual agreement by which external service providers are engaged to perform activities which would otherwise be performed by the bank, however outsourcing shall not be considered to include:

2.1. the procurement of goods and works;

2.2. leasing or renting; or

2.3. utility services.

3. The followings are the conditions for outsourcing:

3.1. a bank shall establish an adequate system of managing risks related to outsourcing;

3.2. a bank shall ensure that outsourcing does not impair:

3.2.1. its regular operation;

3.2.2. its effective risk management;

3.2.3. its internal control systems; and

3.2.4. supervision by the CBK.

4. Through other regulatory instruments the CBK shall specify the following:

4.1. the activities that can be outsourced;

4.2. detailed conditions for outsourcing; and

4.3. the content of documentation to be enclosed with and time limits for request of the prior approval referred to the paragraph 1. of this Article.

5. When banks outsource the performance of any functions or activities under this article, they shall take all the necessary steps to ensure that the provisions of this Law and any applicable laws and regulations of the CBK are complied with.

6. Banks shall remain fully liable for any acts of their employees, agents, banking agents as well of any outsourcing providers to which activities or functions are outsourced.

Article 59

Extension of the banking network

1. With approval of CBK, a bank has the right to open branches or offices in the territory of the Republic of Kosovo or abroad, provide cross-border services as well as open representative offices outside the territory of the Republic of Kosovo. The CBK sets out the

conditions and criteria for establishing a branch, office or representative office or providing cross-border banking and/or financial services.

2. The foreign bank has the right to open one or more branches, or offices inside the territory of the Republic of Kosovo, for which the CBK shall grant only one license. For the purposes of supervision, such branches shall be considered as offices.

3. A bank, or a foreign bank branch, has the right to provide services and carry out any of their activities through a banking agent as provided for in the Respective Law on payment services and by CBK regulatory instruments.

4. Banks shall ensure that banking agents acting on their behalf inform customers of their acting as agents of a specific principal.

5. Banks cannot impose obligations of exclusivity on banking agents or agent banking providers.

6. A bank shall obtain prior written approval of the CBK before establishing, relocating or closing a branch or office in the Republic of Kosovo, as well as outside the territory of the Republic of Kosovo.

7. The CBK shall prescribe by regulation the procedure for obtaining prior written approval and the form and content of the application, as set forth in this Article, as well further regulate the extension of the banking network.

SUBCHAPTER V MERGERS, DEMERGERS AND ACQUISITIONS

Article 60 Mergers, demergers and acquisitions

1. No bank shall merge, demerge, or acquire any other bank directly or indirectly, all or substantially all of the assets of, or assume the liabilities of, any other bank, except with the prior approval of the CBK.

2. No bank shall change its statute without prior approval of the CBK. Notwithstanding of requirements of this Law, CBK may regulate other forms of changes of statute of the banks and may determine other requirements to be fulfilled by the banks in process of changing their statute.

3. Applications to merge, demerge, and acquire all or substantially all of the assets of or assume the liabilities of a bank shall be in such form as prescribed by the CBK.

4. For purposes of deciding on an application filed under this Article, the criteria for preliminary approval of an application for a banking license, as set forth in Article 13 of this Law shall apply *mutatis mutandis*.

5. CBK may ask a bank or foreign bank branch to start the merger, demerger or acquisition process if it deems it to be in the interest of achieving its objectives, in accordance with this law.

6. Shareholders of banks and foreign banks that operate through a branch in Kosovo cannot be at the same time a direct or indirect shareholder of another bank, or of another financial institution in Kosovo that carries out activities similar to the bank, or is judged so by CBK.

Article 61

Mergers and demergers

1. If a merger or demerger results in a new bank, that new bank shall obtain a license from the CBK to provide banking and financial services.

2. The request to obtain a license set out in the paragraph 1. of this Article shall be submitted to the CBK. The provisions of Article 60 of this Law shall apply mutatis mutandis to a request submitted to the CBK and to decisions regarding that request.

3. A request to obtain a license for a merger or demerger shall be accompanied by the following documents:

3.1. for a merger:

3.1.1. merger agreement,

3.1.2. report or reports regarding the merger including the rationale for the merger prepared by the management of the banks or management of the undertakings involved in the merger approved by the Board of Directors,

3.1.3. report or reports regarding the audit of the merger;

3.1.4. proposal for the publication of the convening of the general meeting or general meetings that will approve the merger,

3.2. for a demerger:

3.2.1. demerger plan,

3.2.2. report of the bank's management on the demerger including the rationale for the demerger approved by the Board of Directors,

3.2.3. report regarding the audit of the demerger,

3.2.4. proposal for the publication of the convening of the bank's general meeting of shareholders that will approve the demerger.

4. A decision to issue a license may include conditions or limitations on the provision of services for which the license is issued with the aim of preventing breaches of this Law.

5. The process of a merger or demerger shall be further regulated by the CBK.

Article 62 **Acquisitions**

1. No bank shall acquire any other bank or acquire directly or indirectly, all or substantially all of the assets of, or assume the liabilities of, any other bank, except with the prior approval of the CBK.

2. Applications to approve the acquisition set out in the paragraph 1. of this Article shall be submitted to the CBK.

3. The CBK shall approve the acquisition if:

3.1. it does not jeopardise financial conditions of the acquiring bank;

3.2. the acquiring bank has such system of organisation, managing, decision making and information technology which enables it to adequately manage risks in business activities and which enables it to completely integrate the acquired bank into its system, in the manner that does not jeopardise its functioning, by the day of submission the application specified in paragraph 2. of this Article;

3.3. is economically justified and/or may not have material negative consequences in the financial market particularly in competition.

4. The process of acquisition shall be further regulated by the CBK.

Article 63 **Acquisitions of equity interests in a bank**

In making a determination whether to approve an application to acquire an equity interest in a bank, the CBK shall assess the proposed acquisition with regard to the same criteria that apply in determining preliminary or final approval of an application for a license under Articles 13 and 14 of this Law, including but not limited to the expected effects of the proposed acquisition on the financial soundness of the bank, the resulting ownership structure of the bank and its effect on the CBK's ability to conduct both solo and consolidated supervision, and the suitability of the proposed shareholders and their standing in the financial markets.

Article 64 **Acquisitions of equity interest in financial institutions**

1. No bank shall, without the prior approval of the CBK:

1.1. establish or acquire, directly or indirectly, a qualifying interest in a financial institution

- 1.2. increase its equity interest in a financial institution; or
 - 1.3. accept as collateral a qualifying interest in a financial institution.
2. CBK shall not, at its discretion, approve the acquisition of interests in capital for financial institutions if their activity is similar to that of the respective bank.
 3. The CBK shall further prescribe the acquisition by banks of equity interest in financial institutions.

Article 65
Acquisitions of equity interests in non-financial institutions

1. No bank shall, directly or indirectly hold an equity interest in a legal entity that is engaged in activities other than financial activities if such interests:
 - 1.1. represents a greater than five percent (5%) interest in such legal entity or any other limit set by regulation according to CBK judgement;
 - 1.2. exceeds fifteen percent (15%) of the bank's regulatory capital or any other limit set by regulation according to CBK judgement; or
 - 1.3. when aggregated with all such equity interests held by the bank in non-financial companies, exceeds twenty-five percent (25%) of the bank's regulatory capital.
2. Notwithstanding paragraph 1. of this Article, no authorization shall be required for:
 - 2.1. equity interests that have been acquired by a bank in foreclosure on or in lieu of repayment of a loan granted by the bank, in which case the bank shall dispose of such equity interests within one year from the date they are acquired or within such longer period as the CBK may permit; or
 - 2.2. equity interests held by a bank as an agent or trustee.
3. The CBK shall prescribe by regulation the manner in which the requirements of this Article shall be applied on a group-wide basis to a banking group, including increasing the capital acquisition limit of non-financial institutions according to paragraph 1. of this Article.

SUBCHAPTER VI
ACCOUNTS, AUDIT AND DISCLOSURE

Article 66
Accounts and financial statements

1. Banks shall maintain accounts and records and prepare annual financial statements adequate to reflect their operations and financial condition and to reflect the operations and

financial condition of their subsidiaries, branch offices, both on an individual and on a consolidated basis.

2. Accounts and financial statements shall be in such form and detail and in accordance with IFRS reflecting such additional accounting rules or standards as shall be prescribed by the CBK.

3. The CBK may prescribe affiliates of a bank for which consolidated financial statements shall be submitted.

4. A copy of each bank's audited financial statements, including audited consolidated financial statements, if applicable, shall be submitted by the bank to the CBK when they become available and within four (4) months after the end of the financial year at the latest.

5. Each foreign bank branch in Kosovo shall prepare the financial statements required in paragraph 4. of this Article, showing the foreign bank's branches located in Republic of Kosovo collectively, as an operating segment of the foreign bank.

6. For participation banks are applied respective international standards, which are adopted through respective regulations of the CBK.

7. The CBK defines the form, type, methodology, contents and the time of reporting to the CBK, of foreign bank branches.

Article 67 **Bank records**

1. Each bank shall prepare and maintain at its head office or in an appropriately secure location, the records in physical or electronic form, containing:

1.1. its charter or equivalent establishing documentation, statute and all amendments there to;

1.2. a register of shareholders and of its beneficial shareholders, including the number of shares registered in the name of each;

1.3. minutes of any Board of Directors or committee meetings and resolutions adopted by the Board of Directors;

1.4. minutes of shareholders' meetings and resolutions adopted by the shareholders;

1.5. accounting records exhibiting clearly and accurately the state of its business affairs, explaining its transactions and financial position so as to enable the CBK to determine whether the institution has complied with all the provisions of this Law and with applicable regulations and orders;

1.6. records showing, for each customer of the bank, on a daily basis, particulars of its transactions with, or for the account of, that customer, and all balances owing to that customer;

1.7. credit documentation and any other information concerning its business relations with its customers and other persons that the CBK may prescribe by regulation; and such other records as are required by the CBK.

Article 68

External audit

1. The Shareholders Assembly, shall appoint, upon the recommendation of its Audit Committee and the Board of Directors, an independent and qualified external auditor approved by the CBK who shall:

1.1. provide an opinion as to whether the annual financial statements present a fair and true view of the financial condition and performance of the bank in accordance with the provisions of this Law;

1.2. review the adequacy of the practices and procedures for internal audit and control practices and procedures and make recommendations for remediation; and

1.3. inform the Board of Directors about any fraudulent activity by an employee of the bank or any of its subsidiaries or any irregularity or deficiency in its administration or operations that may reasonably be expected to result in a material loss for the bank or such subsidiary.

2. The external auditor of a bank, or any member of the audit firm, shall not be a bank related person or an agent or representative of the bank and shall not have any financial interest in the bank, with the exception of holding a deposit in the bank.

3. The key audit partner in an auditing company, who carries out a statutory audit on behalf of the audit company, shall not be allowed to take up management or administrative positions in the audited bank or a foreign bank branch before a period of at least two (2) years has elapsed since he resigned as key audit partner in an auditing company.

4. The CBK may prescribe criteria for the selection and requirements for rotation of auditors or engagement partners of audit firms after a specified period of time to ensure continued independence.

5. The CBK shall have authority to require the removal or replacement of an auditor, or to directly appoint, remove, or replace an auditor, at the expense of the bank to do a re-audit, if the bank or the auditor fails to meet the requirements of this Article or where the CBK is not reasonably satisfied with the auditor's performance. The CBK has the power to access external auditor's working papers, where necessary.

6. The CBK may require by regulation to perform the audit of the financial statements for the foreign bank branches.

Article 69
Disclosure requirements

1. Each bank shall within thirty (30) days of each calendar quarter, publish in a national newspaper and on its website a true and fair summary of its quarterly balance sheet as at the end of the previous calendar quarter. Each bank shall also, within four (4) months of the end of its financial year, publish in a national newspaper and on its website a fair and true summary of its balance sheet for the preceding financial year.
2. Within four (4) months of the end of its financial year, each bank shall also publish its annual report, containing audited financial statements, and make copies available to the public on request without charge. Each bank shall send copies of its annual report to the CBK as soon as it becomes available and make it available on its website.
3. Once a year, a bank shall publish on its website the legal and organisational structure of the banking group, including a description of internal governance arrangements in accordance with this Law, arrangements regarding close relationships and arrangements regarding the governance of subsidiaries in accordance with this Law, or provide reference to the equivalent information in lieu of the publication of the aforementioned description.
4. The CBK may prescribe by regulation further disclosure requirements for banks.

SUBCHAPTER VII
CONSUMER PROTECTION AND BANK EXAMINATION

Article 70
Consumer protection principles

1. The main principles of consumer protection within the meaning of this Law shall be the following:
 - 1.1. the right for access to finance
 - 1.2. the right to an equitable relationship with the financial service provider,
 - 1.3. the right to protection against discrimination,
 - 1.4. the right to be informed,
 - 1.5. the right to defined or definable contractual obligations, and
 - 1.6. the right to protection of rights and interests of consumer.

Article 71
Disclosure of terms of business

1. A bank shall have its general terms of business, as well as any amendments and supplements thereto, readily available on its business premises and published in its website on its business premises, not later than sixty (60) days prior to their entering into force of general conditions.
2. The implementation of general terms of business shall be ensured by means of a written contract concluded between a bank and a consumer.
3. A client may request further clarifications and instructions from a bank regarding the implementation of general terms of business.
4. For the purposes of this Law, general terms of business are considered to be all documents containing standard operating conditions that apply to all clients of a bank, general conditions for establishing relationship between consumers and the bank, the procedure of communication between consumers and the bank, and general conditions for conducting transactions between consumers and the bank.
5. Such conditions should be based on principles of Article 70 of this Law.
6. CBK may prescribe by regulation the detailed requirements and the manner of disclosure and implementation of the bank's general terms of business.

Article 72
Uniformity in calculation and disclosure of the terms and interest rates

1. CBK may prescribe the uniform method of calculating and disclosing interest rates, and in particular those pertaining to bank lending and deposit activities.
2. In the case when the interest rate is variable, the bank must establish a precise reference for the base rate, clearly disclosing its calculation and application. Domestic money market rate can serve as a reference for the base rate.
3. Incomplete information or incorrect disclosure will be considered as a breach of this Law and may be subject to administrative measures against the bank, with corrective effects for the consumer of the service or product.

Article 73
Advertising

1. Banking and financial products and services shall be advertised in a clear and understandable manner, and advertisement shall not contain incorrect information and/or information misleading about the terms under which the consumer uses these services.

2. CBK, through its mechanisms, will deal with the practices of doing business, the level and adequacy of disclosures to the client, the practices of providing services and compliance with the promotion of banking services or products.

3. CBK may prescribe detailed requirements regarding advertising of banking and financial products and services.

Article 74

Providing information to consumers

1. A bank shall provide its consumers, upon his request, with information on his credit and/or deposit account balance, as well as other information relating to the business relationship between the consumer and the bank.

2. A bank shall publish on its website the names of persons who hold participation in that bank and/or who are members of its managing and executive board as well as information on the functions of those persons.

3. CBK may prescribe detailed conditions and the manner of providing information to bank consumers.

Article 75

Minimum professional competence requirement

1. Employees engaged in providing banking and financial services or in advising consumers shall possess integrity, adequate qualifications, knowledge and experience, professional and personal qualities, act in accordance with code of conduct and professional ethics, respect the consumer's personality and integrity and inform consumers fully and accurately of the terms for use of these services.

2. Banking and financial service providers shall ensure that employees engaged in the sale of these services or in advising consumers possess adequate qualifications and shall arrange for training of these employees.

Article 76

Complaint procedure

1. If a consumer considers that a bank does not comply with the obligations arising from the contract or this Law, may file a complaint with the bank.

2. A bank shall send its response to the complainant from paragraph .1 of this Article within a period of time specified by CBK regulatory instrument.

3. CBK may prescribe by regulatory instrument detailed requirements and the manner of handling consumer complaints by banks.

Article 77
Rules of contracting

1. A financial service agreement shall be drawn up in writing or on another durable medium. Each contracting party shall receive a copy of the agreement. The agreement shall not contain provisions by which the consumer waives the rights guaranteed by this Law and should be in compliance with principles of Article 70 of this Law.
2. The financial service provider shall keep in the file of each consumer the agreement and the agreement documentation relating to such consumer, including offer, draft agreement, summary of compulsory elements, repayment/payment schedule, annex to the agreement containing new repayment schedule, notifications, and other documentation similar in nature.

Article 78
Obligation to assess consumer's creditworthiness

1. Despite of the provisions of the respective Law on Consumer Protection, banks before entering into a credit agreement, authorised overdraft facility agreement, agreement on issuing and use of a credit card or leasing agreement, shall assess the consumer's creditworthiness on the basis of data furnished by the consumer and by consulting the Credit Registry of Kosovo (CRK) and other databases on consumer debt, with prior written consent of the consumer.
2. If the contracting parties agree to increase the consumer's indebtedness, the bank shall reassess the consumer's creditworthiness.
3. If the application for credit, authorized overdraft facility, issuing of a credit card or leasing is rejected on the basis of consultation of the database referred to in paragraph 1. of this Article, the bank shall notify the consumer immediately, in writing and free of charge, of the results of the database consulted.
4. The database referred to in paragraph 1. of this Article shall contain the data to the processing of which the consumer gave prior written consent, especially data on his debts to financial institutions and the regularity of settlement of liabilities arising from the use of financial services.
5. The bank should take care that in its evaluations it does not cause overload or violate the minimum living standards of the borrower or the family budget.

Article 79
Comparability of fees, access to a basic payment account and switching service

1. In order to compare the fees charged by banks for their services, CBK shall publish on its website a comparison of fees in a list of the services linked to a payment account.
2. Consumers legally resident in the Republic of Kosovo shall have the right to open and use a basic payment account. A basic payment account shall include basic services as determined by the CBK regulation.

3. Banks shall provide a basic payment account and the service of account switching at the request of a consumer.

4. CBK regulates further the comparability of fees, the access to a basic payment account and the account switching services.

Article 80 **Reports and examination**

1. Each bank shall prepare and submit to the CBK reports on their financial condition, performance, and risks, on demand and at regular intervals. These reports provide information such as on- and off-balance sheet assets and liabilities, profit and loss, capital adequacy, liquidity, large exposures, risk concentrations (including by economic sector, geography and currency), asset quality, loan loss provisioning, related party transactions, interest rate risk, market risk, fees and commissions, and such other information as the CBK requires and those of its subsidiaries on an individual and a consolidated basis. The reports shall be prepared in such form and detail and shall be submitted at such intervals as shall be prescribed by the CBK.

2. Each bank shall prepare and submit to the CBK financial projections for the consecutive three (3) years. The financial projections shall be prepared in such form and detail and shall be submitted at such intervals as shall be prescribed by the CBK.

3. Each bank and each of its affiliates shall be subject to examinations by the CBK including the examinations by external experts appointed by the CBK. The examiners may visit banks at such reasonable times as CBK deems appropriate and may take such action as deemed necessary and advisable. Such examiners may include officials of the authority of another country that is charged with the monetary or prudential supervision of financial activities in that country if it concerns the examination of a bank that is a branch or affiliates of a foreign bank that has its head office in that country or has a significant interest in a foreign bank that is located in that country.

4. In their examinations of banks and their affiliates, the CBK and examiners appointed by it may:

4.1. examine the accounts, books, documents and other records of the bank or affiliates; and

4.2. require Directors and Senior Managers, employees and agents of the bank or affiliates to provide all such information on any matter relating to its administration and operations as they shall reasonably request.

5. Each bank and each of its affiliates shall admit and cooperate fully with the examiners of the CBK and the external experts appointed by the CBK. No one shall attempt to harass, hinder, delay, impede, intimidate or exert undue influence on an examiner of the CBK or the external experts appointed by it.

6. Each affiliate of a bank and providers of professional or operations services to banks shall provide information to the CBK as the CBK may reasonably request concerning the bank's operations and relations with such persons.
7. The CBK may require reports and conduct examinations as provided in this article of any additional member of a banking group, if it deems it necessary for consolidated supervision.
8. Consolidated supervision includes without limitation an assessment of the group's organisational structure, management, risk management policies and internal controls.
9. The examination reports or other supervisory instruments are confidential and they are addressed to the examined bank and are not for use by any other authority, unless if by court decision they are considered as evidence in the public interest.
10. As an exception from paragraph 9. of this Article, CBK may disclose examination reports or other supervisory instruments to regional or international supervisory authorities, subject to prior confidentiality agreement.

SUBCHAPTER VIII ENFORCEMENT AND REMEDIAL MEASURES

Article 81 Compliance orders

1. If the CBK determines that a bank is in breach or is likely to be in breach of this Law and the regulatory instruments enacted by the CBK, or has violated any condition or restriction attached to an authorization issued by the CBK or has engaged in unsafe or unsound practices in the judgment of the CBK, it informs that bank in writing of its findings and orders it to cease such conduct and rectify the breaches including the impose of supervisory measures on that bank and carrying out additional duties.
2. When defining supervisory measures, the CBK takes into account all the circumstances surrounding a breach in order to ensure the effective rectification of the breach through the imposition of those measures and to prevent further acts or omissions deemed breaches of this Law, as stipulated in paragraph 1. of this Article, in particular takes into account:
 - 2.1. the seriousness and duration of the breach and the degree of responsibility of the person who committed the breach;
 - 2.2. the financial position of the person who committed the breach, and the gain earned or loss avoided by means of the breach, if they can be determined;
 - 2.3. the losses incurred by third parties due to the breach, if they can be determined;
 - 2.4. the cooperation of the person who committed the breach in the process of identifying that breach; and

2.5. previous breaches and the possible systemic consequences of the breach.

Article 82

Remedial and Punitive Measures

1. The CBK may take the following measures, or impose the following penalties on the Directors and Senior Managers, employees, principal shareholders, or those holding qualifying interests in a bank, if it is determined that such person has violated a provision of this Law or of any regulatory instrument or decision of the CBK, has violated any condition or restriction attached to an authorization issued by the CBK, or has engaged in unsafe or unsound practices in the judgement of the CBK:

1.1. issue written warnings;

1.2. impose fines of up to ten thousand (10,000) Euros for each day that the infraction continues provided that fines shall be of similar amount for entities with comparable total assets for the same type of infraction;

1.3. dismiss or suspend the person from his or her position in the bank;

1.4. prohibit such person from serving in or engaging in banking or financial business for a stated period or for life;

1.5. require the person to reimburse the bank for losses caused by such violations;

1.6. prohibit the person from direct or indirect exercise of voting rights attached to shares of the bank;

1.7. require the person to dispose of all or any part of his or her direct or indirect ownership interest in the bank or cease to hold a significant interest in it;

1.8. prohibit the payment of capital distributions or dividends to such person; and

1.9. conclude a written agreement with the Board of Directors proposing for a program by remedial action.

2. The CBK may take the following actions, or impose the following penalties on a bank, if it is determined that such bank has violated a provision of this Law or of any regulatory instrument or decision of the CBK, has violated any condition or restriction attached to an authorization issued by the CBK or has engaged in unsafe or unsound practices in the judgement of the CBK:

2.1. issue written warnings;

2.2. impose measures to reduce the risks a bank takes up in connection with specific transactions, products or systems, including:

2.2.1. the prohibition or restriction of the expansion of the bank's branch network, or the requirement to reduce the scope of the bank's branch network, and

2.2.2. the prohibition or restriction of the bank's activities that represent a material risk to the bank's financial position; and

2.3. prohibit or restrict the conclusion of individual transactions or transactions of specific types, and require a gradual reduction in the number of concluded transactions, taking into account early termination options in accordance with contractual arrangements, including the prohibition or restriction of the conclusion of transactions by the bank:

2.3.1. with persons who represent increased risk for the bank due to an unsuitable credit rating or other circumstances, or

2.3.2. with individual shareholders, members of the board of directors and senior management, undertakings with whom the bank is in a close relationship, investment funds managed by a management company with whom the bank is in a close relationship, or other undertakings and persons who represent increased risk for the bank;

2.4. prohibit or limit the use of accounting criteria that would result in the incorrect disclosure of a bank's financial position or results, and define the appropriate criteria;

2.5. limit the variable remuneration of employees applying an appropriate proportion of total revenues for the financial year, if the payment of that portion of remuneration would jeopardise the fulfilment of obligation or targets regarding a bank's capital adequacy;

2.6. set additional requirements regarding the provision of liquidity, including restrictions with respect to the maturity matching of a bank's claims and liabilities;

2.7. require additional and more frequent reporting by a bank, in particular with regard to the capital and liquidity of the bank;

2.8. issue written order to cease and desist from such infractions and to undertake remedial action;

2.9. conclude a written agreement with the Board of Directors providing for a program of remedial action;

2.10. impose fines of up to ten thousand (10,000) Euros for each day that the infraction continues provided that fines shall be of similar amount for entities with comparable total assets for the same type of infraction;

2.11. appoint an Official Administrator in accordance with Article 89 and Article 90 of this Law; and

2.12. revoke the license of the bank.

3. Remedial actions required under paragraph 2. of this Article may include without limitation one or more of the following actions:

3.1. require that the average total assets of the bank during any calendar quarter not exceed its average total assets during the preceding calendar quarter or require the bank to divest itself of specific assets or reduce its total assets;

3.2. require that the bank not acquire any equity interest in any legal entity, establish or acquire any additional branch office, or engage in any new line of business;

3.3. require that the bank not grant any exposure to any party including its affiliates;

3.4. otherwise restrict or prohibit transactions with affiliates;

3.5. require that the interest rates the bank pays on deposits not exceed the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the bank is located, as determined by the CBK;

3.6. require the bank or any of its subsidiaries to alter, reduce or terminate any activity that the CBK determines has caused, or may cause, material losses to the bank;

3.7. require the bank to dismiss one or more Directors or Senior Managers, as determined by the CBK;

3.8. require that the bank transfers or liquidate any subsidiary;

3.9. restrict payment of bonuses or excessive compensation to any Director or Senior Manager; and

3.10. restrict the payment of capital distributions or dividends.

4. The measures and penalties provided in this section shall not preclude application of other administrative fines or criminal penalties as provided under applicable legislation.

5. Any fines or revenue imposed in accordance with this section shall be paid to the Republic of Kosovo's Budget.

6. Any person who engages in unauthorised deposit-taking in contravention of Article 11 of this Law, notwithstanding any other provision of the Law, shall be subject to criminal penalties. In addition, the CBK may impose fines of up to ten thousand (10,000) Euros for each day that the infraction continues and be empowered to seek the liquidation of the business of such person under the provisions of applicable Law.

7. The penalty and remedial measures provided in Chapter II of this law shall be understood without prejudice to the specific powers granted to the CBK in Chapter III of this Law.

Article 83

Administrative fines

1. A breach with material effects on the secure and prudent governance of the bank shall be deemed to exist if a breach has or could have significant consequences for the bank's financial position or for the management of the risk to which it is exposed in its operations, if the bank does not ensure or is not likely to ensure the appropriate internal governance arrangements. In such cases the CBK may take the following measures:

1.1. a fine from fifty-thousand (50,000) Euros to ten percent (10%) of the total annual net turnover shall be imposed on a bank for the following violations:

1.1.1. failure to maintain the regulatory capital and capital requirements in accordance with Article 19 and Article 21 of this Law;

1.1.2. distribution of profits or dividends contrary to the prohibition from Article 30 of this Law;

1.1.3. failure to maintain the liquidity requirements in accordance with Article 31 of this Law;

1.1.4. failure to organise an internal auditing in accordance with Article 50 of this Law;

1.1.5. acquisition of shares or holdings from another legal person in contravention of Article 57 of this Law;

1.1.6. performance of activities other than banking services, additional financial services or any banking services without prior authorization of CBK in accordance with Article 11 of this Law;

1.1.7. failure to maintain maximum limits on large exposures in accordance with Article 24 of this Law;

1.1.8. enter into transaction with Related Individuals in contravention of Article 25 of this Law;

1.1.9. failure to maintain and develop internal policies and procedures in accordance with Article 28 of this Law;

1.1.10. failure to prepare and maintain the written records in accordance with Article 67 of this Law;

1.1.11. keeping of accounts and records and prepare the financial statements in contravention of Article 66 of this Law;

1.1.12. failure to publish the financial statements and audited annual report within four (4) months after the end of its financial year in accordance with Article 69 of this Law;

1.1.13. failure to report to the CBK pursuant to Article 80 of this Law;

1.1.14. failure to cooperate fully with examiners of the CBK in accordance with Article 80 of this Law.

2. Violations by Senior Management or Member of Board of Directors, a fine from one thousand (1,000) Euros up to fifty thousand (50,000) Euros shall be imposed for the following violations:

2.1. failure to ensure that the bank operates in accordance with rules and regulations of CBK;

2.2. failure to comply with Articles 44 and 48 of this Law.

3. Apart from paragraph 1. of this Article, if the CBK determines that a benefit has been obtained through the violation, an administrative fine of up to twice the amount of the benefit derived from the infringement, where ascertainable, may be imposed.

Article 84

Remedial and punitive measures on the recovery and resolution

1. Major violations on the recovery and resolution regime by banks, a fine from fifty thousand (50,000) euros to ten percent (10%) of the total annual net turnover shall be imposed on a bank for the following violations:

1.1. failure to draw up, maintain and update recovery plans and group recovery plans, infringing Article 87 of this Law;

1.2. failure to provide all the information necessary for the development of resolution plans infringing Article 104 of this Law;

1.3. failure to notify an intention to provide group financial support to the CBK infringing Article 88 of this law.

2. Apart from paragraph 1. of this Article, if the CBK determines that a benefit has been obtained through the violation, an administrative fine of up to twice the amount of the benefit derived from the infringement, where ascertainable, may be imposed.

3. For the violations in paragraph 1. of this Article, the CBK, as resolution authority, shall be the competent authority for its imposition. The penalties may be the following:

3.1. a public statement which indicates the bank responsible and the nature of the infringement;

3.2. an order requiring the bank responsible to cease the conduct and to desist from a repetition of that conduct;

4. CBK, as the resolution authority, may impose a Temporary ban to exercise functions in banks and/or fine of up to one million (1,000,000) Euros for Senior Management or Members of Board of Directors; for the following violations:

4.1. failure to notify the CBK when the bank is failing or likely to fail, infringing Article 106 of this law, and

4.2. any violations provided in paragraph 1. of this Article when the members of the Board of Directors are directly responsible thereof.

5. For violations during the liquidation process according to Article 129 of this Law:

5.1. Any person who willfully interferes with a liquidator's access to or control over the offices, books of account and other records, and other assets of a bank for which he or she has been appointed shall be imprisoned for a period of not less than one (1) year nor more than five (5) years or fined in an amount of not less than one thousand (1,000) Euros per day nor more than five thousand (5,000) Euros per day for each day that the infraction continues, or both.

Article 85

Administrative fines on auditing firms and certified auditors

1. For violations by auditing firms and certified auditors, a fine from one-thousand (1,000) to fifty thousand (50,000) Euros shall be imposed on the auditing firm for the following violations:

1.1. failure to perform an audit or prepare an auditor's report within time frame according to Article 68 of this Law;

1.2. failure to notify the Board of Directors forthwith of the facts or circumstances from subparagraph 1.3. of Article 68 of this Law.

Article 86

Annual net turnover calculation

For the purposes of this imposition of administrative fines according to this law, annual net turnover means total net income before impairment and operating expenses, but including net interest income, net fees and commissions income, net trading income, and other operating income for the preceding business year, and should be coherent with the bank's audited IFRS financial statements.

CHAPTER III
OFFICIAL ADMINISTRATION, RECOVERY AND RESOLUTION

SUBCHAPTER I
OFFICIAL ADMINISTRATION, RECOVERY AND EARLY INTERVENTION

Article 87
Recovery plans

1. As further developed by the CBK in a Regulation, banks shall draw up and maintain a recovery plan providing for measures to restore its financial position following a significant deterioration of its financial situation. Recovery plans shall include a wide range of recovery options and appropriate procedures to ensure the timely implementation of recovery actions, based on a range of scenarios of severe macroeconomic and financial stress conditions. Recovery plans shall not assume any access to or receipt of extraordinary public financial support.
2. Recovery plans shall be assessed and approved by the Board of Directors of each bank before their submission to the CBK acting as supervisory authority.
3. Banking groups will draw up and submit to the CBK group recovery plans in the terms provided by the Regulation which shall be issued by the CBK.

Article 88
Early intervention

1. Early intervention measures are applied by the CBK in the following situations:
 - 1.1. where a bank infringes the regulatory capital requirements as specified by applicable Regulations on capital adequacy of banks; or
 - 1.2. if due, inter alia, to a rapidly deteriorating financial condition, including deteriorating liquidity situation, increasing level of leverage, non-performing loans or concentration of exposures, a bank is likely to infringe in the near future the regulatory capital requirements as specified by applicable regulations of the CBK.
2. If any of the situations of paragraph 1. of this Article occurs, the CBK, as supervisory authority, may require the Board of Directors of the bank:
 - 2.1. to implement the measures set out in the recovery plan, or to update such a recovery plan if the circumstances leading to the early intervention are different from the assumptions set out in the initial recovery plan and implement the measures set out in the updated plan within a specific timeframe;
 - 2.2. to examine the situation, identify measures to overcome any problems identified and draw up an action programme to overcome those problems and a timetable for its implementation;

2.3. to convene a meeting of shareholders of the bank setting the agenda and require certain decisions to be considered for adoption, without prejudice that the CBK, as supervisory authority, may directly convene such meeting if the Board of Directors fails to proceed with that;

2.4. to draw up a plan for negotiation on restructuring of debt with some or all of its creditors according to the recovery plan;

2.5. to require changes to the bank's business strategy or legal or operational structures.

3. In addition to the measures above, the CBK, as supervisory authority, may also require one or more members of the Board of Directors or Senior Management to be removed or replaced if those persons are found unfit to perform their duties.

4. Where there is a significant deterioration in the financial situation of a bank or where there are serious infringements of Law, regulations or the statutes of the bank, or serious administrative irregularities, and other measures taken in accordance with paragraphs 2. and 3. of this Article are not sufficient to reverse that deterioration, the CBK, as supervisory authority, may require the removal of the Senior Management or the Board of Directors of the bank, in its entirety or with regard to individuals.

5. If the replacement of the Senior Management or the Board of Directors as referred to in paragraph 4. of this Article is deemed to be insufficient by the CBK, as supervisory authority, to remedy the situation, the CBK, acting in such condition, may appoint an Official Administrator as provided in this Part of this Law in the context for resolution purposes of this Law. The CBK, as supervisory authority, shall have the exclusive power to remove such Official Administrator at any time and for any reason.

6. Parent companies of banking groups and its affiliates covered by consolidated supervision may enter into intra-group agreements to provide financial support to any affiliates meeting the conditions for early intervention pursuant to this Article, in the terms which may be provided by the CBK in the relevant Regulation. Banking groups shall apply for the CBK's authorization to the execution of such agreements.

Article 89

Grounds for appointing an official administrator

1. Without prejudice to the application of paragraph 5. of Article 88 of this Law, the CBK may appoint an Official Administrator for a bank if:

1.1. the bank has violated any provision of Law or regulation, or has engaged in any unsafe and unsound practices, in such a manner as to weaken the bank's condition, seriously jeopardise depositors' interests, or dissipate the bank's assets in contradiction with this Law;

1.2. exist the reasonable cause to believe that the bank or its Senior Managers or Directors have engaged or are engaging in criminal activities punishable by

imprisonment of one (1) year or more, in such a manner to jeopardise depositors' interests;

1.3. the CBK determines that the bank is in an unsafe or unsound condition to transact business and the bank or its Senior Managers and Directors are unable to promptly improve such condition;

1.4. the bank fails in any manner to cooperate with the CBK, or its examiners and disables to the CBK to perform its supervisory responsibilities, including through concealment or failure to submit for inspection any of the bank's books, papers or records;

1.5. the bank or its Senior Managers, Directors, employees or principal shareholders fail to comply with an order of the CBK under Chapter II of this Law;

1.6. the bank, by resolution of its directors or shareholders, requests the appointment of an Official Administrator;

1.7. such appointment is decided by the CBK in the context of early intervention measures;

1.8. another bank or any shareholder that holds a significant interest in the bank faces a risk of becoming insolvent or fails to meet regulatory requirements regarding capital or liquidity by the Home Country Supervisor or in the home of its corporate headquarters.

2. The decision by the CBK to appoint an Official Administrator shall specify the grounds upon which it is adopted. Such decision shall be promptly notified to the bank subject to official administration and recorded in the register kept pursuant to Article 4 of this Law.

Article 90

Appointment and removal of the official administrator

1. The Official Administrator shall be appointed by the CBK for a term, not exceeding six (6) months, as specified in the decision by the CBK. The term of appointment may be extended by the CBK only twice, for a period not exceeding, in each case, three (3) months. If the Official Administrator has not resolved the issues for which it was appointed to resolve after a period of twelve (12) months, the license is revoked and the liquidation process of the bank will commence in compliance with Chapter IV of this law.

2. If the circumstances for which the appointment of an official administrator are not resolved after a period of twelve (12) months, the bank's license shall be revoked and the liquidation process in accordance with Chapter IV of this Law shall commence, unless the Appointment of the official administrator was decided in the context of early intervention measures, to which Chapter III of this Law shall apply in the context of Resolution.

3. The Official Administrator may be a person from the private sector or an official of the CBK who meets the qualifications prescribed by the CBK in the corresponding Regulation.

4. The CBK shall provide written notice to the bank of the appointment of the Official Administrator.
5. The decision of the CBK appointing an Official Administrator for a bank shall be effective at the time specified in the decision or, if no time is specified, at the time notice is given under paragraph 4. of this Article.
6. Upon the appointment, all powers, functions and responsibilities of the bank's shareholders and Directors or Senior Managers shall be vested in the Official Administrator, unless the Official Administrator requests the shareholders or Directors or Senior Managers to carry out any activity provided under this Law. Any actions or decisions taken by or on behalf of the bank subject to official administration shall be null and void, unless they are taken by or under the authority of the Official Administrator. If the Official Administrator is, however, appointed in the context of early intervention measures, the Official Administrator shall have only the powers, functions and responsibilities of the bank's Board of Directors.
7. The CBK may remove the Official Administrator before the end of the term specified in paragraph 1. of this Article and appoint a qualified replacement. The CBK must ensure that the bank at all times remains under the control of a duly appointed Official Administrator.
8. The provisions in Article 53 of this Law shall apply to an Official Administrator except that any obligation to report to the Board of Directors shall represent an obligation to report to the CBK. Any transaction involving the bank in official administration in which the Official Administrator has a material interest or relationship in the matter may be engaged in only with the prior approval of the CBK. If an Official Administrator fails to disclose a material interest or relationship as required, the contract may be set aside and the CBK shall remove the Official Administrator.

Article 91 **Powers and duties of the official administrator**

1. The Official Administrator shall have full and exclusive powers to manage and operate the bank. The Official Administrator may take any action as necessary or appropriate to carry on the business of the bank and preserve and safeguard its assets and property or to implement a plan of action with respect to the bank that has been approved by the CBK.
2. The Official Administrator shall act in accordance with the regulations, instructions and guidelines given by the CBK at any time in the course of the official administration, and shall be accountable only to the CBK for the performance of duties and the exercise of powers as Official Administrator. The Official Administrator may delegate any of such powers or duties to other persons, in accordance with the instructions issued by the CBK.
3. The Official Administrator shall suspend the payment of any dividends or other form of capital distribution to shareholders, as well as any payment to directors other than for services provided to the bank upon request of the Official Administrator.

4. The Official Administrator may employ, at the expense of the bank in Official Administration, independent attorneys, accountants and consultants to assist the Official Administrator, on such terms as the CBK shall approve.

5. If the Official Administrator has reasonable cause to believe that shareholders, directors, officers, attorneys, accountants or other professionals have engaged or are engaging in criminal activities punishable by imprisonment of one (1) year or more or in fraudulent activities, it shall immediately notify the CBK and shall pursue civil actions seeking damages and restitution.

Article 92

Moratorium and effect of official administration on proceedings and contracts

1. The CBK may, on the written request of the Official Administrator, impose a moratorium suspending some or all payments by a bank in Official Administration. This paragraph shall not apply to those cases in which the Official Administrator has been appointed in the context of early intervention measures.

2. If placed under moratorium, then without the consent of the CBK:

2.1. one person may not begin or continue a proceeding in a court against a bank in Official Administration, and

2.2. one person may not exercise rights under a mortgage, charge, or other security over the property of a bank in Official Administration, or issue any execution, attach any debt, or otherwise enforce or seek to enforce any judgement or order obtained in respect of a bank in Official Administration.

3. CBK may by written consent waive the application of sub-paragraphs 2.1 and 2.2 of this Article to any creditor or class of creditors.

4. No right or obligation under any contract to which the bank in Official Administration is a party may be terminated, accelerated, or modified solely because of the appointment of the Official Administrator or any action taken by the Official Administrator.

5. The Official Administrator may request the CBK to issue an Order to all banks ordering all banks to immediately cease granting credit to any of the defaulting debtors of the bank under Official Administration and their related entities, which order will remain in effect until such time as the defaulting debtors enter into an agreement with the Official Administrator to pay the debt service on loans at the bank under Official Administration. In determining whether to issue such an order the CBK may consider the defaulting debtor's financial condition and the likely impact of the order on third parties.

6. The moratorium shall not affect the rights of counterparties of the bank under official administration in partial transfers, title transfer financial collateral arrangements and set-off and netting arrangements, liabilities secured under a security arrangement, and structured finance arrangements and covered bonds.

Article 93

Taking control of the bank

1. Immediately upon appointment, the Official Administrator shall secure the properties, offices, assets, books and records of the bank, and may take all necessary or appropriate steps aimed at such purpose, including without limitation:

1.1. restricting external access or internal access to the bank's buildings and offices;

1.2. changing the passwords to the bank's computers and granting access only to a limited number of employees;

1.3. issuing to authorized employees' new type of entrance passes to the bank's premises and controlling the access of other employees to those premises.

2. In the course of the official administration, the Official Administrator shall have unrestricted access to, and control over, the properties, offices, assets and the books of account and other records of the bank subject to official administration.

3. Immediately upon request of the Official Administrator, Law enforcement officials shall, if necessary by use of force, assist the Official Administrator to gain access to any premises of the bank and to gain control over and to secure such properties, offices, assets, books and records. The decision of the CBK appointing the Official Administrator shall have the legal force and effect of an enforceable court order requiring Law enforcement authorities to provide such assistance.

4. Directors, officers and employees of the bank shall make available to the Official Administrator all records and documentation pertaining to the bank and any additional information or report requested by the Official Administrator.

Article 94

Inventory and plan of action

1. Not later than thirty (30) days after the appointment, the Official Administrator shall prepare and deliver to the CBK an inventory of the bank's assets and liabilities. Such report will itemize the assets according to their different risk profiles and classify the non-performing loans.

2. Not later than sixty (60) days after the appointment, the Official Administrator shall prepare and deliver to the CBK a report on the financial condition and future prospects of the bank subject to official administration.

3. In the report referred under paragraph 2. of this Article, the Official Administrator shall propose a plan of action which, as appropriate, shall recommend returning the bank to compliance with the Law by carrying out a plan of corrective actions that may include a capital increase; or, if the bank cannot be rehabilitated, any other course of action designed to minimize disruption to depositors and preserve the stability of the banking sector. The

Official Administrator shall promptly provide any additional report or information requested by the CBK.

Article 95

Capital increase by existing shareholders

1. On the basis of the report produced under Article 94 of this Law and with the approval of the CBK, the official administrator may take the following actions to increase the bank's capital through the issuance of new shares after:

1.1. determines the extent of losses and prepare the bank's balance sheet covering the amount of such losses through the bank's profits, reserves and, if necessary, capital; and

1.2. notifies existing shareholders of the amount of additional capital needed to bring the bank's capital into compliance with all capital requirements and allow such shareholders to subscribe and purchase additional shares, by submitting binding commitments equal to the full amount of additional capital needed within three business days of such notification.

2. Existing shareholders of a bank in official administration shall have no preemptive or other rights to purchase additional shares issued except as provided in this Article.

3. This Article shall not apply to those cases in which the Official Administrator has been appointed in the context of early intervention measures.

Article 96

Recapitalization by new shareholders

1. On the basis of the report produced under Article 94 of this Law and with the approval of the CBK, the Official Administrator may take the following actions to increase the bank's capital through the issuance of shares to new shareholders in the following circumstances:

1.1. in the event that binding commitments are not submitted in an amount equal to the full amount of additional capital needed by existing shareholders; or

1.2. without offering shares to existing shareholders, if the Central Bank determines that:

1.2.1. an expedited resolution of a bank to maintain financial stability is necessary, or

1.2.2. the existing shareholders are no longer suitable to maintain a significant capital position in the bank; or

1.2.3. there has been a failure to comply timely with a remedial measure under Article 95 of this Law requiring an increase in the bank's capital.

2. To carry out a recapitalization by new shareholders, the Official Administrator shall:

2.1. if not already carried out in accordance with Article 95 of this Law, determine the extent of losses and prepare the bank's balance sheet covering the amount of such losses through the bank's profits, reserves and, if necessary, capital;

2.2. if necessary to reflect losses, reduce the par value of outstanding shares, notwithstanding any other provision of the Law;

2.3. determine the amount and type of funding needed to bring the bank into compliance with all capital requirements;

2.4. cause the bank to issue additional shares in the amount necessary and carry out the sale of shares by the bank and purchase of such shares by new investors.

3. Notwithstanding any Law that may come into effect to regulate the securities market and other disclosures by issuers of securities, the competent authority under that Law shall take the necessary action to permit any such issuance within three (3) business days.

4. This Article shall not apply to those cases in which the Official Administrator has been appointed in the context of early intervention measures.

Article 97

Mergers, sales and other restructurings

1. On the basis of the report produced under Article 94 of this Law and with the approval of the CBK, the Official Administrator may carry out a merger of the bank or a transfer, in whole or in part, of the bank's assets and liabilities.

2. A transfer of the bank's assets and liabilities may include a transfer to a bridge bank, which is a bank established by the Government or the CBK for a temporary period for the purpose of resolving the failing bank.

3. In accordance with the instructions given by the CBK, the Official Administrator may approve a restructuring of the bank's liabilities through arrangements with the bank's creditors, including a reduction, modification, rescheduling and novation of their claims.

4. If assets and liabilities of the bank under official administration that are transferred to another bank includes a transfer of insured deposits, and only if the value of payment is less than the amount of transferred insured deposits, the difference up to the amount of insured deposits shall be paid by the Deposit Insurance Fund of Kosovo to other bank in accordance with the Law governing the deposit insurance system, provided that the costs for supporting the transfer do not exceed the net amount of compensation for covered depositors if the failed bank has been liquidated under regular liquidation procedures. After such transfer of the assets and liabilities of the bank and the use of deposit insurance funds, the license of the bank under official administration shall be revoked, the bank shall be placed in receivership, and the bank shall be liquidated in accordance with the provisions of Chapter IV of this Law.

5. This Article shall not apply to those cases in which the Official Administrator has been appointed in the context of early intervention measures.

Article 98
Expenses of the official administration

The Official Administrator shall receive a remuneration determined by the CBK. All costs and expenses incurred on account of the official administration shall be borne by and charged to the bank subject to such proceeding.

Article 99
Termination of official administration

1. The official administration shall terminate at the expiry of the term specified in the decision appointing the Official Administrator or any extension of the term of such appointment as provided in Article 90 of this Law.

2. Official administration shall be terminated prior to the expiry of the term identified above if the CBK determines that:

2.1. official administration is no longer necessary because grounds for appointment of the Official Administrator have been remedied;

2.2. the bank cannot be rehabilitated and the CBK issues a decision to revoke the bank's license under Article 18 of this Law and to commence a liquidation proceeding under the provisions of Article 127 of this Law; or

2.3. the bank meets the conditions for resolution provided in Article 106 of this Law.

3. In the case of a termination of official administration that does not involve a closure of the bank, the Official Administrator shall carry out the duties of the bank's Directors or Senior Managers until nomination and/or election of Directors or Senior Managers. Upon nomination and/or election of Directors or Senior Managers, the Official Administrator shall return control of the bank and its properties, offices, assets, books and records to the competent bodies.

4. The decision of the CBK to terminate official administration shall be accompanied by a recommendation by the Official Administrator and a detailed report prepared by the Official Administrator supporting the recommendation.

5. Within five (5) days of the termination of the appointment, the Official Administrator shall prepare and submit to the CBK a final report and accounting of the official administration.

6. If the bank becomes a bank under resolution, the CBK, as resolution authority, may resolve that the Official Administrator is appointed as, or replaced by, a special manager in the terms provided in Article 107 of this Law.

SUBCHAPTER II RESOLUTION AND TREATMENT OF DEPOSITS

Article 100 Resolution objectives

1. The CBK, when applying the resolution tools and exercising the resolution powers provided in Chapter III of this Law, shall have regard to the following resolution objectives:

1.1. to ensure the continuity of Critical Functions of banks;

1.2. to avoid a significant adverse effect on the financial system, in particular by preventing contagion, including to market infrastructures, and by maintaining market discipline;

1.3. to protect public funds by minimising reliance on extraordinary public financial support;

1.4. to protect depositors covered by Law on Deposit Insurance System for Financial Institutions in Kosovo; and

1.5. to protect client's funds and assets.

2. The abovementioned resolution objectives are of equal significance. The CBK shall balance them as appropriate according to the nature and circumstances of each case.

3. The CBK shall choose the tools and exercise powers that best achieve the resolution objectives in each particular case and shall seek to minimise the cost of resolution and avoid destruction of value, unless necessary to achieve the resolution objectives.

4. Unless otherwise indicated, references to the CBK in Chapter III of this Law shall be construed as to the CBK acting in its capacity as resolution authority.

Article 101 General principles governing resolution

1. The CBK, when applying the resolution tools and exercising the resolution powers, shall take all appropriate measures to ensure that the resolution action is taken in accordance with the following principles:

1.1. the shareholders of the bank under resolution shall be first to bear losses;

1.2. creditors of the bank under resolution bear losses after the shareholders in accordance with the order of priority of their claims under normal insolvency proceedings, save as expressly provided otherwise in this Law;

1.3. the Board of Directors and Senior Management of the bank under resolution are replaced, except in those cases when the retention of the Board of Directors and Senior Management, in whole or in part, is considered to be necessary for the achievement of the resolution objectives;

1.4. the Board of Directors and Senior Management of the bank under resolution shall provide all necessary assistance for the achievement of the resolution objectives;

1.5. natural and legal persons are made liable under civil or criminal Law for their responsibility for the failure of the bank;

1.6. except where otherwise provided in this Law, creditors of the same class are treated in an equitable manner;

1.7. insured deposits are fully protected; and

1.8. resolution actions are taken in accordance with the safeguards provided in this Law.

2. The State aid regulation shall be complied with by the CBK when applying the resolution tools and exercising the resolution powers.

Article 102

Valuation

1. Before taking any resolution action, or exercising any write down and conversion powers, the CBK shall ensure that a fair, prudent and realistic valuation of the assets and liabilities of the bank is carried out by a person independent from the CBK, from any other public authorities and from the bank itself.

2. Expenses of experts' tariffs and other potential expenses in regards to the valuation process should be borne by CBK. In this regard, CBK may set special tariffs for resolution toward banks in order to ensure that there is sufficient budgetary capacity.

3. Where an independent valuation according to paragraph 1. of this Article is not possible, due to the urgency of the CBK case, a provisional valuation of the assets and liabilities of the bank shall be carried out by the CBK in accordance with the conditions provided in the Regulation which the CBK shall issue in this regard. The provisional valuation referred to in this paragraph shall include a buffer for additional losses, with appropriate justification. The valuation shall be provisional until an independent person carries out, as soon as practicable, a definitive valuation fully compliant with all the requirements laid down in this Article and the corresponding CBK's Regulation. The CBK may take, the relevant resolution actions on the basis of the provisional valuation.

4. The objective and purposes of the valuation shall be to assess whether the value of the assets and liabilities of the bank meets the conditions for resolution, or for the write down or conversion of capital instruments provided in Article 112 of this Law, and to inform the relevant decisions of the CBK.
5. The valuation shall be based on prudent assumptions, including as to rates of default and severity of losses. The valuation shall not assume any potential future provision of extraordinary public financial support or any liquidity assistance by the CBK.
6. A valuation carried out by an independent valuer which does not comply with all the requirements laid down in this Article and the CBK's Regulation shall be considered to be provisional until an independent person has carried out a valuation that is fully compliant with all the requirements laid down in this Article and the CBK's Regulation. Such ex-post definitive valuation shall be carried out as soon as practicable.
7. The valuation itself shall not be subject to a separate right of appeal, but it may be subject to an appeal together with the decision in accordance with Article 145 of this Law.
8. The independent valuation shall take account of the fact that, if any resolution tool is applied, the CBK and the National Resolution Fund may recover any reasonable expenses properly incurred from the bank under resolution, including any fees and costs incurred in relation to the independent valuation.
9. The CBK shall issue a Regulation establishing the relevant conditions and methods for valuation.

Article 103

Application of normal insolvency proceedings

Normal insolvency proceedings applicable to banks shall not be commenced with respect to a bank except if the CBK decides not to apply any of the measures provided for by this Chapter or after the aforesaid measures have been applied.

Article 104

Resolution plans

1. The CBK shall draw up a resolution plan for each bank, which shall provide for the resolution actions the CBK may take where the bank meets the conditions for resolution.
2. The resolution plan shall not assume any extraordinary public financial support besides the use of the National Resolution Fund established in accordance with Article 124 of this Law, and any emergency liquidity assistance, or any liquidity assistance under non-standard collateralisation, tenor and interest rate terms, by the CBK.
3. Resolution plans shall be reviewed, and where appropriate updated, at least annually and after any material changes to the legal or organisational structure of the bank, its business or its financial position, which could have a material effect on the effectiveness of the plan or otherwise requires a revision of the resolution plan.

4. The CBK shall be entitled to require banks to cooperate as much as necessary in the drawing up of resolution plans, and provide it with all of the information necessary to draw up and implement resolution plans.

5. The CBK will draw up group resolution plans at banking group level.

Article 105 **Assessment of resolvability**

1. At the same time, as and for the purposes of the drawing up and updating of the resolution plan, the CBK shall assess the extent to which a bank is resolvable without assuming any extraordinary public financial support besides the use of the National Resolution Fund established in accordance with Article 124 of this law, any emergency liquidity assistance, or any liquidity assistance under non-standard collateralisation, tenor and interest rate terms, by the CBK.

2. A bank shall be deemed to be resolvable if it is feasible and credible for the CBK to either liquidate it under normal insolvency proceedings, or to resolve it by applying the different resolution tools to the bank, while avoiding to the maximum extent possible any significant adverse effect on the financial system, including circumstances of broader financial instability or system-wide events, and with a view to ensuring the continuity of Critical Functions carried out by the bank.

3. If the CBK determines that there are substantive impediments to the resolvability of the bank, the CBK shall notify in writing that determination to the bank. The bank shall propose to the CBK possible measures to address or remove the impediments within four (4) months of the date of receipt of the notification. The aforesaid shall not prevent the CBK to draw up an interim resolution plan for the bank, according to the existing circumstances thereof, without prejudice to its subsequent update as per the measures proposed by the bank.

4. The CBK shall assess the measures proposed by the bank. If the CBK considers that measures proposed by the bank do not effectively reduce or remove the impediments, it shall require the bank to take alternative measures that may achieve that objective, and notify in writing those measures to the bank, which shall propose within one (1) month a plan to comply with them. Such alternative measures may be the following:

4.1. to require the bank to revise any intra group financing agreements or review the absence thereof, or draw up service agreements, to cover the provision of Critical Functions;

4.2. to require the bank to limit its maximum individual and aggregate exposures;

4.3. to impose specific or regular additional information requirements relevant for resolution purposes;

4.4. to require the bank to divest specific assets;

4.5. to require the bank to limit or cease specific existing or proposed activities;

4.6. to restrict or prevent the development of new or existing business lines or sale of new or existing products;

4.7. to require changes to legal or operational structures of the bank or any affiliate in its banking group, either directly or indirectly under its control, so as to reduce complexity in order to ensure that Critical Functions may be legally and operationally separated from other functions through the application of the resolution tools.

5. Decisions of the CBK under this Article shall be sufficiently motivated, indicating how the assessment and alternative measures are proportionate. Those decisions shall be subject to a right of appeal, without prejudice that lodging of an appeal shall not entail the automatic suspension of any decisions in accordance with Article 145 of this law.

Article 106 **Conditions for resolution**

1. The CBK shall take a resolution action in relation to a bank only if it considers that all of the following conditions are met:

1.1. the determination that the bank is failing or is likely to fail, as per paragraph 2. of this Article, has been made by the CBK, acting as supervision authority;

1.2. having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector measures, or supervisory action, including early intervention measures or the write down or conversion of relevant capital instruments as provided in Article 112 of this Law taken in respect of the bank, would prevent the failure of the bank within a reasonable timeframe;

1.3. a resolution action is necessary in the public interest. A resolution action shall be treated as in the public interest if it is necessary for the achievement of, and is proportionate to, one or more of the resolution objectives normal insolvency proceedings would not meet those resolution objectives to the same extent without prejudice to the combined application of resolution and liquidation tools under Article 105 of this law.

2. A bank shall be deemed to be failing or likely to fail in one or more of the following circumstances:

2.1. the bank infringes, or there are objective elements to support that the bank will, in the near future, infringe the requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the CBK, including but not limited to because the bank has incurred or is likely to incur losses that will deplete all or a significant amount of its own funds;

2.2. the assets of the bank are, or there are objective elements to support that the assets of the bank will, in the near future, be less than its liabilities;

2.3. the bank is, or there are objective elements to support a determination that the bank will, in the near future, be unable to pay its debts or other liabilities as they fall due;

2.4. extraordinary public financial support is required except when, in order to remedy a serious disturbance in the economy and preserve financial stability, the extraordinary public financial support takes any of the following forms:

2.4.1. a public guarantee to back liquidity facilities provided by the CBK;

2.4.2. a public guarantee of newly issued liabilities; or

2.4.3. an injection of own funds or purchase of capital instruments at prices and on terms that do not confer an advantage upon the bank, where neither the circumstances referred to in sub-paragraphs 2.1., 2.2. and 2.3. of this Article nor the circumstances referred to in paragraph of Article 112 of this law are present at the time the public support is granted.

3. In each of the cases mentioned in sub-paragraph 2.4. of this Article, the guarantee or equivalent measures referred to therein shall be confined to solvent banks and shall be conditional on final approval under the State aid provisions where applicable. Those measures shall be of a precautionary and temporary nature and shall be proportionate to remedy the consequences of the serious disturbance. They shall not be used to offset losses that the bank has incurred or is likely to incur in the near future.

4. The determination that the bank is failing or likely to fail shall be made by the CBK as supervision authority.

5. The Board of Directors of a bank must notify the CBK, as supervision authority, if they consider that the bank is failing or likely to fail.

6. The previous adoption of any of an early intervention measure is not a condition for taking a resolution action.

7. Any decision of the CBK whether or not to take resolution actions in relation to a bank shall describe the relevant reasons for that decision and the actions that the CBK intends to take.

Article 107

Resolution tools

1. If the CBK decides to apply a resolution tool to a bank, and that resolution action would result in losses being borne by creditors or their claims being converted, the CBK shall exercise the write down and conversion powers immediately before or together with the application of the resolution tool.

2. The resolution tools referred to in paragraph 1. of this Article are the following:

- 2.1. the sale of business tool;
- 2.2. the bridge institution tool;
- 2.3. the asset separation tool; and
- 2.4. the bail-in tool.

3. The CBK may apply the resolution tools individually or in any combination, at any time provided that it may only apply the asset separation tool together with another resolution tool.

4. With the aim to achieve the resolution objectives, the CBK may decide to apply the liquidation regime provided in Chapter IV of this law, to the extent that the CBK determines, in combination with any of the resolutions tools, at any time during the resolution process.

5. Where only the resolution tools referred to in sub-paragraphs 2.1. or 2.2. of this Article are used, and only to transfer part of the assets, rights or liabilities of the bank under resolution, the residual institution from which the assets, rights or liabilities have been transferred, shall be wound up under normal insolvency proceedings within a reasonable timeframe.

6. Any insolvency regulation relating to the voidability or unenforceability of legal acts detrimental to creditors which may be applicable to banks shall not apply to transfers of assets, rights or liabilities from a bank under resolution to another entity by virtue of the application of a resolution tool or exercise of a resolution power, or use of a government financial stabilisation tool.

7. The CBK may appoint a special manager to replace the Board of Directors and the Senior Management of the bank under resolution. If an Official Administrator of the Bank has been appointed under an early intervention measure and is an official of the CBK, the CBK may resolve, at its discretion, that the Official Administrator continues as special manager of the bank under resolution.

8. The special manager shall have all the powers of the shareholders, the Board of Directors and the Senior Management of the bank, which shall be exercised under the control of the CBK. The special manager shall promote the resolution objectives and implement resolution actions according to the decision of the CBK. The CBK shall issue a Regulation providing the conditions for such appointment and the functions and responsibilities of the special manager.

9. In the very extraordinary situation of a systemic crisis, the CBK may seek funding from alternative financing sources through the use of government stabilisation tools provided for in Article 123 of this law when the following conditions are met:

- 9.1. a contribution to loss absorption and recapitalisation equal to an amount specified by the CBK regulation, as a percentage of total liabilities (including own funds) of the bank under resolution, measured at the time at which the resolution action is taken in accordance with the valuation provided for in Article 102 of this

Law, has been made by the shareholders and by the holders of other instruments of ownership, capital instruments and other eligible liabilities through write down, conversion or otherwise;

9.2. it shall be conditional on prior and final approval under the State aid provisions, where applicable.

10. The CBK shall issue a Regulation providing the conditions for the use of government stabilisation tools.

11. The CBK shall publish or ensure the publication of a copy of the order or instrument by which the resolution action is taken, or a notice summarising the effects of the resolution action.

Article 108

Sale of business tool

1. The CBK may transfer to a purchaser that is not a bridge institution:

1.1. shares or other instruments of ownership issued by a bank under resolution;

1.2. all or any assets, rights or liabilities of a bank under resolution;

2. The transfers under this Article shall take place without obtaining the consent of the shareholders of the bank under resolution or any third party other than the purchaser, and without complying with any procedural requirements under company or securities Law.

3. The CBK shall take all reasonable steps to obtain commercial terms for the transfer that conform with the valuation conducted under Article 102 of this law.

4. A purchaser shall have the appropriate authorisation to carry out the business it acquires under this Article when the transfer is made pursuant to paragraph 1. of this Article. The CBK shall ensure that an application for authorisation shall be considered, in conjunction with the transfer, in a timely manner.

5. The CBK shall issue a Regulation providing the conditions for applying the sale of business tool. Such conditions shall provide that the marketing of the assets, rights, liabilities, shares or other instruments of ownership of the bank under resolution is transparent and free from any conflict of interest and does not unduly favor or discriminate between potential purchasers.

Article 109

Bridge institution tool

1. The CBK may transfer to a bridge institution:

1.1. shares or other instruments of ownership issued by one or more institutions under resolution;

- 1.2. all or any assets, rights or liabilities of one or more institutions under resolution.
2. The transfer may take place without obtaining the consent of the shareholders of the bank under resolution or any third party other than the bridge institution, and without complying with any procedural requirements under the respective Law on Business Organizations or securities Law.
3. The bridge institution shall be a legal person that meets all of the following requirements:
 - 3.1. it is wholly or partially owned, and controlled, by one or more public authorities which may include the CBK, notwithstanding the provisions set out in the Law on CBK;
 - 3.2. it is created for the purpose of receiving and holding some or all of the shares or other instruments of ownership issued by a bank under resolution or some or all of the assets, rights and liabilities of one or more banks under resolution with a view to maintaining access to Critical Functions and selling the bank.
4. The CBK shall issue a Regulation providing the conditions for applying the bridge institution tool, and the operations of the bridge institution.

Article 110 **Asset separation tool**

1. The CBK may transfer assets, rights or liabilities of a bank under resolution or a bridge institution to one or more asset management vehicles, without obtaining the consent of the shareholders of the bank under resolution or any third party other than the bridge institution, and without complying with any procedural requirements under the Law on Business Organizations or securities Law.
2. An asset management vehicle shall be a legal person that meets all of the following requirements:
 - 2.1. it is wholly or partially owned, and controlled, by one or more public authorities which may include the CBK and is controlled by the CBK, notwithstanding the provisions set out in the Law on CBK;
 - 2.2. it has been created for the purpose of receiving some or all of the assets, rights and liabilities of one or more institutions under resolution or a bridge institution.
3. The asset management vehicle shall manage the assets transferred to it with a view to maximising their value through eventual sale or orderly wind down.
4. Shareholders or creditors of the bank under resolution and other third parties whose assets, rights or liabilities are not transferred to the asset management vehicle shall not have any rights over or in relation to the assets, rights or liabilities transferred to the asset management vehicle or its Board of Directors or Senior Management.

5. The CBK shall issue a Regulation providing the conditions for the application of this resolution tool.

Article 111

Bail-in tool

1. The bail-in tool is the mechanism for effecting the exercise by the CBK of the power to write down and convert in relation to liabilities of a bank under resolution tool. Such powers shall be separate and independent from those provided in Article 112 of this Law.

2. The CBK may apply the bail-in tool to meet the resolution objectives for any of the following purposes:

2.1. to recapitalise the bank under resolution to the extent sufficient to restore its ability to comply with the conditions for authorisation and to continue to carry out the activities for which it is authorised, and to sustain sufficient market confidence in the bank, but only if there is a reasonable prospect that the application of this tool, together with other relevant measures, restore the bank to financial soundness and long-term viability;

2.2. to convert to equity or reduce the principal amount of claims or debt instruments that are transferred:

2.2.1. to a bridge institution with a view to providing capital for that bridge institution; or

2.2.2. under the sale of business tool or the asset separation tool.

3. The CBK shall not exercise the write down or conversion powers in relation to the following liabilities:

3.1. insured deposits;

3.2. secured liabilities;

3.3. any liability that arises by virtue of the holding by the bank of client assets or client money;

3.4. any liability that arises by virtue of a fiduciary relationship between the bank (as fiduciary) and another person (as beneficiary) provided that such a beneficiary is protected under the applicable insolvency or civil Law;

3.5. liabilities to other banks, excluding banks that are part of the same group, with an original maturity of less than seven (7) days;

3.6. liability to any one of the following:

3.6.1. an employee, in relation to accrued salary, pension benefits or other fixed remuneration, except for the variable component of remuneration that is not regulated by a collective bargaining agreement;

3.6.2. a commercial or trade creditor arising from the provision to the bank of goods or services that are critical to the daily functioning of its operations, including IT services, utilities and the rental, servicing and upkeep of premises;

3.6.3. tax and social security authorities, provided that those liabilities are preferred under the applicable Law;

3.6.4. the Deposit Insurance Fund arising from contributions due.

4. This tool may include the appointment of a person or persons by the CBK in accordance with Article 121 of this law with the objective of drawing up and implementing a business reorganisation plan in the terms provided in the Regulation that the CBK may issue for that purpose.

5. The CBK shall issue a Regulation providing the liabilities included in the scope of this tool and the conditions for its application.

Article 112

Write down and conversion of capital instruments

1. The CBK may mandatorily decide to write down or convert capital instruments into shares or other instruments of ownership of institutions either independently of resolution action, or in combination with a resolution action, where the conditions for resolution provided in Article 106 of this law are met, provided that one or more of the following circumstances apply:

1.1. the conditions for resolution have been met, before any resolution action is taken;

1.2. unless that power is exercised in relation to the relevant capital instruments, the bank will no longer be viable;

1.3. in the case of relevant capital instruments issued by an affiliate and where those capital instruments are recognised for the purposes of meeting own funds requirements on an individual and on a consolidated basis, the CBK determines that, unless the write down or conversion powers are exercised in relation to those instruments, the banking group will no longer be viable;

1.4. in the case of relevant capital instruments issued at the level of the parent undertaking of banking group and where those capital instruments are recognised for the purposes of meeting own funds requirements on an individual basis at the level of the parent undertaking or on a consolidated basis, and the CBK determines that, unless the write down or conversion powers are exercised in relation to those instruments, the banking group will no longer be viable;

1.5. extraordinary public financial support is required by the bank except in any of the circumstances set out in sub-paragraph 2.4.3. of Article 106 of this Law.

2. A bank shall be deemed to be no longer viable only if both of the following conditions are met:

2.1. the bank is failing or likely to fail, as provided in paragraph 2. of Article 106 of this law;

2.2. having regard to timing and other relevant circumstances, there is no reasonable prospect that any action, including alternative private sector measures or supervisory action (including early intervention measures), other than the write down or conversion of capital instruments, independently or in combination with a resolution action, would prevent the failure of the bank within a reasonable timeframe.

3. The CBK shall issue a Regulation providing further conditions for writing down of capital instruments.

Article 113

Treatment of shareholders in bail-in and write down or conversion of capital instruments

1. When applying the bail-in tool or the write down or conversion of capital instruments in Article 112 of this law, the CBK shall take one or both of the following actions in respect of shareholders and holders of other instruments of ownership:

1.1. cancel existing shares or other instruments of ownership, or transfer them to bailed-in creditors;

1.2. if, in accordance to the valuation carried out under Article 102 of this law, the bank under resolution has a positive net value, dilute existing shareholders and holders of other instruments of ownership as a result of the conversion into shares or other instruments of ownership of:

1.2.1. relevant capital instruments issued by the bank pursuant to the power referred to in Article 112 of this law; or

1.2.2. eligible liabilities issued by the bank under resolution pursuant to the power referred to in sub-paragraph 1.6. of Article 121 of this law.

2. With regard to paragraph 1.2. of this Article, the conversion shall be conducted at a rate of conversion that severely dilutes existing holdings of shares or other instruments of ownership.

Article 114

Effect of bail-in and write down or conversion of capital instruments

1. If the CBK exercises the powers referred to in Article 112 and sub-paragraph 1.6. of Article 121 of this law, the reduction of principal or outstanding amount due, conversion or cancellation shall take effect and shall be immediately binding on the bank under resolution and affected creditors and shareholders.
2. The CBK shall be entitled to give effect to the exercise of a power referred to in Article 112 and in sub-paragraph 1.6. of Article 121 of this law, including the amendment of all relevant registers, the delisting or removal from trading of shares or other instruments of ownership or debt instruments, the listing or admission to trading of new shares or other instruments of ownership and the relisting or readmission of any debt instruments which have been written down.
3. If the CBK reduces to zero the principal amount of, or outstanding amount payable in respect of, a liability and any obligations or claims arising in relation thereto that are not accrued at the time when the power is exercised, such liability shall be treated as discharged for all purposes, and shall not be provable in any subsequent proceedings in relation to the bank under resolution or any successor entity in any subsequent winding up.
4. If the CBK reduces in part, but not in full, the principal amount of, or outstanding amount payable in respect of, a liability, such liability shall be discharged to the extent of the amount reduced and the relevant instrument which created the original liability shall continue to apply in relation to the residual principal amount of, or outstanding amount payable in respect of, the liability, subject to any modification agreed by the CBK.

Article 115

Implications of early intervention and resolution measures on contracts

1. A crisis prevention measure or a crisis management measure taken in relation to a bank in accordance with this Section shall not, per se, under a contract entered into by the bank, be deemed to be an enforcement event or to qualify as insolvency proceedings, provided that the substantive obligations under the contract, including payment and delivery obligations and the provision of collateral, continue to be performed.
2. Provided that the substantive obligations under the contract, including payment and delivery obligations, and provision of collateral, continue to be performed, a crisis prevention measure or a crisis management measure, including the occurrence of any event directly linked to the application of such a measure, shall not, per se, make it possible for anyone to exercise any termination, suspension, modification, netting or set-off rights, or obtain possession, exercise control or enforce any security over any property of the bank, or affect any contractual rights of the bank. This shall be also applicable to any affiliate in the banking group of the bank in relation to a contract which includes cross-default provisions.

3. This Article shall not affect the right of a person to take an action referred to in paragraph 2. of this Article where that right arises by virtue of an event other than the crisis prevention measure, the crisis management measure or the occurrence of any event directly linked to the application of such a measure.

4. A suspension or restriction agreed under Article 121 of this Law shall not constitute non-performance of a contractual obligation for the purposes of paragraphs 1. and 2. of this Article.

Article 116

Treatment of shareholders and creditors in the case of partial transfers and application of the bail-in tool

1. Where one or more resolution tools have been applied:

1.1. except where sub-paragraph 1.2 of this Article applies, if the CBK transfers only parts of the rights, assets and liabilities of the bank under resolution, the shareholders and those creditors whose claims have not been transferred, receive in satisfaction of their claims at least as much as what they would have received if the bank under resolution had been wound up under normal insolvency proceedings at the time when the decision of the CBK about the meeting of the resolution conditions was taken;

1.2. where the CBK applies the bail-in tool, the shareholders and creditors whose claims have been written down or converted to equity do not incur greater losses than they would have incurred if the bank under resolution had been wound up under normal insolvency proceedings immediately at the time when the decision of the CBK about the meeting of the resolution conditions was taken.

Article 117

Safeguards

1. Safeguard measures comprise the relevant arrangements and counterparties in partial transfers, title transfer financial collateral arrangements and set-off and netting arrangements, liabilities secured under a security arrangement, and structured finance arrangements and covered bonds.

2. CBK further regulates safeguard measures and implementation arrangements with regulation.

Article 118

Valuation of difference in treatment

1. For the purposes of assessing whether shareholders and creditors would have received better treatment if the bank under resolution had entered into normal insolvency proceedings, including but not limited to for the purpose of Article 116 of this law, a valuation shall be carried out by an independent person, understood in the terms provided in Article

102 of this law, as soon as possible after the resolution action or actions have been effected. That valuation shall be distinct from the valuation carried out under Article 102 of this law.

2. The valuation in paragraph 1. of this Article shall determine:

2.1. the treatment that shareholders and creditors, or the Deposit Insurance Fund of Kosovo, would have received if the bank under resolution had entered normal insolvency proceedings at the time when the CBK took the resolution action (including the determination that the conditions for resolutions are were met or not);

2.2. the actual treatment that shareholders and creditors have received in the resolution of the bank; and

2.3. if there is any difference between the treatment referred to in sub-paragraph 2.1. and the treatment referred to in sub-paragraph 2.2. of this Article.

3. If the valuation determines that any shareholder or creditor, or the Deposit Insurance Fund of Kosovo, has incurred greater losses than it would have incurred under normal insolvency proceedings, they are entitled to the payment of the difference from the National Resolution Fund which shall be incorporated under Article 124 of this law.

Article 119

Minimum requirements for own funds and eligible requirements

1. Banks shall meet, at all times, a minimum requirement for own funds and eligible liabilities determined by the CBK on the basis of the need to ensure that the bank can be resolved by the application of the resolution tools (including the bail-in tool) in a way that meets the resolution objectives.

2. The minimum requirement shall be calculated as a proportion of own funds and eligible liabilities over the total liabilities and own funds of the bank.

3. The CBK shall verify that banks meet the minimum requirement for own funds and eligible liabilities.

4. The CBK shall issue a Regulation specifying the conditions of this obligation and the relevant powers of the CBK in relation thereto.

Article 120

Use of the Deposit Insurance Fund of Kosovo in the context of resolution

1. If the CBK takes any resolution actions, provided that such actions ensure that depositors continue to have access to their deposits, the Deposit Insurance Fund of Kosovo shall be liable for:

1.1. when the bail-in tool is applied, and if insured deposits had been included within the scope of bail-in and been written down to the same extent as creditors with the same level of priority under normal insolvency proceedings the amount by which

insured deposits would have been written down in order to absorb the losses in the bank. The Deposit Insurance Fund of Kosovo shall not be, however, required to make any contribution towards the costs of recapitalising the bank or bridge institution.

1.2. if resolution tools other than the bail-in tool are applied, and if the insured depositors had suffered losses, the amount of losses that insured depositors would have suffered in proportion to the losses suffered by creditors with the same level of priority under normal insolvency proceedings.

2. The liability of the Deposit Insurance Fund of Kosovo shall not be greater than the amount of losses that it would have had to bear had the bank been wound up under normal insolvency proceedings.

3. If it is determined by a valuation under Article 118 of this law that the Deposit Insurance Fund of Kosovo's contribution to resolution was greater than the net losses it would have incurred had the bank been wound up under normal insolvency proceedings, the Deposit Insurance Fund of Kosovo shall be entitled to the payment of the difference from the National Resolution Fund established under Article 124 of this law.

4. Where deposits at a bank under resolution are transferred to another entity through the sale of business tool or the bridge institution tool, the depositors have no claim against the Deposit Insurance Fund of Kosovo in relation to any part of their deposits at the bank under resolution that are not transferred, provided that the amount of funds transferred is equal to or more than the aggregate coverage level provided for in the Law on Deposit Insurance System for Financial Institutions in Kosovo on the establishment of a deposit insurance system for financial institutions in Kosovo (as amended and superseded).

SUBCHAPTER III RESOLUTION POWERS AND FINANCIAL SUPPORT

Article 121 Resolution powers

1. The CBK shall have the following resolution powers, which may be exercised individually or in any combination:

1.1. to require any person to provide any information required for the CBK to decide upon and prepare a resolution action;

1.2. to take control of a bank under resolution and exercise all the rights and powers conferred upon its shareholders, other owners, the Board of Directors and the Senior Management, including the power to transfer shares or other instruments of ownership issued by such bank, or its assets or liabilities to another entity;

1.3. remove rights to acquire further shares or other instruments of ownership of the bank under resolution;

1.4. cancel or modify the terms of a contract to which the bank under resolution is a party or substitute a recipient as a party;

1.5. to reduce, including to reduce to zero, the nominal amount of shares or other instruments of ownership of a bank under resolution and to cancel such shares or other instruments of ownership;

1.6. to reduce, including to reduce to zero, the principal amount of or outstanding amount due in respect of eligible liabilities, of a bank under resolution; cancel debt instruments issued by it (except for those secured liabilities which may be established by the CBK in the relevant Regulation) and to convert its eligible liabilities into ordinary shares or other instruments of ownership of such bank or a bridge institution;

1.7. to amend or alter the maturity of debt instruments and other eligible liabilities issued by a bank under resolution or amend the amount of interest payable thereunder, or the date on which the interest becomes payable, except for those secured liabilities which may be established by the CBK in the relevant Regulation;

1.8. to require a bank under resolution to issue new shares or other instruments of ownership or other capital instruments, including preference shares and contingent convertible instruments;

1.9. to close out and terminate financial contracts or derivatives contracts, including eligible financial contracts;

1.10. to remove or replace the Board of Directors and Senior Management of a bank under resolution;

1.11. to provide for continuity arrangements necessary to ensure that the resolution action is effective and, where relevant, the business transferred may be operated by the recipient;

1.12. to require a bank under resolution, or any affiliate of its banking group, to provide any services or facilities that are necessary to enable a recipient to operate effectively the business transferred to it.

2. The CBK shall be empowered to suspend any payment or delivery obligations pursuant to any contract to which a bank under resolution is a party from the publication of a notice of the suspension in accordance with Article 107 of this law until midnight at the end of the business day following that publication.

3. When a payment or delivery obligation would have been due during the suspension period, the payment or delivery obligation shall be due immediately upon expiry of the suspension period.

4. In case of suspension of such payment or delivery obligations, such obligations for the relevant counterparties shall be also suspended for the same period of time.

5. Suspensions shall not apply to deposits and to payment and delivery obligations owed to central counterparties and the CBK.

6. The CBK during the resolution process may:

6.1. restrict secured creditors of a bank under resolution from enforcing security interests in relation to any assets of that bank under resolution from the publication of a notice of the suspension in accordance with Article 107 of this law until midnight at the end of the business day following that publication. This right shall not be exercised in relation to security interests of central counterparties and the CBK over assets pledged or provided by way of margin or collateral by the bank.

6.2. suspend the rights to terminate, accelerate, close out, sett-off or net obligations, or any other similar rights to suspend, modify or extinguish a contractual obligation, of any party to a contract with bank under resolution from the publication of a notice of the suspension in accordance with Article 107 of this law until midnight at the end of the business day following that publication, provided that the payment and delivery obligations and the provision of collateral continue to be performed. This suspension shall not apply to central counterparties and the CBK.

7. When applying the resolution tools and exercising the resolution powers, the CBK shall not be subject to obtain approval or consent from any person either public or private, including the shareholders or creditors of the bank under resolution, or, prior to the exercise of the power, procedural requirements about notification or publication of notices.

8. If resolution actions involve actions taken in respect of assets located in a third country or shares, other instruments of ownership, rights or liabilities governed by the Law of a third country, the CBK may require the administrator, receiver or other person exercising control of the bank under resolution and the recipient take all necessary steps to ensure that the transfer, write down, conversion or action becomes effective. The CBK shall not proceed with the transfer, write down, conversion or action if it considers unlikely that such actions become effective.

Article 122

Powers in relation to foreign countries

1. The CBK may recognise and enforce foreign-country resolution proceedings relating to a foreign bank or a foreign banking group. Such decision shall give due consideration to the interests of the clients located in Kosovo and the financial stability in the Republic of Kosovo.

2. The CBK shall, at any time, be empowered to exercise the resolution powers in relation to assets of the foreign banks located in Kosovo, and rights and liabilities governed by the laws of Kosovo. The CBK may also act in relation to branches located in Kosovo.

3. The CBK may conclude non-binding cooperation arrangements with the relevant third-country authorities, concerning exchange of information for the preparation, maintenance or development of resolution plans, the application of resolution tools and exercise of resolution powers.

4. CBK is authorised to define further powers in relation to foreign countries by regulation to achieve the objectives of Article 100 of this Law.

Article 123

Government financial stabilisation tools

1. The Ministry of Finance, or its successor ministry, in close cooperation with the CBK, may resolve to provide extraordinary public financial support through additional financial stabilisation tools for the purpose of participating in the resolution of a bank, with a view to meeting the objectives for resolution.

2. The government financial stabilisation tools shall be used as a last resort after having assessed and exploited the other resolution tools to the maximum extent practicable whilst maintaining financial stability, as determined by the Ministry of Finance after consulting the CBK. In particular, the Ministry of Finance and the CBK will apply the tools only if all the conditions laid down in Article 106 of this law, as well as one of the following conditions are met:

2.1. the Ministry of Finance and the CBK determine that the application of the resolution tools would not suffice to avoid a significant adverse effect on the financial system;

2.2. the Ministry of Finance and the CBK determine that the application of the resolution tools would not suffice to protect the public interest, where extraordinary liquidity assistance from the CBK has previously been given to the bank;

2.3. in respect of the temporary public ownership tool provided in sub-paragraph 3.2 of this Article, the Ministry of Finance, after consulting the CBK, determines that the application of the resolution tools would not suffice to protect the public interest, where public equity support through the equity support tool has previously been given to the bank.

3. The financial stabilisation tools shall consist of the following:

3.1. public equity support tool, by participation in the recapitalisation of a bank by providing capital to the bank in exchange for instruments qualifying as own funds.

3.2. temporary public ownership tool, for the purpose of which the Ministry makes one or more share transfer orders in which the transferee is a wholly-owned public company.

4. Banks under these tools shall be managed on a commercial and professional basis.

5. The public participation shall be transferred to the private sector as soon as commercial and financial circumstances allow.

Article 124 **National Resolution Fund**

1. A National Resolution Fund for the purpose of ensuring the effective application by the CBK of the resolution tools and powers shall be established as set forth in the Regulation that the CBK shall issue for this purpose.

2. The National Resolution Fund shall be used only in accordance with the resolution objectives and only to the extent necessary to ensure the effective application of the resolution tools provided in this Chapter III of this Law.

3. The National Resolution Fund shall have adequate financial resources and will have the power to raise contributions from banks on a mandatory basis.

4. Contribution of each bank shall be pro rata to the amount of its liabilities (excluding own funds) less insured deposits, with respect to the aggregate liabilities (excluding own funds) less insured deposits of all the banks authorised in the Republic of Kosovo. Those contributions shall be adjusted in proportion to the risk profile of the contributing banks.

CHAPTER IV **LIQUIDATION**

SUBCHAPTER I **LIQUIDATION**

Article 125 **Liquidation types**

1. The bank or branch of foreign bank shall be liquidated in accordance with the provisions of this Law in two ways:

1.1. voluntary liquidation;

1.2. liquidation.

Article 126 **Voluntary liquidation**

1. No bank may voluntarily terminate its activities in the Republic of Kosovo without initially obtaining prior approval from the CBK in accordance with this Article.

2. Voluntary liquidation shall take effect where:

- 2.1. the shareholders of the bank or the foreign bank branch decide to place the bank into liquidation process;
 - 2.2. the shareholders of the bank or foreign bank branch, decide to change the activity of the bank or of the foreign bank branch, to discontinue with the exercise of the banking activity.
3. In such cases as foreseen in paragraph 2. of this Article, the bank or foreign bank branch:
- 3.1. shall notify in advance the CBK of such decision;
 - 3.2. along with the decision, the bank shall submit to the CBK the application for consent of the bank's assembly on termination of bank's operations, as well as an unconditional, irrevocable bank guarantee payable on first demand, issued by a bank which has a rating of investment grade: adequate capacity of payment in the amount that guarantees the coverage of all obligations of the bank from paragraph 1. of this Article - in favour of the CBK. The CBK may also request from the bank other documentation needed for consideration of the application from paragraph 1. of this Article.
4. The CBK shall decide on the application from paragraph 1. of this Article by rendering a decision within seven (7) days from the receipt of the duly completed application.
- 4.1. the CBK shall submit the decision to the bank by no later than the next business day following the day of its rendering;
 - 4.2. if the CBK does not give the consent to voluntary liquidation due to the bank's failure to submit documentation in line with this Article, or it fails to comply with this Law or with any instructions issued by the CBK, then the provisions of this Chapter of this Law shall apply for the appointment of liquidator and the CBK shall simultaneously revoke the bank's license;
 - 4.3. the CBK gives the consent to voluntary liquidation if it determines that the bank has enough assets to satisfy its liabilities, the liquidation shall be carried out immediately and all depositors paid within five (5) days by the bank, in compliance with the procedures to be issued by the CBK and under the supervision of the latter.
5. The decision on voluntary liquidation shall be effective as of the day of rendering the decision and it shall be sent to the Deposit Insurance Fund of Kosovo.
6. The decision on voluntary liquidation shall be announced and published by the bank or the foreign bank branch in the Official Journal of the Republic of Kosovo, as well as in two national newspapers.
7. The provisions of the Law on Business Organizations shall apply with respect to the voluntary liquidation to the extent that they do not contradict with this Law.

Article 127

Bases for initiation of liquidation

1. In the event of the revocation of a bank's license pursuant to Article 18 of this law, other than revocation under sub-paragraph 1.1, and paragraph 2. of Article 18 of this Law, the CBK shall simultaneously take possession and control of that bank through a liquidator appointed by the CBK, if so decided by the CBK in the resolution objectives may not be met as provided in Article 104 of this law and without prejudice to the combined application of resolution tools as set out in Article 105 of this Law. This proceeding shall be known as Liquidation.

2. A liquidator may be a person from the private sector or an official of the CBK who meets the qualifications prescribed by the CBK. The CBK may dismiss a liquidator. The terms of the liquidator's compensation shall be set by the CBK and may include incentives for meeting the objectives set by the CBK and may include penalties for failure to meet such objectives.

3. The compensation of the liquidator and experts that he or she engages, reimbursement of their expenses and expenses of the CBK in execution of the present regulation with respect to a bank shall be paid from the assets of the bank. Payments to the liquidator shall be made on a current basis if in the judgement of the liquidator there are sufficient liquid assets. Any money owing to the liquidator at the end of the term of liquidation shall be paid from the proceeds from the sales of the bank's assets with the priority described in Article 135 of this Law.

4. This proceeding shall not be applicable to those situations falling within the scope of Chapter III of this Law, without prejudice to its application to banks, bridge institutions or asset management vehicles incorporated under Article 110 of this Law, remaining after the application and completion of resolutions tools and actions.

Article 128

Notice and registration of liquidation

1. The decision of the CBK appointing a liquidator for a bank shall be effective as of the date of its issuance, unless such decision provides otherwise. The liquidator shall immediately post in each office of the bank a notice announcing the revocation of the license and appointment by the CBK, specifying the effective date and time of possession by the liquidator and specifying that:

1.1. authorizations of persons to engage the financial responsibility of the bank have been cancelled;

1.2. persons who previously had authorization to give instructions on behalf of the bank with respect to payment or transfer of the bank's assets or assets managed by the bank are no longer so authorised; and

1.3. the bank's license has been revoked.

2. The liquidator shall publish a notice specifying the actions taken in one or more newspapers of general circulation in the communities in which the bank maintains offices and arrange for the publication of such notice each week for the next four (4) weeks and shall inform as necessary the competent authorities and shall transmit copies of such actions to the CBK within two (2) days of such action.

Article 129
Powers and duties of liquidator and effects of liquidation

1. Upon appointment the liquidator shall become the sole legal representative of the bank, and shall succeed to all rights and powers of the shareholders and of the Directors or Senior Managers of the bank. Such rights and powers shall include holding title to the books, records, and assets of the bank; managing, operating and representing the bank; marshalling assets and claims; transferring or disposing of assets; and taking any other action necessary for the efficient liquidation of the bank and to obtain the maximum amount from the sale of assets, including without limitation:

- 1.1. continuing or interrupting any operation of the bank;
- 1.2. borrowing money guaranteed with its assets or without guaranty;
- 1.3. suspending or limiting the payment of debts subject to the approval of the CBK as provided below;
- 1.4. hiring specialists, experts or professional consultants;
- 1.5. administering the bank's accounts;
- 1.6. collecting the debts due to the bank and recovering goods owed by the third parties;
- 1.7. initiating or defending the bank in any legal proceeding and executing any relevant instrument in the name of the bank; and
- 1.8. restructuring the bank's liabilities through arrangements with the bank's creditors, including through a reduction, modification, rescheduling and novation of their claims, up to the amount determined by the CBK.

2. The liquidator shall act in accordance with the regulations and guidelines given by the CBK at any time in the course of the liquidation, and shall be accountable only to the CBK for the performance of duties and the exercise of powers as liquidator.

3. A liquidator may not take any new deposits. A liquidator may extend credit only to an existing customer in accordance with the terms of an agreement in force at the time of the appointment of the liquidator.

4. A liquidator may continue any operations except as prevented under paragraph 3. of this Article and may borrow money on a secured or unsecured basis. The liquidator may stop or limit the payment of any obligation, employ or dismiss any officer, employee or advisor, execute any instrument in the name of the bank and initiate or defend and conduct in the bank's name any action or legal proceeding.

5. The liquidator shall have unrestricted access to and control over the offices, books of account and other records, and other assets of the bank and its subsidiaries. At the request of the liquidator, a law enforcement officer or officers shall assist the receiver to gain access to bank premises or control over bank records.

6. The CBK shall approve or deny a merger of the bank with another bank, or sale of substantially all the bank's assets to any one bank, based upon the criteria in Article 60 of this Law.

7. The liquidator shall have the same rights and privileges and be subject to the same duties, penalties, conditions and limitations as apply to Directors, Senior Managers or other employees of a bank licensed under this Law.

8. The powers of the Directors or Senior Managers and shareholders of the bank shall be terminated during liquidation; provided, however, that Directors or Senior Managers may be instructed by the liquidator to exercise specified functions for the bank; and further provided, that such persons shall be subject to dismissal by the liquidator from their positions at the bank and shall thereupon cease to receive compensation from the bank.

9. The liquidator shall secure the property, offices, books, records, and assets of the bank to seek to prevent their dissipation by theft or other improper action, by taking actions including, but not limited to, the following:

9.1. restricting and limiting access to the new keys on external entrances to the bank's offices and on doors to internal offices which contain financial assets or information or equipment which could enable a person to gain unlawful access to financial assets;

9.2. changing or establishing access codes to the bank's computers and granting access only to a limited number of trustworthy employees;

9.3. issuing new photo identification passes for entrance of authorised employees to the bank's premises and controlling the access of others to the bank's premises;

9.4. cancelling authorizations of persons to engage the financial responsibility of the bank and issuing new authorizations, as appropriate and notifying third parties;

9.5. informing correspondent banks, registrars and transfer agents of securities, and external asset managers of the bank's assets that persons who previously had authorization to give instructions on behalf of the bank with respect to dealing in the bank's assets or assets held in trust by the bank are no longer so authorised and that only the liquidator, and persons authorised by the liquidator have such authority; and

9.6. suspending the payment of capital distributions in general and payment of any kind to directors, Senior Managers and principal shareholders; provided, however, that reasonable compensation may be paid to directors and Senior Managers and other staff of the bank for services rendered to the bank at the request of the liquidator.

10. The liquidator shall establish a new balance sheet for the bank, based on his or her determination of liquidation values of the bank's assets with a corresponding reduction in the value of the bank's liabilities in the reverse order of priority in payment of distributions in a liquidation of a bank's assets. Liabilities shall be deemed due and payable and interest shall cease to accrue as of the date of the appointment of the liquidator. Un-matured liabilities shall be discounted to present value at the rate of interest determined by the CBK.

11. Within one (1) month of taking possession of a bank, the liquidator shall make an inventory of the assets and property of the bank and transmit a copy thereof to the CBK, which shall make a copy available for examination by the public.

12. Within thirty (30) days from the date of appointment, the liquidator can repudiate any unfulfilled or partially fulfilled contract, to the extent that the fulfilment of such contract is determined to be burdensome for the bank and the repudiation would promote the orderly administration of the bank's affairs and protects depositors' interest. Any liability arising from the repudiation shall be determined as of the date of repudiation and shall be limited to actual direct damages incurred and shall not include any damage for lost profits or opportunity or non-monetary damages. In case of repudiation of a lease contract of immovable and movable property, the owner shall be given a thirty (30) day's notice.

13. As soon as possible from the date of appointment, the liquidator may make available for withdrawal by depositors or payment to other creditors such amounts as in his or her opinion may appropriately be used for that purpose; provided, that the priority of payment is respected in requirements defined in Article 135 of this Law and all depositors or other creditors who are similarly situated shall be treated in the same manner.

Article 130

Legal effects of bank's possession by a liquidator

1. When a liquidator has taken possession of a bank the following legal effects take place by virtue of law:

1.1. any term, statutory, contractual or otherwise, on the expiration of which a claim or right of the bank would expire or be extinguished, shall be suspended; and:

1.1.1. the calculation of interests and penalties against bank's obligations shall be suspended and no other charge or liability shall accrue on the obligations of the bank;

1.1.2. all legal proceedings against the bank are stayed and the exercise of any right on the bank's assets shall be suspended. No right can be exerted

over assets during the bank's liquidation, except rights given to liquidator, and no creditor may attach, sell or take possession of any assets of the bank as a means of enforcing his claim or initiate or continue any legal proceeding to recover the debt or perfect security interests in the bank's assets.

1.2. any attachment or security interest except one existing six (6) months prior to the effective date of the liquidation shall be vacated, and no attachment or security interest, except one created by the liquidator in the application of this Article shall attach to any of the assets or property of the bank so long as such liquidation continues;

1.3. shareholders' rights shall be extinguished except for the right to receive proceeds, if any, under Article 135 of this Law; and

1.4. the liquidator may sell the assets of the bank or arrange for the assumption of liabilities of the bank on terms he or she considers fair.

2. The procedures for determinations of the validity of claims and for liquidation of bank assets and return of bank customers' property shall be prescribed by the CBK; provided, however, that the sale of bank assets shall be accomplished in a transparent and reasonable manner.

3. Any assets of the bank that have not been sold at the end of the term of the liquidation may be abandoned by the liquidator or given to a charitable institution that promotes public health or education. Creditors of the bank shall have no claim against any such assets.

Article 131

Duty to notify and report

1. If the liquidator has reasonable cause to believe that shareholders, directors, officers, attorneys, accountants or other professionals have engaged or are engaging in criminal or fraudulent activities, he or she shall pursue civil actions seeking damages and restitution.

2. The liquidator shall report each month to the CBK on the progress of the liquidation in such form as may be prescribed by the CBK and provide any other information upon request of the CBK.

Article 132

Liquidator activities that require prior written approval

1. The liquidator shall, upon the prior written approval of the CBK and according to its guidelines, pursue the following activities:

1.1. dispose of a bank's assets and liabilities through a purchase and assumption transaction; or

1.2. organise a restructuring of the bank's assets and liabilities or continue viable or necessary operations through a bridge bank.

2. If the liabilities of the bank transferred to another bank immediately after revoking the license of bank in accordance with the provisions of paragraph 1. of this Article, that also includes transfer of insured deposits, and only if the value of payment is less than the amount of transferred insured deposits, then the difference up to the amount of the insured deposits transferred to another bank shall be paid by the Deposit Insurance Fund of Kosovo in accordance with the relevant Law governing the deposit insurance system, provided that the costs for supporting the transfer do not exceed the net amount of the compensation for covered depositors if the failed bank has been liquidated according to the regular liquidation procedures.

Article 133

Avoidance and setting aside pre-liquidation transfers

1. The liquidator may set aside a transaction based on a forged or fraudulent document that the bank has executed to the detriment of creditors within five (5) years prior to the effective date of the liquidation.

2. The liquidator may bring an action in court to set aside the following transactions affecting the assets of the bank or to recover from third parties the transfers by the bank:

2.1. gratuitous or symbolic transfers to, or to persons related to, Directors or Senior Managers and principal shareholders of or holders of significant interests in the bank made within five (5) years prior to the effective date of the liquidation;

2.2. gratuitous or symbolic transfers to third parties made within three (3) years prior to the effective date of the liquidation;

2.3. transactions in which the consideration given by the bank considerably exceeded the received consideration, made within three (3) years prior to the effective date of the liquidation;

2.4. any act done with the intention of all parties involved to withhold assets from bank creditors, or otherwise impair their rights, within five (5) years prior to the effective date of the liquidation; and

2.5. transfers of property of the bank to, or for the benefit of, a creditor on account of a debt incurred within six (6) months prior to the effective date of the liquidation which has the effect of increasing the amount that the creditor would receive in a liquidation of the bank; provided, however, that payment of deposits under the insured amount as determined from Deposit Insurance Fund of Kosovo per depositor shall not be subject to this provision.

3. Transactions with persons related to the bank conducted within one (1) year prior to the effective date of the liquidation, if detrimental to the interest of depositors and other creditors, may be set aside and recovered from such persons.

4. An action to set aside a transfer may be brought by the liquidator within one (1) year following the effective date of the liquidation.

5. Notwithstanding the foregoing paragraphs, the liquidator may not set aside a payment or transfer by the bank if it was made in the ordinary course of the bank's business, or if it was part of a contemporaneous exchange for reasonably equivalent value, or to the extent that following the transfer the recipient extended a new unsecured credit to the bank which had not been satisfied by the bank as of the effective date of the liquidation.

6. The liquidator may recover property or the value of property transferred by the bank from a transferee of an initial transferee only if the second transferee did not give fair value for the property.

7. The liquidator may order that notice of the filing of a legal action to set aside a transfer be recorded in the cadaster public records for real estate ownership and any other rights in property recorded in public registers and a person taking title to or acquiring any security interest or other interest in such property after the filing of such a notice takes his or her title or interest subject to the rights of the bank to recover the property.

8. A lessor of bank premises or a utility company or other provider of utility services including, without limitation, a company that supplies electricity, natural gas, water or telephone services, may not alter, refuse or discontinue such services to a bank because of its liquidation or because the debtor has failed to pay for services prior to its liquidation; provided, however, that upon request of a lessor of bank premises or a utility company, the bank shall place a security deposit in a commercial bank as a condition to the lessor's or utility company's duty to continue to provide services during the liquidation, and any such deposit shall not be required in an amount greater than the cost of services provided to the bank during the month immediately prior to the effective date of the liquidation.

Article 134

Exemptions from setting aside pre-liquidation transfers

1. Notwithstanding Article 133 of this law, the following transfers shall not subject to setting aside prior to entering into liquidation:

1.1. irrevocable money and securities transfer orders entered by a bank into a payment or securities settlement system recognized as such by the CBK shall be legally enforceable and binding on third parties, even upon a decision revoking the bank's license and appointing a liquidator, but only if the transfer orders become irrevocable before such decision takes effect; or

1.2. where a bank has given irrevocable money or securities transfer orders through a payment or securities settlement system after the decision revoking the bank's license and appointing a liquidator takes effect on the day such decision was taken, the transfer orders shall be legally enforceable and binding on third parties, unless the liquidator proves that the system operator was aware of the decision before the transfer orders became irrevocable.

2. No Law, regulation nor practice on the setting aside of contracts and transactions issued or adopted before the decision revoking the bank's license and appointing a liquidator takes effect shall lead to the unwinding of a netting by a payment or securities settlement system recognized as such by the CBK because of that decision.

3. For the purposes of paragraph 1. and 2. of this Article, a transfer order entered into a payment or securities settlement system becomes irrevocable at the time defined by the regulations of that system.

4. Nothing in this Law and no decision made under this Law shall prevent or prohibit the set off by operation of Law of obligations between a bank being subject to the liquidation proceeding under this Chapter and its counterparties.

5. In determining the rights and obligations between the bank and its contractual counterparties, effect shall be given to the termination provisions of eligible financial contracts between them. The net termination value determined in accordance with an eligible financial contract between them shall be a claim of the bank on the counterparty or shall be admitted after its validation as a claim of the counterparty on the bank. For the purposes of this paragraph, eligible financial contracts are any of the following agreements:

- 5.1. currency or interest rate swap agreement;
- 5.2. a basis swap agreement;
- 5.3. a swap spot, future, forward or other currency exchange agreement;
- 5.4. an agreement providing the collar or floor transaction;
- 5.5. a commodity swap agreement;
- 5.6. an interest rate valid agreement;
- 5.7. a repurchase or reverse repurchase agreement;
- 5.8. a spot, future, forward or other commodity agreement;
- 5.9. an agreement to buy, sell, borrow or lend securities, to clear or settle securities transactions or to act as a depository for securities;
- 5.10. any derivative or option agreement;
- 5.11. any main agreement- master agreement;
- 5.12. a guarantee of the liabilities under a written agreement; and
- 5.13. any agreement of a kind prescribed by regulation of the CBK.

6. Except as provided under paragraph 5. and according to paragraph 7. of this Article, no set off shall be allowed with respect to claims acquired towards the bank after the decision on the revocation of the license and the appointment of a liquidator takes effect or within three (3) months before such decision.

7. Claims towards the bank arising from deposits shall be set-off against any sum due by a bank to a depositor as of the date on which the license is revoked and the liquidator is appointed, as following:

7.1. automatically, if such sum is matured or past due;

7.2. if the depositor elects so, if the sum is not matured or past due.

Article 135 **Priorities in payment of claims**

1. In any liquidation of a bank's assets, claims shall be paid in the order described below:

1.1. secured claims up the amount of their respective collaterals, less any reasonable costs of sale;

1.2. credits extended to the bank by the CBK until the appointment of the liquidator or other obligations of the bank created during the official administration or the liquidation proceedings;

1.3. necessary and reasonable expenses incurred by the liquidator and the CBK, including professional fees, in application of the provisions of the liquidation Articles of this Law;

1.4. claims from Deposits Insurance Fund of Kosovo to the insured depositors;

1.5. credits extended to the bank after the appointment of the liquidator;

1.6. claims of uninsured deposits;

1.7. unsecured Credits extended to the bank prior to the appointment of the liquidator; and

1.8. claims of creditors arising from subordinated debt.

2. If the amount available for payment for any class of claims is insufficient to provide payment in full, such claims shall be reduced in equal proportions.

3. After payment of all claims filed, any remaining allowable claims that were not filed within the time specified by rule for the filing shall not be paid. Any proceeds remaining after all claims of depositors and other creditors have been paid shall be distributed among the shareholders of the bank in accordance with their rights.

4. For the purpose of sub-paragraph 1.4. of this article:

4.1. deposits from natural persons and legal entities which exceeds the coverage level provided for in Law on the Deposit Insurance System for Financial Institutions in Kosovo, shall have the same priority ranking which is higher than the ranking provided for the claims of ordinary unsecured, non-preferred creditors.

4.2. insured deposits and the Deposit Insurance Fund of Kosovo subrogating to the rights and obligations of insured depositors in insolvency shall have the same priority ranking which is higher than the ranking provided for in sub-paragraph 4.1. of this Article.

Article 136

Final reporting to the CBK

Once the proceeds for the sale of assets of a bank have been distributed, the liquidator shall provide a report to the CBK that includes a statement of income and expense and sources and uses of funds during the period of liquidation. Upon approval by the CBK of the report, the CBK liquidation shall be terminated and the CBK and the liquidator shall be relieved of any further responsibility in connection with the liquidation of a bank.

Article 137

Miscellaneous liquidation provisions

1. Professional employees appointed to represent or assist a liquidator or the CBK in connection with a liquidation shall not be paid amounts greater than are payable to employees or agents of banks for similar services, except that the CBK may authorize payment at higher rates, if the CBK determines that paying such higher rates is necessary in order to recruit and retain necessary personnel.

2. The CBK shall have authority to indemnify a liquidator and his or her agents for their actions on such terms as the CBK deems proper.

SUBCHAPTER II

OTHER PROVISIONS

Article 138

Relationship with legal framework

1. All provisions pertaining to the governance and ownership of Joint Stock Company contained in the Law of Business Organizations that do not otherwise conflict with the provisions of this Law, shall apply to banks. This Law shall prevail in any determination of which provisions are to be applied to banks.

2. Issues concerning consumer and client protection that are not regulated by this Law shall be subject to the provisions of legal framework in force that regulates the consumer protection.

3. The provisions of the respective Law on Bankruptcy shall apply with respect to liquidation to the extent that they do not contradict with this Law.

4. The provisions of the respective Law on Auditing shall apply with respect to the auditing to the extent that they do not contradict with this Law.

5. The provisions of the Law on Leasing shall apply with respect to liquidation to the extent that they do not contradict with this Law.

Article 139

Prevention of money laundering

1. No bank shall conceal, convert, or transfer cash or other property, if it knew or ought to have known that such cash or other property is derived from criminal activity, tax avoidance or evasion or aid or abet any person in concealing or disguising the illicit origin of any cash or property.

2. Banks shall comply with the respective Law on The Prevention of Money Laundering and Financing of Terrorism. Central Bank of Kosovo and Finance Intelligence Unit shall keep cooperate relations in accordance with Laws into force.

3. Banks shall guarantee that any third party or banking agents acting on their behalf comply with the laws and regulations in force on money laundering and financing of terrorism.

Article 140

Fees

1. The CBK may charge fees for the processing of a license or permit application, the issuance of a license or permit and for the possession of a license or permit. All such fees shall be non-refundable.

2. The CBK shall charge fees to banks for its supervisory and regulatory services in order to defray its direct and indirect costs incurred in providing such services. Fees shall be assessed against banks in relation to the amount of their assets or based on any extraordinary expenses incurred by the CBK or its agents in relation to its supervisory activities with respect to a particular bank. Banks shall pay fees within ten (10) days of presentation of a statement by the CBK.

3. The CBK shall further regulate the fees referred to in paragraph 1. of this Article with sub-legal act.

Article 141

Credit registry

1. The Central Bank of the Republic of Kosovo established the Credit Registry to collect and provide information to facilitate reduced risks of lending and to improve access to credit while ensuring maximum protection of personal data. Credit reporting shall be mandatory for all financial institutions operating in Kosovo.
2. All Financial Institutions as defined and provided for in a CBK regulation must be members of the Credit Registry located at CBK.
3. All member of the Credit Registry are required to file with the Credit Registry all their information as stipulated by the CBK in terms of the type of information, way and frequency as well as time-limits of reporting.
4. Banks and foreign bank branches shall have the right to request and use the information maintained with the Credit Registry, in the manner determined by the CBK.
5. The protection and use of the information in the Credit Registry shall be done in compliance with the legislation in force on protection and processing of personal data, as well as regulatory instruments issued by the CBK.
6. Banks or foreign bank branches shall exchange information with respect to the credits they extend to their customers pursuant to an agreement amongst them, and in compliance with the provisions of this Law and other applicable laws.
7. The CBK, may oblige other subjects supervised by it, to report for the purposes of requirements related to the Credit Registry, in accordance with the provisions of this Article.

Article 142

Banking secrecy

1. Banking secrecy means a bank's obligation to protect the confidentiality of all information, facts and circumstances of which it becomes aware in the course of providing services to clients or in the course of business with individual clients. Banks shall be bound by the obligation of banking secrecy.
2. For the purposes of this Law, a bank's clients shall be all persons who requested or received banking and/or financial services from the bank.
3. Members of the bank's bodies, its shareholders or employees and other persons who, due to the nature of their business with or for the bank have access to confidential information, shall be bound by the obligation of banking secrecy. They may not divulge confidential information to third parties, use it against the interests of the bank or its clients, or enable third parties to make use of it.

4. The persons referred to in paragraph 3. of this Article shall be bound by the obligation of banking secrecy even after the termination of their employment with the bank or after the termination of their status of shareholders or membership in the bank's bodies, as well as after the termination of their contract on the performance of activities for the bank.

5. The bank's obligation of banking secrecy shall not include the following cases:

5.1. where the client explicitly agrees in writing that certain confidential information may be disclosed;

5.2. where this enables the bank to realise its interest when exercising the sale of client's receivables;

5.3. where confidential information is disclosed to the CBK or another supervisory authority for the purposes of supervision or oversight within their competence;

5.4. where confidential information is exchanged within a group of bank for the purpose of risk management;

5.5. where confidential information is disclosed to a legal person established pursuant to a special Law to collect and disseminate information on the creditworthiness of legal and natural persons;

5.6. where confidential information on clients who defaulted on their obligations is disclosed to a legal person who collects and disseminates such information among credit and/or financial institutions;

5.7. where the disclosure of confidential information is essential for collecting and establishing facts in criminal or preliminary proceedings, when requested or ordered in writing by the competent court or prosecution authorities;

5.8. where the disclosure of confidential information is necessary to carry out foreclosure or bankruptcy proceedings over the property of a client, legacy proceedings or other property-rights proceedings, and such disclosure is requested or ordered in writing by the competent court or public notary in the course of performing the functions entrusted to them pursuant to the Law;

5.9. where the interests or obligations of a bank or its client require the disclosure of confidential information to establish the legal relationship between the bank and the client in court proceedings, arbitration proceedings or conciliation proceedings;

5.10. where confidential information is disclosed to the Financial Intelligence Unit pursuant to the respective Law governing the prevention of money laundering and terrorist financing;

5.11. where confidential information is disclosed to the Agency for Prevention of Corruption pursuant to the Law governing declaration, origin and control of assets and gifts;

5.12. where confidential information is required by the tax authorities in procedures carried out within the framework of their competence under Law, and is disclosed at their written request;

5.13. where confidential information is disclosed to the institution responsible for deposit insurance pursuant to the respective Law governing deposit insurance;

5.14. where the account balance reflects inability to effect payments and the certificate is requested to substantiate the existence of grounds for bankruptcy;

5.15. disclosure of information to insurance undertakings within the procedure of insuring the bank's receivables;

5.16. disclosure of information in the course of concluding legal arrangements which have the effect of insuring the bank's receivables, such as derivative credit instruments, bank guarantees and similar arrangements;

5.17. disclosure of information, subject to written consent of the bank's management board, to a holder of a qualifying holding in the bank, to a person intending to acquire a qualifying holding in the bank, to a person to whom the bank is merged by acquisition or with whom the bank merges by formation of a new bank, to a legal person intending to take over the bank as well as to auditors, legal and other experts authorised by a holder of a qualifying holding or a potential holder;

5.18. disclosure of information necessary for the exercise of the bank's activities which are subject to outsourcing, where information is disclosed to the providers of outsourced activities;

5.19. where a bank which provides services of storing and administering financial instruments for the account of clients, including custody services, discloses information on the holder of securities to a credit institution which is the issuer of these non-material securities at its request;

5.20. where confidential information is disclosed to social welfare centres at their written request, within the framework of their competence under Law and for the purpose of taking measures to protect the rights of children (persons under 18) and persons under guardianship;

5.21. where requested in writing by the State Advocacy of the Republic of Kosovo for court proceedings being conducted;

5.22. where confidential information is disclosed to a co-debtor, pledgor, guarantor or another participant in the credit relationship, and only information on that credit relationship;

5.23. where confidential information is disclosed at written request to a person who incorrectly paid funds to an account of a credit institution's client, and only information necessary to initiate court proceedings for the repayment of incorrectly paid funds; and

5.24. where so provided in other laws.

6. Disclosure of confidential information shall not be considered to include:

6.1. disclosure of information in collective form, such that personal or business data on a client cannot be identified; and

6.2. disclosure of public information from the unified register of accounts.

7. The credit institution shall ensure that when concluding each individual contract on the provision of banking and/or financial services, the client's explicit agreement in writing referred to in sub-paragraph 5.1. of this Article is given in a separate document.

8. Where confidential information is exchanged on the basis of a written agreement of the client referred to in sub-paragraph 5.1. of this Article or in accordance with sub-paragraph 5.6. of this Article, the credit institution shall ensure that the following conditions are met:

8.1. the information being disclosed is correct, complete and up-to-date;

8.2. the client is provided access to his/her information being disclosed;

8.3. the extent of the information thus exchanged is not larger than necessary for the purpose for which it is being exchanged; and

8.4. the information thus received is kept for a period not longer than necessary for the purpose for which it is being disclosed.

9. The CBK may adopt subordinate legislation to further regulate the conditions referred to in this Article.

Article 143

Use and protection of confidential information

1. The CBK, courts, other supervisory authorities and other persons referred to in this Law, shall use the confidential information they have received under the same Article exclusively for the purpose for which it has been given and may not divulge it to third parties or enable third parties to acquire and make use of such information, except in cases prescribed by Law.

2. The provision of paragraph 1. of this Article shall also apply to all natural persons who work or have worked for the CBK, courts, other supervisory authorities or other persons referred to in this Law in the capacity of employees or other capacities.

Article 144

Cooperation with other authorities

1. The CBK may exchange information on supervisory matters with financial supervisory authorities in Kosovo and in other countries. The exchange of such information may include confidential information, provided that the CBK has satisfied itself that the information will be used for supervisory purposes and will be subject to confidential treatment that is similar to that which the CBK would be required to apply.
2. To facilitate fulfilment of supervisory responsibilities, the CBK may enter into a memorandum of understanding with another financial supervisory authority regarding mutual assistance and cooperation, which may cover any matters agreed to between the CBK and the other financial supervisory authority regarding information-sharing and other forms of cooperation and assistance.
3. The CBK shall cooperate with the European Banking Authority with respect to the supervision of banks, and submit to the aforementioned authority all information necessary for the performance of the latter's tasks in accordance with the memorandum of understanding or other similar agreements.

Article 145

Judicial review

1. The provisions of law on administrative conflict proceedings shall apply against decisions issued by the CBK, unless otherwise specified by this Law.
2. Final orders and decisions of the CBK or its agents, including any CBK-appointed Official Administrator, Special manager or Receiver, under this Law shall be subject to judicial review in a court of Law proceeding in accordance with the Law on Central Bank.
3. The requirements of the respective Law on Central Bank for indemnification of members of the CBK's decision-making bodies or its staff, or an agent of the central bank shall extend to indemnification of costs incurred in the defense of a legal action brought against such persons in connection with the discharge or purported discharge of official tasks within the scope of his employment or engagement under this Law.
4. The lodging of an appeal under paragraph 2. of this Article shall not entail any automatic suspension of the effects of challenged decisions made according to this Law. Decisions of the CBK, as resolution authority, shall be immediately enforceable and it shall give rise to a rebuttable presumption that a suspension of its enforcement would be against the public interest.
5. Where it is necessary to protect the interests of third parties acting in good faith who have acquired shares, other instruments of ownership, assets, rights or liabilities of a bank under resolution by virtue of the use of resolution tools or exercise of resolution powers by the CBK, as resolution authority under Chapter III of this Law, the annulment of a decision of the CBK shall not affect any subsequent administrative acts or transactions concluded by the CBK which were based on the annulled decision. In that case, remedies for a wrongful

decision or action by the CBK shall be limited to compensation for the loss suffered by the applicant as a result of the decision or act.

Article 146
Right to legal remedies

Only the subject of supervision may lodge objections against acts issued by the CBK, under the conditions set out in this Law.

SUBCHAPTER III
TRANSITIONAL AND FINAL PROVISIONS

Article 147
Transitional provisions

1. Banks and foreign bank branches which have license to operate when this Law enters into force have a deadline of twelve (12) months to adapt with the requirements of this Law within entrance into force of this Law.
2. Notwithstanding of paragraph 1. of this Article, the adaptation of foreign bank branches with the requirements of paragraphs 5., 6. and 7. of Article 29 of this Law have adaptation term of three (3) years from the period when this Law enters into force.
3. The bylaws issued by CBK on licensing, regulation and supervision of banks, conditionally that are following this Law, shall be into force until the new bylaws will be adapted by CBK.

Article 148
Licenses and registration in force

Licenses and registrations issued before the entry into force of this Law shall remain in force.

Article 149
Abrogation

On the day of the entry into force of this Law, Chapter I of the Law No. 04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions shall cease to be in force, in regards to the Banks.

Article 150
Entry into force

This Law enters into force fifteen (15) days after its publication in the Official Gazette of Republic of Kosovo.

Law No. 08/L-304
5 December 2024

Promulgated by Decree No. DL-16/2026 dated 20.01.2026 President of the Republic of Kosovo Vjosa Osmani-Sadriu

