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**Report on Permit and License Simplification and Harmonization in the Central Bank of
the Republic of Kosovo¹**

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Abbreviations:

LPLS – Law No. 04/L-202 on Permit and License System

Law No 03/L-209 on the Central Bank of the Republic of Kosovo

Law 04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions

LPF – Law No. 04/L-101 on Pension Funds of Kosovo

LI – Law No. 05/L-045 on Insurance

LPPA – Law No. 05/L-031 on General Administrative Procedure

Introduction

This report, supported by GIZ, aims to reflect the findings and general and specific recommendations for simplifying the procedures for application, review and issuance of permits/licenses in the Central Bank of Kosovo regulating this area or having relevance regarding the protection of public interests, in relation to the Law on the Central Bank of the Republic of Kosovo and specific laws regulating the banking and financial system. Special focus will be given to the part how the legislator has envisaged, through the applicable laws, the procedures for obtaining permits and licenses, how favourable they are for the parties involved, whether there is harmonization among the relevant laws regulating this area, administrative procedure facilitations for obtaining permits and licenses, etc.

In the horizontal dimension, the primary legislation is **Law No. 04/L-202 on Permits and License System (“LPLS”)**. The principles and rules established in this Law aim to improve the environment for doing business by reducing administrative barriers in conducting economic, commercial or professional activities necessary to protect public health, public safety, the environment, and the use of natural resources in the Republic of Kosovo². Another important law aimed at ensuring the effective realization of public authority in the service of public interest while guaranteeing the protection of the legal rights and interests of individuals³ is **Law No. 05/L-031 on General Administrative Procedure (“LGAP”)**.

The Central Bank of the Republic of Kosovo (“CBK”) is responsible for supervising and controlling banks and financial institutions, with its primary objective being to promote and maintain a stable financial system, including a secure, resilient and efficient payment system. The Central Bank, based on Articles 11 and 140 of the Constitution and on the provisions of **Law No. 03/L-209 on the Central Bank of the Republic of Kosovo** (hereinafter the BQK), is a public legal entity with administrative, financial and managerial autonomy. The Law designates the CBK as competent for licensing banks, revoking banking licenses, etc., respectively, according to Article 23, paragraph 1 of the Law on CBK, which specifies its exclusive responsibility for licensing, regulating and supervising financial institutions in the Republic of Kosovo. Meanwhile, the CBK Executive Board⁴ is competent to approve or reject the issuance of licenses or permits to financial institutions, as well as to revoke such licenses and permits.

While the Law on Permit and License System, in Article 3, paragraph 1.3, defines the term “*Licensee - a natural person to whom a professional license has been issued*”, the Law on CBK does not provide a definition for the licensee. However, this Law, among other things, in Article 1, paragraph 1.5, defines “*entities such as banks, foreign exchange offices, insurance*

² Law 04/L-202 on Permit and License System, Article 1.

³ Law No. 05/L-031 on General Administrative Procedure, Article 1

⁴ Law No 03/L-209 on the Central Bank of the Republic of Kosovo, Article 36, para. 1 subpara. 11.

companies, pension funds, and other entities conducting financial activities, as defined in any Law relevant for the purposes of this Law, for which the Central Bank is given supervisory authority by Law”.

Law No. 04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions (hereinafter the Law on Banks), as a specific law, namely Article 3 of this Law defines that *“License is an authorization issued by the CBK granting the right to engage in activities specified by that authorization”*. This law defines financial institutions (banks, non-bank financial institutions and microfinance institutions) as **legal entities**⁵, which until the issuance of the license, are subject to various application procedures starting from pre-application phase, application phase, and post-application phase.

Law No. 05/L-045 on Insurances (“LI”) refers to legal entities that are licensed to engage in insurance activities and insurance undertaking⁶, while natural persons are only mentioned in Article 2 of this Law, which expressly states that *“this Law applies to all legal and natural persons who exercise the insurance, reinsurance*

activities, insurance intermediation...,” as well as Articles 4 and 6 of the Regulation on the Licensing of Insurance Intermediaries, where the criteria for licensing are defined, and Article 4 of the Regulation on the Licensing of Insurance Claims Handlers specifies that *“the natural person”* must meet the criteria as an insurance agent, insurance broker, namely insurance claims handler, listed in the aforementioned regulations.

Law No. 04/L-101 on Pension Funds of Kosovo (“LPF”) which defines Asset Manager *“a Fiduciary who is a legal entity, licensed by the CBK...”*, the Supplementary Pension Fund as *“a legal entity formed by an Employer or group of Employers for their Employees and former Employees and their Beneficiaries in the form of a management trust”*.⁷ Also, the bylaws that regulate the area of pensions provide a definition by which the term *“The license” means a licensed legal entity... ”*⁸

It is worth noting that the Law on Banks uses the terms licensing and registration, and in Article 4, this Law specifies the exclusive responsibility of the CBK for issuing licenses for all Banks and registering all Microfinance Institutions and Non-Bank Financial Institutions for the issuance of licenses for foreign banks regarding the establishment of representative offices. Furthermore, Article 10 of the Law stipulates that *“No foreign bank may establish or operate a representative office in Kosovo without a permit from the CBK”*, and Article 91 explicitly stipulates *“No person shall engage in the business of a Microfinance Institution or a NBFIs without being first registered with the CBK under the provisions of this Law, and without being at all times in full compliance with this Law and with all applicable Regulations and Orders issued by the CBK”*.

⁵ Law 04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions, Article 3.

⁶ Law No. 05/L -045 on Insurance, Article, 1.32, 1.33, 1.34 and 1.35.

⁷ Law No. 04/L-101 on Pension Funds of Kosovo, Article 1.

⁸ Regulation on the Licensing of Pension Fund Asset Managers for the licensing of Employer Supplementary Pension Funds and the Regulation on Licensing of Supplementary INDIVIDUAL Pension Providers.

We will now focus on several principles defined in the Law on Permit and License System and in the Law on General Administrative Procedure, which principles, with the aim of simplifying the procedure for obtaining permits and minimizing formalities, should undoubtedly be an integral part of the Law on CBK or regulations and bylaws issued by the CBK.

Legal aspect

Principle of the determination of permits and licenses by law. Within the Law on CBK, Article 8, paragraph 1, subparagraph 1.2, of the Law defines the duties of the Central Bank in fulfilling the specified objectives, which, among other things, include ***“regulating, licensing, registering and supervising financial institutions ...”***. The issue of licensing, their types and designation is provided for in specific laws and in the Law on Banks, Microfinance Institutions and Non-Bank Financial Institutions, the Law on Pension Funds, and the Law on Insurances.

Therefore, from the treatment of licenses/permits (elaborated in the following section), we observe that the legislative corpus in the banking sector is mainly in harmony with Law No. 04/L-202 on Permit and License System, in legal determination (basic laws), as well as secondary legislation referring to the relevant area.

License time limits. From the analysis of the laws, it is generally observed that the licensing of entities by the Central Bank is issued for a specified period of time, and the licenses are not transferable. The definition that the license/registration of financial institutions is issued for a specified period of time is found in Article 9, paragraph 2, of the Law on Banks, which states that ***“A license shall be granted in writing for an indefinite period of time and shall not be transferable”***. A similar definition is also found in the LI⁹ as in all regulations issued by the Central Bank which specify the criteria, requirements, procedures, and deadlines to be followed for the application and issuance of a license. In the case of licensing financial institutions (banks and insurers), it is worth noting that it is a process that goes through two phases: the phase of preliminary approval of the license, after which the applicant has a period of 12 months from the date of preliminary approval to complete the organization of the new bank, and the second phase is the official final license after it is determined by the Central Bank that the proposed plans have been implemented.

The principle of the right to legal remedies. Article 13 of the Law on General Administrative Procedure defines the right of every person ***“to use the legal administrative and judicial remedies... against any administrative action or omission, which affects his subjective right or legitimate interests.”*** The right to appeal constitutes a fundamental right, guaranteed by both the Constitution and International Law. The Law on Permit and License System, in Article 27, specifies the right to appeal against decisions of the competent authority regarding the rejection, suspension or revocation of permits. However, in the case of the Central Bank of Kosovo (CBK), as an independent constitutional institution and at the same time as the authority that issues permits and licenses, this institution does not have a second level that would be competent to review appeals; consequently, an appeal in this case cannot be determined. Nevertheless, the

⁹ Law No. 05/L -045 on Insurances, Article 6 par.4 - License issued by CBK is limitless and is not transferable.

right to legal remedy for the parties exists and is exercised through the right to file a lawsuit in an administrative dispute against the CBK's decision as the final administrative act.

Although Article 87 of the Law on Banks has determined that all final orders and decisions of CBK are subject to judicial review by a court or arbitration procedure in accordance with the Law on the Central Bank, on the other hand, not specifically, the Law on the Central Bank, the Law on Banks and IMF have provided for the exercise of the right to appeal through specific provisions. However, regarding this matter, it should be clarified that in the Draft Law on Banks, which is expected to be voted by the Assembly of Kosovo, the issue of “Judicial reviews and the “Right to legal remedies” is specifically addressed, and the safeguarding procedure or mechanism referring to the parties involved in the respective process are defined.

Thus, the Draft Law on Banks, in Article 138 (para.1 and para.2) “Judicial review” defines as follows:

“The provisions of the General Administrative Procedure shall apply to administrative conflict proceedings against decisions issued by the CBK, unless otherwise specified by this Law”.

“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 or an arbitration proceeding in accordance with the Law on Central Bank”.

While the subsequent article of the relevant Draft Law (on Banks), in Article 139 (para.1) “Right to legal remedies” specifically defines that *“Only the subject of supervision may lodge objections against acts issued by the CBK, under the conditions set out in this Law”.*

An exception, regarding the issue of the inclusion of the provision providing for the right to appeal against the decision on the rejection of the license application, was made by the Law on the Pension Funds, which law, in Article 15, paragraph 5, defines the right to exercise to the complaint and that ***“If the CBK refuses a license application of a Pension Fund, it shall notify the Board of***

Directors making the application of the grounds for refusal in writing. The refusal to grant the license application of a Pension Fund may be appealed to a competent Court”. Article 19, paragraph 3 also defines the pension fund right to appeal against the suspension or cancellation of the license by the CBK.

Facilitation of the application procedure

Specific conditions and criteria for issuing licenses. Following the licensing process, the CBK has established, through specific laws and subordinate legislation, the conditions and criteria for licensing. These conditions and criteria, as observed during their analysis, may in some cases impose burdens on license applicants, as some of them are easily verifiable even after the evaluation phase of the licensing application, respectively, by seeking verification of certain documents possessed by other public institutions. However, such requirements may be justified due to the sensitivity of the respective demands and the security-stability of the financial sector.

The conditions and criteria for the licensing of Banks and MFIs¹⁰ are defined in Article 8, paragraphs 3 and 4 of the Law on Banks, while the registration criteria for NBFIs are determined in the Regulation on the Registration of Non-Bank Financial Institutions, respectively, in Article 6, paragraph 7.

In licensing legal entities according to the Law on Pension Funds, in addition to the requirements set forth in this law for licensing applicants as Pension Fund (Article 15 of LPF), Pension Providers (Article 22 of LPF) and Asset Managers (Article 10 of LPF), these entities must meet several of the key conditions and criteria specified in the Regulations¹¹ issued by the CBK, including but not limited to: a) be registered as a legal entity in accordance with the Law on Business Organizations; b) be in good financial standing as demonstrated by audited financial statements and have no outstanding tax liabilities; c) the founders, directors and managers of the proposed company must not have been convicted of any criminal offense and must meet the appropriate and necessary requirements of the CBK.

In addition to being specified in Article 10 of the Law on Insurances, the requirements for licensing, and the documentation to be submitted for licensing, are also provided for in the CBK regulations, namely in the Regulation on Licensing of Insurance Intermediaries¹², the Regulation on Licensing of Foreign Insurers and Reinsurers¹³, and the Regulation on the Licensing of Claims handlers in Insurance.¹⁴

Conducting the electronic screening procedure. The Law on Permit and License System, in Article 14, paragraph 2 of this Law, stipulates that ***“Each competent authority shall make it possible for a person to submit an application for a permission electronically”***. This issue, based on the analysis of the basic legislation as well as bylaws, is not regulated by any provision that specifies the right of interested parties for licensing, allowing them to submit applications for any of the licenses issued by the CBK “solely” through electronic means, as provided for in the LPLS. The CBK, through issued regulations regarding the licensing of natural and legal persons, guides parties that the applications and instructions for their completion can be found on the official website of the CBK, which must be completed, signed, and finally submitted **in person** along with the complete documentation required by legal provisions and relevant regulations. In our consideration, due to the specifics of this field, it is understandable that not all application material for permits/licenses is only in electronic form, due to some control mechanisms that need to be applied during this process.

¹⁰ See “Conditions for approval of registration”, Regulation for MFI registration, Article 6, paragraph 7, subparagraph 7.1

¹¹ Regulation on Licensing of Supplementary Employer Pension Funds, Article 5; Regulation on Licensing of Individual Supplementary Pension Providers, Article 5; Regulation on Licensing of Asset Managers for Pension Fund Assets, Article 6.

¹² Regulation on Licensing of Insurance Intermediaries, Articles 4, 5, 6, 7 and 8.

¹³ Regulation on Licensing of Insurers and Branches of External Insurers, Article 3 para. 5.

¹⁴ Regulation on Licensing of Insurance Claims Handlers, Article 4 and 5.

It is understandable that the creation of the possibility of electronic application would not only be in line with LPLS but this form could also be considered a facilitation in application procedures, without the need to amend the basis of any relevant law, as LPLS, in Article 17.2, states that ***“The criteria, requirements, rules and procedures related to the issuance, administration and revocation, if applicable, of a permission shall be defined by the law or sub-legal act”.***

Facilitation of application process

Payment of multiple fees. The Law on Permit and License System, specifically Article 18 of this Law, stipulates that the fee should not exceed the amount necessary to cover the expenses incurred by the competent authority to administer the permit. The issue of fee payment in the Law on General Administrative Procedure is regulated in such a way that it specifies that the administrative procedure is free of charge (Article 12, paragraph 1), and according to this, the fee can only be imposed in cases where it is otherwise specified by law, which ***“...shall not be higher than the necessary average cost for carrying out that type of administrative proceeding”*** (paragraph 2).

Article 70 of the Law on CBK stipulates that ***“The Central Bank may charge reasonable fees and charges for the services it provides and the tasks it carries out”***. Fee payment is also found in specific laws and bylaws of the CBK, which specify the types of fees to be paid for licensing procedures and the amount of the fee for legal entities/natural persons in the application procedure for obtaining a license to operate in the local market. The Law on Banks, MFI and NBFI stipulates that ***“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”***¹⁵. Article 130 of the Law on Insurances, in paragraph 1 defines the fees that the entities must pay, namely: licensing fee, approval or authorization and, in paragraph 2, stipulates that ***“Besides the fee specified in paragraph 1 of this Article,..., CBK also pay supervision fees”***.

The principle of applying administrative assistance. With the aim of facilitating the verification process of documents in the case of applying for permits and licenses, it is necessary for the public body where the licensing application is submitted to apply the principle of administrative assistance from other public bodies. Article 34 of the Law on General Administrative Procedure has defined the right of a public body to request administrative assistance from another public body, including, as specified in paragraph 2.3, ***“when knowledge of facts, documents or other evidence in the possession of the other organ is required.”*** In licensing and registration application procedures, it is observed that the CBK burdens applicants with the entire document verification process, by imposing on the applicant, with administrative procedures, the securing of documents from other public bodies. For the verification of some data, the CBK may apply the provisions of the LGAP in order to facilitate the procedure for the applicant party and to ensure only the necessary documentation is provided.

Consideration of conducting the procedure ex officio. This principle is provided for in Article 86 of LGAP, which stipulates that unless otherwise provided by law, the public body, according to official duty, may only request from the party the necessary information for identification,

¹⁵ Law on Banks, MFI and NBFI, Article 86 para.1.

while the procedure for administering all documents, acts, etc., is carried out by the public body conducting the administrative procedure (paragraph 3). This principle can also be understood in relation to the principle of administrative assistance, in which cases the public body, during the development of the procedure, exploits the rights derived from the law, to secure some acts, documents from other public bodies, which verify the applicant's claim for licensing, who holds documents of registration of his activities in public bodies determined by legal provisions. In this case, the public body conducting the procedure ex officio may address a request to other public bodies to verify facts or circumstances, with the aim of resolving the issue. In the case of the CBK, as emphasized above, based on how this issue is regulated by legal provisions and bylaws, it appears that, in response to the request for the completion of documentation with all relevant documents during the application procedure must be responded by the applicants must for obtaining permits or licenses even though in some cases the same could only provide necessary information, while for the provision of acts of other institutions is considered that only the CBK itself could do so ex officio (such as Court Decisions on the criminal background, TAK and Pension Trust records, etc.).

Specific conditions and criteria for issuing licenses. All conditions and criteria for issuing licenses are based on legal provisions and regulations issued by the CBK. Due to the specific nature of these licenses, the criteria that interested parties must meet are specific criteria specified in law or bylaws. Considering this fact, it is recommended to reduce the documentation only in cases where for any of the criteria specified according to legal provisions or bylaws, Article 34, paragraph 2.3, and Article 86, paragraph 3 of the Law on General Administrative Procedure (Principle of application of administrative assistance and Consideration of the conduct of the procedure ex officio) can be applied.

TABLES/ANNEXES

1. License for Banks

Key findings

Legal basis for issuing the permit/license:

The bank is a joint-stock company engaged in banking activities, including a subsidiary or branch of a foreign bank, the activities of which are defined in Article 44 of the Law on Banks.

The legal basis for licensing is the Law on Banks and bylaws issued by the CBK. The procedure, conditions and decision regarding the licensing of banks are provided for from Article 7 to Article 14 of the Law on Banks. Specifically, the conditions for licensing a bank are stipulated in Article 8, paragraph 3 of this Law, and for the preliminary approval of the license concerning a subsidiary or branch of a foreign bank, in addition to the conditions from paragraph 3, the conditions from paragraph 4 must also be met.

The licensing procedure for a Bank, according to the provisions of the Law on Banks, goes through three main phases: pre-application phase, application phase, and post-application phase, where each phase requires the fulfillment of certain conditions until the end of the procedure for obtaining the registration decision. The decision on the approval or refusal of bank licensing is determined in Article 8, paragraph 1, according to which *“Within three (3) months from the date of its receipt of a complete application for a license, the CBK shall preliminarily approve or deny it, and notify the applicant of its decision in writing”*.

The eventual preliminary approval of the application implies that the bank should fulfill all conditions stipulated by the CBK within 1 year, as per Article 8, paragraph 5 of the law. If those conditions are met, the CBK issues the license, and the bank becomes a member of the Deposit Insurance Fund of Kosovo.¹⁶ If within the 1-year period, the bank fails to meet the prescribed conditions for commencing operations, the CBK revokes the preliminary approval of the license application.

The activity for which the permit/license is issued:

After licensing, banks are allowed to engage in financial activities defined in Article 44 of the Law on Banks, including: receiving deposits, buying and selling on its own account, securities, offering payment and settlement services, issuing and administering payment instruments, and other activities specified in this legal provision.

Validity period of the permit/license:

Based on Article 9, paragraph 2, the bank license is issued in writing for an unspecified period and is non-transferable.

Payment for obtaining the permit/license:

¹⁶ Law on Banks, Article 9 paragraph 1.

The banking licensing fee is 10,000.00 Euro and is non-refundable, regardless of the CBK decision. If the licensing/registration fee is not paid, applications are considered incomplete and therefore not reviewed.

Documents required for application

- Application form; [Original]
- Constituent documents of the proposed bank, including a notarized copy or original documentation establishing it, as well as the proposed address of the central office; [Original]
- Name, nationality, residence, qualifications, and experience of the proposed bank's Director or Senior Manager or of the foreign bank, including business and professional history for the last ten (10) years [Copy]
- Amount of authorized and owned capital of the proposed bank or of the foreign bank, including amounts paid and lawful capital source; [Original]
- The business plan including, inter alia, the organizational structure of the proposed bank or foreign bank, the anticipated type of banking activity, the financial statements anticipated for three years and, if any, the audited financial statements and annual reports for two (2) last years; [Original]
- A list of shareholders holding or will hold five percent (5%) or more of the shares of the proposed bank or foreign bank and the beneficial owners of such shares, stating their names, address and respective stock [Original]
- For each director, principal shareholders and senior managers of the proposed bank or foreign bank, official evidence from the Court disclosing any conviction from the criminal court for criminal offenses, personal bankruptcy files, disqualification from the exercise of the profession or past or already in the management function of any corporation or other entrepreneurial body that has been subject to insolvency proceedings, if any; [Original]
- In any case where the applicant is a foreign bank proposing the establishment of a subsidiary bank or a branch in Kosovo, a statement from the supervisory authority of the home country should be provided that there is no objection to the initiation of the proposed activities in Kosovo and it exercises consolidated supervision of the activity of the foreign bank; [Original]
- Evidence of fee payment for licensing; Documents required in the application form and other additional information that may be considered appropriate by the CBK. [Original]

2. Registration of micro-finance institutions

Key findings

Legal basis for issuing the permit/license:

A Microfinance Institution (MFI), according to the Law on Banks, is a legal entity organized as a joint stock company according to the Law on Business Organizations, primary activity of which

is issuing loans and the provision of a limited number of financial services for micro and small legal entities, low-income households and low-income persons.

Pursuant to Article 92 of Law No. 03/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions, the provisions set out in Part II, Articles 7-14 of this Law also apply to the registration of microfinance institutions. More specifically, in Article 8, paragraphs 3 and 4 of this Law, the registration criteria for microfinance institutions are outlined, and fulfilling these conditions implies that the CBK will approve the registration of the MFI.

The registration procedure of an MFI goes through three phases: pre-application phase, application phase, and post-application phase, where each of them requires the fulfillment of certain conditions until the end of the procedure for obtaining the registration decision. The decision on approval or rejection of MFI registration is defined in Article 92, paragraph 4, according to which Article ***“No later than ninety (90) days after the applicant has been notified by the CBK that the application for registration is complete, the CBK shall issue a decision approving or denying the registration”***. This deadline, however, according to the agreement between CBK and the applicant, can be extended for 90 days.

The eventual approval of the application implies that the MFI is registered for an unspecified period, and after registration, it is required that within a period of 6 months from the notification date of the registration, the MFI commences its operations. Upon registration with the CBK, MFIs engage in all activities allowed under Article 93 of Law No. 03/L-093. If within six months, as emphasized earlier, the MFI fails to commence its operations, the registration becomes invalid¹⁷.

The activity for which the permit/license is issued:

The primary activity of MFIs is providing loans and offering a limited number of financial services to micro and small legal entities, low income households and low income individuals, as defined in Article 93 of the Law on Banks. This article, in paragraph 3.7, reserves the right of the CBK to, through a written decision and justification, ***“...prohibit or restrict any Registered Microfinance Institution from engaging in any of the permitted activities set out in this Article of this Law”***. The CBK decision to prohibit and restrict the permitted activities of MFIs should also be accompanied by an additional provision or paragraph, which would enable parties to submit their objections or appeals against the prohibition and restriction of the exercise of activities stipulated by the provisions of this law.

Validity period of the permit/license:

The registration of the microfinance institution, based on Article 92, paragraph 5 of the Law on Banks, MFI and NFBI, is approved for an indefinite period of time and is non-transferable.

Payment for obtaining the permit/license:

¹⁷ Law No. 03/L-093, Article 92 para. 5.

The MFI registration fee is five thousand (5,000.00) Euro and is non-refundable, regardless of the CBK decision. If the licensing/registration fee is not paid, applications are considered incomplete and therefore not reviewed.

Documents required for application

- Application form; [Original]
- The composing documents of the proposed IMF, including notarized copies of the original documentation under which it was established, as well as the proposed address of the main office; [Original]
- Name, nationality, residence, qualifications, experience and business and professional history of all directors, main shareholder and senior manager of the proposed IMF, including business and professional history for the past ten (10) years; [Original]
- The amount of authorized and committed capital of the proposed MFI, including the amounts paid and the legal origin of the capital; [Original]
- The business plan including, inter alia, the organizational structure of the proposed MFI, the anticipated type of activity, the financial statements anticipated for three years and, if any, the audited financial statements and annual reports for two (2) last years; [Original]
- A list of shareholders holding or will hold five percent (5%) or more of the shares of the proposed MFI and the beneficial owners of such shares, stating their names, address and respective stock holding; [Copy]
- For each director, principal shareholders and senior managers of the proposed MFI, official evidence from the Court disclosing any conviction from the criminal court for criminal offenses, personal bankruptcy files, disqualification from the exercise of the profession or past or already in the management function of any corporation or other entrepreneurial body that has been subject to insolvency proceedings, if any; [Original]
- In any case where the applicant is a financial institution proposing the establishment of a subsidiary MFI in Kosovo, a statement from the supervisory authority of the home country should be provided that there is no objection to the initiation of the proposed activities in Kosovo and it exercises consolidated supervision of the activity of the foreign MFI; if applicable; [Original]
- Evidence of fee payment for registration; [Original]

3. Registration of non-bank financial institutions

Key findings

Legal basis for issuing the permit/license:

A Non-Bank Financial Institution (NBFI) is a legal entity that is neither a bank nor a microfinance institution, registered by the CBK under the Law on Banks, MFI and NBFI, to engage in one or more of the following activities: lending, entering into loan and financial leasing contracts, signing, trading, brokering, or distributing securities, acting as an investment company or investment advisor, or providing other financial services such as currency exchange;

credit cards; factoring or guarantees, or other financial, educational, advisory, and operational services, as well as other activities as determined by the CBK.

Pursuant to Article 92 of Law No. 03/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions, it is defined that the provisions set out in Part II, Articles 7-14 of this Law also apply to the registration of non-bank financial institutions. Also, the criteria for registration of Non-Bank Financial Institutions (NBFI) are defined in Article 7, paragraph 1 of the Regulation on the Registration, Supervision and Activities of Non-Bank Financial Institutions, the fulfillment of which results in approval for registration by the CBK.

The registration procedure of an NBFI goes through three phases: pre-application phase, application phase, and post-application phase, where each of them requires the fulfillment of certain conditions until the end of the procedure for obtaining the registration decision. The decision on approval or rejection of NBFI registration is defined in Article 92, paragraph 4, according to which Article ***“No later than ninety (90) days after the applicant has been notified by the CBK that the application for registration is complete, the CBK shall issue a decision approving or denying the registration”***. This deadline, however, according to the agreement between CBK and the applicant, can be extended for 90 days.

The eventual approval of the application implies that the NBFI is registered for an unspecified period and after registration, it is required that within a period of 6 months from the notification date of the registration, the NBFI commences its operations. Upon registration with the CBK, NBFIs engage in all activities allowed under Article 94 of Law No. 03/L-093. If within six months, as emphasized earlier, the NBFI fails to commence its operations, the registration becomes invalid¹⁸.

The activity for which the permit/license is issued:

Article 96 of the Law on Banks stipulates that ***“The activities of a Microfinance Institution and NBFI are governed and managed by and under the direction of its executive bodies in conformity with this Law and the institution’s legal status”***.

The permissible financial activities for NBFIs are specified in Article 94 of Law No. 03/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions¹⁹. These activities include lending, entering into loan and lease agreements, trading securities, acting as an investment company or investment advisor, or providing other financial services such as currency exchange, credit cards, factoring, guarantees, or other financial, informational, advisory and operational services (paragraph 1) as well as in other activities defined in paragraph 2 of article 94. Unlike other institutions, NBFIs engage only in those activities for which they have approval from the CBK²⁰. Over time, NBFIs may seek approval from the CBK for additional activities.

¹⁸ Law No. 03/L-093, Article 92 para. 5.

¹⁹ See also “Regulations on the Registration of Non-Bank Financial Institutions”, Article 3.

²⁰ Regulations on the Registration of Non-Bank Financial Institutions”, Article 10.

Art 94, in paragraph 5, provides for the right of the CBK to, through a written decision and justification in writing, ***“...prohibit or restrict any Registered Microfinance Institution from engaging in any of the permitted activities set Bank Financial Institutions this Article Law”***. The CBK decision to prohibit and restrict the permitted activities of MFIs should also be accompanied by an additional provision or paragraph, which would enable parties to submit their objections or appeals against the prohibition and restriction of the exercise of activities stipulated by the provisions of this law.

Validity period of the permit/license:

The registration Non-Bank Financial Institution, based on Article 92, paragraph 5 of the Law on Banks, MFI and NFBI, is approved for an indefinite period of time and is non-transferable.

Payment for obtaining the permit/license:

The registration fee for NBFI is five thousand (5,000.00) Euro, with exceptions being cases when application is made for registration as a Non-Bank Financial Institution with only currency exchange activity, which is two thousand five hundred (2,500.00) Euro. The payment is non-refundable, regardless of the CBK's decision. If the licensing/registration fee is not paid, applications are considered incomplete and therefore not reviewed.

Documents required for application

- Application form; [Original]
- Business Registration Certificate; [Copy]
- Business plan including banking activity and the planned statements for three years [Original]
- Copy of the Institution's policies and procedures; [Original]
- The list of fees for the provision of planned services; [Original]
- Documentation for the use of the information technology operating system; [Original]
- Statement from the external supervisor approving the establishment of the Institution in Kosovo, if the institution is supervised outside Kosovo [Original]
- Information on committed and authorized capital;

4. Pension Fund Manager License - License for Pension Fund Asset Manager

Key findings

Legal basis for issuing the permit/license:

According to the definition from Article 1, of Law No. 04/L-101 on Pension Funds, an Asset Manager means ***“a Fiduciary who is a legal entity, licensed by the CBK, or other capital markets regulator in Kosovo (or its successor), or by a capital markets regulator of member states of the OECD, and invests and manages the assets of, or provides investment advice to,***

the Kosovo Pensions Savings Trust, a Supplementary Employer Pensions Fund or for an Supplementary Individual Pension on the basis of an asset management agreement”.

The legal basis for licensing of asset managers is Article 10 of the Law on Pension Funds and the CBK Regulation on the Licensing of Pension Fund Asset . Article 6 of the Regulation on the Licensing of Pension Fund Asset Managers defines the criteria for licensing, while according to Article 9, paragraph 2 of this Regulation, ***“Within 90 days from the date of receipt of the license application, the CBK shall issue a***

decision approving or rejecting the application for asset manager licensing”.

This license is granted for an indefinite period and is non-transferable, and if within (12) months from the date of licensing, the asset manager does not start the activity, the license will be revoked.

The activity for which the permit/license is issued:

While Article 2 of LPF defines that the “Assets Manager” is a licensed legal entity that ***“...provides investment advice to, the Kosovo Pensions Savings Trust, a Supplementary Employer Pensions Fund or for an Supplementary Individual Pension on the basis of an asset management agreement”***, the activity for which the license is issued is regulated under Article 8 of LPF and the Regulation on the Licensing of Pension Fund Asset Managers. Article 2 of this Regulation defines that the term “Asset Management shall mean the management, investment, reinvestment, structuring, restructuring, acquisition, sale, transfer or other relocation of pension assets and the interpretation of advice in relation thereto”.

Validity period of the permit/license:

The license is issued in writing for an indefinite period of time and is non-transferable.

Payment for obtaining the permit/license:

The license application fee is ten thousand (10,000.00) Euro and this application fee is not reimbursed even in case of rejection of the license application by the CBK.

Documents required for application

- Application form; [Original]
- Business Registration Certificate and the Charter; [Original]
- Complete biographies of the founders, as well as financial statements if applicable; [Copy]
- The list of members proposed for the board of directors and managers, their full biographies, including evidence to attest relevant qualification and experience; [Original]
- Organizational chart; [Original]
- Business plan; [Original]

- A document certifying that the proposed Asset Manager has the appropriate infrastructure and environment to exercise its activity as an Asset Manager of the Pension Funds, including the installation of a computerized data reporting system at CBK; [Original]
- The list of banks and their addresses by which the applicant has the banking arrangements and a brief description of such arrangements [Original]
- Evidence of payment of the fee for license application; [Original]
- Evidence proving the payment of the minimum capital required under this Regulation; [Original]

5. Licensing and regulation of Supplementary Employer Pension Funds

Key findings

Legal basis for issuing the permit/license:

The Supplementary Employer Pension Funds is a voluntary fund where employers can provide their employees with supplementary pensions, the funds of which cannot be withdrawn until retirement age.

The legal basis for licensing and regulating supplementary pension funds of the employer is the Law on Pension Funds, Article 15 of this Law, which stipulates that, except in cases when the pension is paid by a licensed fund, the right to payment, advertising, and promises thereof are not held by any unlicensed natural or legal person.

Furthermore, the Central Bank of Kosovo has issued regulations covering the field of licensing and regulation of supplementary funds, such as the Regulation on the Licensing of Supplementary Employer Pension Funds, which specifies the basic criteria for licensing (Article 5) that must be met in the case of a licensing application, including: registration as a legal entity under the Law on Business Organizations, good financial standing without any outstanding tax liabilities, and the founders, directors, and managers not being convicted of any criminal offense, as well as meeting the conditions set by the CBK.

The activity for which the permit/license is issued:

Based on Article 14 of the Law on Pension Funds, Employers can provide supplementary employer pensions through the establishment of Supplementary Employer Pension Funds ("Pension Funds"). According to the law, the license is granted based on the request of the Pension Fund (Article 15, paragraph 2), where after obtaining the license, the fund gains the right to ***"enter into agreements with the custodian and with any asset manager or with the open investment instrument, as well as to start receiving contributions"***.

The activity of the Fund, based on the Law on Pension Funds, focuses on two directions: realization of investments from the employer supplementary pension funds, where the pension fund, according to the decision of the board of directors, selects one or more asset managers or investment vehicles for open investments to manage a portion or all of the assets of the pension fund (Article 16, para. 4) and Safeguarding the funds of the supplementary pensions of the employer, which is carried out when the pension fund, based on the decision of the board of

directors, selects the custodian of the pension assets for the pension assets invested by the asset manager (Article 17, para. 1).

Validity period of the permit/license:

The license is issued in writing for an indefinite period of time , and is non-transferable. If within 12 months from the date of licensing, the Pension Fund does not start the activity, the license will be revoked.

Payment for obtaining the permit/license:

The registration fee depending on the number of participants in the fund: 0 - 200 participants 1,500.00 Euro - 500 participants 2,500.00 Euro - 1000 participants 5,000.00 Euro over 1000 participants 10,000.00 Euro

Documents required for application

- The charter by which the Pension Fund is established; [Original]
- Pension Fund Normative Acts specifying the details of payment of contributions and benefits with the categories of employees concerned; [Original]
- Proposed agreement with the holder; [Original]
- The list of signatories of the founding act along with information indicating whether those persons are related and the type of their relation; [Original]
- Documents of Pension Fund used by participants and beneficiaries; [Original]
- Statements from the members of the board of directors that they agree to perform these functions as fiduciaries and meet the requirements set forth by the Law; [Copy]
- Conclusions of an independent expert confirming the existence of the assessment and certifying that the required contributions are adequate to pay pensions, in the case of the Defined Benefit Pension Fund; [Copy]
- CBK form (application); [Original]
- Business Registration Certificate; [Original]
- Full biographies of founders, members of the board of directors and managers, as well as financial statements, [Original]
- The list of members proposed for the board of directors and managers, their full biographies, including evidence to attest relevant qualification and experience; [Original]
- Charter; [Original]
- Organizational chart; [Original]
- Business plan; [Original]
- Statute of the Sponsor of Sponsors; [Original]
- List of participants indicating their professional categories, or statements of all Sponsor employees who will participate; [Copy]
- Copy of the proposed agreement with the manager of the licensed pension fund; [Copy]
- The list of banks and their addresses by which the Sponsor(s) has banking arrangements and for which the proposed Pension Fund claims to have such banking arrangements and a description of such arrangements; [Verified copy]
- Copy of the proposed arrangement for holding the funds with the licensed holder; [Copy]
- Name and contact details of the audit firm for the Pension Fund; [Original]

- A document certifying that the proposed Pension Fund has the appropriate infrastructure and environment to exercise its activity as a Pension Fund, including the installation of a computerized data reporting system at CBK; [Original]
- Evidence of payment of license fee based on the number of participants; [Original]
- Other documents required by CBK regulations or requirements; [Original]

6. License for Individual Supplementary Pension - Individual Supplementary Pension Funds License

Key findings

Legal basis for issuing the permit/license:

The individual supplementary pension funds are voluntary funds through which individuals can secure individual supplementary pensions, the funds of which cannot be withdrawn until retirement age.

The legal basis for the licensing and regulation of individual supplementary pensions is the Law on Pension Funds, specifically Article 22 of this Law, and regulations issued by the CBK, which specify the conditions, procedures and deadlines for application and granting of licenses. Article 22 of the Law on Pension Funds specifies that no pension can be paid, advertised or promised by any individual or legal person other than the pension provider who has been licensed by the CBK.

The Regulation on Licensing of Individual Supplementary Pension Providers defines the notion of “Individual Supplementary Pension” - which shall mean ***“a pension for an individual natural person purchased from a pensions provider such as a financial institution, a bank, asset manager, open-end vehicle or insurance company and provided according to this Law”***. Additionally, through this Regulation, basic licensing criteria (Article 5) have been defined that must be met in the case of a licensing application, including: registration as a legal entity under the Law on Business Organizations, good financial standing with no outstanding tax obligations, and lastly, the founders, directors, and managers not being convicted of any criminal offense, as well as meeting the requirements of the CBK.

The activity for which the permit/license is issued:

Based on Article 21 of the Law on Pension Funds, Pension Providers (financial institutions, open investment vehicles, banks, and insurance companies) may offer individual supplementary pensions upon request of the individual only based on the license from the CBK. Upon obtaining the license, the provider of individual supplementary pension can enter into an agreement with the custodian and any asset manager and then start receiving contributions.

Furthermore, even the Regulation on the Licensing of Individual Supplementary Pension Providers in Article 3, paragraph 1, “Activity of Individual Supplementary Pension Providers” defines financial institutions as the sole providers of individual supplementary pensions, while, in Article 2, it defines an individual supplementary pension as ***“a pension for an individual***

natural person purchased from a Pensions provider such as a financial institution, a bank, asset manager, open-end vehicle or insurance company and provided according to this Law”.

Validity period of the permit/license:

The license is issued in writing for an indefinite period of time , and is non-transferable. If within 12 months from the date of licensing, the Pension Provider does not start the activity, the license will be revoked.

Payment for obtaining the permit/license:

The registration fee depending on the number of participants in the fund: 0 - 200 participants 1,500.00 Euro - 500 participants 2,500.00 Euro - 1000 participants 5,000.00 Euro over 1000 participants 10,000.00 Euro.

Documents required for application

- The charter that establishes the legal entity that provides the pension; [Original]
- The pension rules that specify the details of payment of contributions or benefits and the rules for early termination or cancellation, if any; [Original]
- Proposed agreement with the holder or asset manager, if any; [Copy]
- The list of signatories of the founding act along with information indicating whether those persons are related and the type of their relation; [Original]
- Pension forms used by participants and beneficiaries; [Original]
- Statements by members of the pension provider governing body that they agree to act as fiduciaries and meet the requirements set forth in this law; [Original]
- CBK form; [Original]
- Copy of the license and registration as a financial institution; [Verified copy]
- Complete biographies of the founders, as well as financial statements if applicable; [Copy]
- The list of members proposed for the board of directors and managers, their full biographies, including evidence to attest relevant qualification and experience; [Original]
- Organizational chart; [Original]
- Charter; [Original]
- Copy of business registration as a pension provider; [Copy]
- Business plan; [Original]
- Pension plan; [Original]
- Opinion of an independent/assigned expert confirming the existence of the assessment and certifying that the required contributions are adequate to pay pensions, in the case of the Defined Benefit Pension Fund; [Original]
- Description of categories of pensions that will be offered in the market, and a copy of the individual pension contract(s) or equivalent document(s) as evidence for individual's participation; [Original]
- Overview of the risk management system provided by pension providers for functioning of the pension [Original]
- Report of the pension provider for investment policy; [Original]
- List of participants indicating their professional categories, or statements of all Sponsor employees who will participate; [Original]

- A document certifying that the proposed Pension Provider has the appropriate infrastructure and environment to exercise its activity as a Pension Fund, including the installation of a computerized data reporting system at CBK; [Original]
- Evidence of payment of license fee based on the number of participants; [Original]

7. License for Insurance Intermediaries

Key findings

Legal basis for issuing the permit/license:

The legal provisions of the Law on Insurance as well as the CBK bylaws constitute the main basis of legislation through which the regulation of the insurance area is carried out regarding the issuance of licenses for both natural and legal persons. The Law on Insurances, in Article 4, paragraph 2, establishes the exclusive responsibility of the CBK for the licensing, supervision, and regulation of insurers and insurance intermediaries, and expressly states that only persons who are licensed and have valid approval for insurance intermediation may engage in this activity (Article 5, para. 1).

As emphasized above, the legal basis for licensing is defined in the Law on Insurances and the Regulation for Licensing Insurance Intermediaries (hereinafter the Regulation). If the CBK determines that the conditions stipulated by the Law on Insurances and Regulation have been met, the CBK makes a decision to approve the license for intermediaries, based on the legal provisions of the Law on Insurances, specifically Article 112 of this Law and Article 5 of the Regulation on Licensing Intermediary Companies, Article 114 of the Law and Article 7 of the Regulation for Licensing of Brokers, Article 8 of the Regulation on Licensing of the Branches of Foreign Intermediary Companies, Article 10 and 11 of the Regulation on licensing insurance intermediation as an additional activity (banks and travel agencies).

The activity for which the permit/license is issued:

The main activity for which this license is issued is the exercise of the insurance mediation activity. Article 110, paragraph 1 of LI defines ***“Insurance intermediary is a natural person or legal entity contracted by the insurer and***

licensed by CBK to conduct insurance intermediaries,...”, to continue with paragraph 2 that specifies the type of activity of insurance intermediaries and their two categories, depending on the fact that they act mainly on behalf of insurers or on behalf of the insured. A similar definition for intermediaries can be found in the Regulation on the licensing of Insurance Intermediaries, according to which the term insurance intermediary means ***“a natural or legal person licensed by the CBK and contracted by the insurer to carry out activities of insurance intermediation”***.

According to Article 120 of LI *“Intermediaries in insurance activity may be exercised by the agent companies and intermediary companies with headquarters in the Republic of Kosovo, licensed to practice in insurance mediation activities under this law”*.

Validity period of the permit/license:

The license is issued for an indefinite period of time.

Payment for obtaining the permit/license:

Registration fee: Payment for obtaining the license: Brokerage Company License €5,000.00, Agent Company License €3,000.00, Claims Handling/Assessment Company License €3,000.00

Documents required for application

- Application form; [Original]
- The composing documents of the proposed intermediary company, including notarized copies of the original documentation under which it was established, as well as the proposed address; [Verified copy]
- Name, nationality, residence, qualifications, experience and accompanying references as well as a copy of the identification document of directors (if applicable) and senior managers of the proposed company, as well as at least of one agent respectively broker licensed by the CBK; [Copy]
- Official evidence from the competent court, disclosing any potential conviction for criminal offenses and any criminal proceedings for the shareholders, directors (if applicable) and senior managers proposed; [Original]
- CBK official form authorizing CBK to request information from competent institutions for the purpose of verifying their criminal past for each director (where applicable) and senior managers of the proposed company; [Original]
- A document proving the amount of the proposed committed intermediary's capital, including details on the origin of that capital; [Verified copy]
- The business plan including, inter alia, the organizational structure of the proposed intermediary company, the anticipated financial statements for three (3) years, and whether there are audited shareholders' financial statements for the past three (3) years; [Original]
- Provisional contract with the insurer on whose behalf the activity will take place for the agents' companies; [Original]
- Document - Lease Agreement and notification - form for completion of technical conditions that certifies that the intermediary company has the environment and the infrastructure appropriate to carry out the activity; [Original]
- In any case where the applicant is a foreign financial institution proposing the establishment of a subsidiary intermediary company in Kosovo, a statement from the supervisory authority of the home country should be provided that there is no objection to the initiation of the proposed activities in Kosovo, (if that is required by the parent country legislation) as well as the official approval from the responsible bodies of intermediary company. The statute of the foreign parent company together with the

financial reports of the parent company must be brought within the documents of the foreign applicants; [Original]

- Documents required in the application form and other additional information that may be considered appropriate by the CBK. [Original]

8. Insurance Company License - Insurer License

Key findings

Legal basis for issuing the permit/license:

The legal provisions of the Law on Insurance as well as the CBK bylaws constitute the main basis of legislation through which the regulation of the insurance area is carried out regarding the issuance of licenses for both natural and legal persons. The Law on Insurances, in Article 4, paragraph 2, establishes the exclusive responsibility of the CBK for the licensing, supervision, and regulation of insurers and insurance intermediaries, and expressly states that only persons who are licensed and have valid approval for insurance intermediation may engage in this activity (Article 5, para. 1).

An insurer, as defined in the Law on Insurances, refers to a licensed legal entity authorized to engage in insurance activities according to the provisions of this Law. As mentioned earlier, the legal basis for licensing is defined in the Law on Insurances, starting from Article 10, or the initial phase of submitting the license application, continuing with Article 11 which sets out the conditions that the application for preliminary approval must meet as well as the conditions for preliminary approval of the license application regarding a dependent entity or branch of an external insurer, and finally Article 12, as a provision that concludes the license application procedure with the issuance of the license by the CBK, provided that it has assessed that the licensing conditions according to this law have been met.

The activity for which the permit/license is issued:

The main activity for which this license is issued is to engage in non-life insurance activities, for specific classes of insurance, in accordance with Article 7 of the Law on Insurances, life insurance activities, either for specific classes or for all classes of insurance as defined in Article 8 of the Law on Insurances, and reinsurance activities, for all classes of insurance activity.

Validity period of the permit/license:

The license issued by the CBK is unlimited in time and is non-transferable.

Payment for obtaining the permit/license:

Registration fee: Payment for obtaining the license € 10,000.00

Documents required for application

- Application form; [Original]

- A document certifying the possession of the authorized and committed capital of the proposed insurer or the foreign insurer's branch as well as the additional fund for initial costs as defined in Article 19 paragraphs 1 and 2 of the Insurance Law and Rule on Licensing of Insurers and Branches of Foreign Insurers, including details on the source of capital and additional funds; [Original]
- The shareholder list, type of shares, the nominal value of the shares, the percentage of the share capital and the potential affiliated persons or parties; [Original]
- Individual reports on proposed insurance directors and senior managers; [Original]
- A business plan that includes, inter alia, the organizational structure of the proposed insurer or foreign insurer; [Original]
- The foreseen nature of the insurance activities and the financial statements for three (3) years; [Original]
- Personal details, business and professional history for the last ten years and audited financial statements for the past three (3) years (if any) of each major shareholder holding ten percent (10%) or more of the insurer's shares proposed; [Original]
- For each director or senior manager or principal shareholder of the proposed insurer or foreign insurer's branch, official evidence from the Court disclosing any conviction for criminal offenses, personal bankruptcy files, disqualification from the exercise of the profession or past or already in the management function of any corporation or other entrepreneurial body (such as TAK and Pension Trust) that has been subject to insolvency proceedings, if any; [Original]
- Draft contracts, including the general and specific conditions of the insurance contract in accordance with the insurance class for which it has requested to be licensed; [Original]
- A plan for the implementation of measures for prevention of money laundering and terrorist financing; [Original]
- In any case where the applicant is a foreign insurer proposing the establishment of a subsidiary insurance company or a branch in Kosovo, a statement from the supervisory authority of the home country should be provided that there is no objection to the initiation of the proposed activities in Kosovo and it exercises consolidated supervision of the activity vis-à-vis the foreign insurer, including the subsidiary insurance company or the foreign insurer's branch, seeking to be licensed in Kosovo; [Original]
- Evidence of fee payment for licensing; [Original]
- Documents required in the application form and other additional information that may be considered appropriate by the CBK. [Original]

Key recommendations:

1. Consider the application in the electronic procedure for the application and review of licenses, in those cases where such a process can be managed (not necessarily in all cases);
2. Apply the principle of administrative assistance and conduct of the procedure ex officio, in terms of verifying some documents held by public institutions;
3. Publication on the website of a Pension Fund Licensing Manual;
4. Implement the signing of the statement under oath by the applicants, in order to reduce a part of the required documentation (completed);