

## **REGULATION NO 2006/47**

### **ON THE CENTRAL BANKING AUTHORITY OF KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

In conformity with the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation No.2001/9 of 15 May 2001), particularly Chapter 11 thereof,

Having promulgated UNMIK Regulation No. 1999/20 of 15 November 1999, as amended, on the Banking and Payments Authority of Kosovo,

For the purpose of re-designating the Banking and Payments Authority of Kosovo as the Central Banking Authority of Kosovo and enhancing its authority with respect to the supervision, regulation and licensing of financial institutions in Kosovo,

Hereby promulgates the following:

#### **GENERAL PROVISIONS**

##### **Section 1**

##### **Status of the Central Banking Authority of Kosovo**

The Central Banking Authority of Kosovo (hereinafter “the CBAK”), a successor to the Banking and Payment Authority of Kosovo, is an independent juridical entity with full capacity as a legal person under the law applicable in Kosovo.

## Section 2 Definitions

Wherever used in the present regulation, the following terms shall have the following meanings:

“Bank” means a legal person engaged in the business of accepting deposits in Kosovo and using such funds either in whole or in part to make extensions of credit or investments for the account and at the risk of the person carrying on the business;

“Credit” means any direct or indirect commitment to disburse a sum of money in exchange for a right to repayment of the amount disbursed and outstanding and to payment of interest or other charges on such amount, any extension of the due date of a debt, any debt payment guarantee issued, and any commitment to acquire a right to payment of a sum of money; the term “credit” shall not include bank deposits and the purchase of debt securities in the secondary market;

“Debt security” means any negotiable instrument of indebtedness and any other instrument equivalent to such instrument of indebtedness, whether in certified or in book-entry form;

“Financial institution” means an organization such as a bank, insurance company, insurance intermediary or other person, offering one or more of the following financial services: deposit taking; offering insurance services to policyholders; extending credit; underwriting, dealing in, brokering or distributing securities; acting as an investment company manager or investment adviser; providing other financial services such as equipment leasing finance services, factoring, micro-finance services or foreign exchange; or other financial informational, advisory or transactional services;

“Guidelines” means non-obligatory recommendations or policy statements issued by CBAK for the information of financial institutions and other parties concerned with CBAK operations;

“Insurance company” means a legal person engaged in the provision of insurance services to policyholders;

“Insurance intermediary” means an insurance agent, sub-agent, or broker, whether or not it is formed as a corporation;

“International financial reporting standards” means the most recent international financial reporting standards issued by the International Financial

Standards Board;

“Order” means an obligatory directive issued by the CBAK in implementation of the present regulation;

“Reasonable fees” means fees that defray the direct and indirect costs that CBAK incurs in providing the service or services for which the fee is charged; and

“Rule” means an obligatory directive issued by the CBAK in implementation of the present regulation to all financial institutions.

### Section 3 Capacity of the CBAK

3.1 The CBAK shall have the capacity to:

- (a) Enter into contracts, to be a party to legal proceedings and,
- (b) For the purpose of its business, acquire, hold, and dispose of property, whether movable or immovable.

3.2 The CBAK may for its official business purpose utilise and administer on behalf of the United Nations Interim Administration Mission in Kosovo (“UNMIK”) the property and facilities, including moveable and immovable property, located at Garibaldi Street 33, Pristina, Kosovo, and previously used by the Public Payments Service of Kosovo.

### Section 4 General Powers

4.1 The CBAK shall exercise all powers specifically granted by the present regulation and other applicable law and such incidental powers as shall be reasonably necessary to carry out the powers so granted.

4.2 The CBAK, as an independent public body, shall enjoy operational and administrative autonomy and function outside the framework of the Kosovo governmental structures and the Kosovo Civil Service. It shall set out its internal rules and procedures governing namely employment of CBAK personnel, including staff, consultants, and experts, and procurement, taking into account general rules that govern the public service. No person shall seek improperly to influence any CBAK Governing Board member or employee in the discharge of his or her duties or to interfere in the activities of the CBAK and no such Governing Board member or employee shall seek nor act in accordance with such improper instructions while performing their duties as

members of the Governing Board or of the CBAK staff.

### Section 5 Principal Objectives

The principal objectives of the CBAK are to

- (a) Foster the soundness, solvency and efficient functioning of a stable market-based financial system, encouraging market emergence of safe financial instruments; and
- (b) Without prejudice to this, support the general economic policies in Kosovo with a view to contributing to an efficient allocation of resources in accordance with the principle of an open market economy.

### Section 6 Specific Powers

The CBAK shall have the following specific powers:

- (a) To recommend broad policy guidelines to the Special Representative of the Secretary-General and Provisional Institutions of Self Government in areas under its responsibility;
- (b) To formulate and implement measures for, and oversee and regulate, payments and settlement systems for transactions in domestic and foreign currency in Kosovo;
- (c) To own and operate one or more payments systems;
- (d) To act as banker to the Ministry of Finance and Economy and to provide financial advice at its request;
- (e) To act as fiscal agent of the Ministry of Finance and Economy;
- (f) To hold foreign currency deposits of banks, the Ministry of Finance and Economy, and other public entities;
- (g) To ensure an adequate supply of bank notes and coins for the settlement of cash transactions;
- (h) To maintain a depository for safe keeping of currency and securities;

- (i) To license, supervise and regulate financial institutions;
- (j) To conduct regular economic and monetary analysis of the Kosovo economy, make public the results, and submit proposals and measures to the UN Interim Administration in Kosovo and the Provisional Institutions of Self Government on the basis of such analysis;
- (k) To supervise and regulate dealers in foreign exchange, broker-dealers, and mutual funds;
- (l) To approve external auditors of the financial institutions;
- (m) To set accounting standards for the financial institutions in Kosovo in line with international financial reporting standards.

### Section 7

#### Cooperation with UNMIK and the Provisional Institutions of Self-Government

7.1 The CBAK shall cooperate with UNMIK, the Provisional Institutions of Self-Government, and their respective entities in pursuing its objectives.

7.2 The CBAK shall provide general information as requested from time to time by the Ministry of Finance and Economy and other entities of UNMIK and Provisional Institutions of Self Government (“PISG”) with respect to payments, banking and financial matters as far as the information is not covered by banking secrecy provisions, and it shall receive information from the Ministry of Finance and Economy and other entities of UNMIK and Provisional Institutions of Self Government as the CBAK may request from time to time concerning macroeconomic and financial matters.

### Section 8

#### Technical Cooperation

8.1 The CBAK may participate in meetings and working sessions of, and where appropriate may seek membership in, international financial institutions, organizations and councils which fall within its fields of competence.

8.2 The CBAK may provide banking and payments services for the benefit of foreign governments, foreign banks and foreign monetary authorities and for public international organizations and other international institutions, on the basis of mutual interests.

Section 9  
Public Information

9.1 The CBAK shall inform the public, United Nations Interim Administration Mission in Kosovo and the Provisional Institutions of Self-Government on a regular and timely basis of its analysis of macroeconomic and financial market developments and on related statistical information.

9.2 The Managing Director of the CBAK shall present at least once a year to the Assembly of Kosovo a comprehensive report on the situation of the financial sector in Kosovo.

Section 10  
Offices of the CBAK

The CBAK shall have its Head Office in Pristina and shall have no branches.

Section 11  
Accounts

11.1 The CBAK may open accounts on its books only on behalf of the Ministry of Finance and Economy, entities of the United Nations Interim Administration Mission in Kosovo and Provisional Institutions of Self Government, public agencies, financial institutions lawfully operating in Kosovo, foreign banks, public international financial institutions, and donor organizations. The CBAK may not open accounts for natural persons or private enterprises. Accounts for public enterprises and entities may be opened based on an express authorisation of the Governing Board, made on a case by case basis, for a public benefit purpose, in full conformity with the Law of Public Financial Management and Accountability.

11.2 All depository account liabilities of the CBAK shall have corresponding assets as provided in section 48 below

FINANCIAL PROVISIONS

Section 12  
Capital

12.1 The authorised capital of the CBAK shall be 20 million Euro. Thereafter, the capital and the General Reserve accounts shall be at least

equivalent to five percent of the aggregate amount of the credit balances of all accounts maintained on the books of the CBAK by account holders shown on the balance sheet of the CBAK for the end of each financial year. The capital may be increased by such amounts as may be determined by the CBAK Governing Board and approved by the Special Representative of the Secretary-General. The CBAK capital shall not be subject to encumbrance.

12.2 No reduction of capital shall be effected except by promulgation of a regulation by the Special Representative of the Secretary-General.

12.3 Whenever:

(a) On a monthly pro forma balance sheet of the CBAK the value of its assets falls below the sum of its liabilities and its unimpaired authorised capital, or

(b) The net profit of the CBAK for any financial year is insufficient to increase the capital and General Reserve accounts of the CBAK to a level equivalent to five percent of the aggregate amount of the credit balances of all accounts maintained on the books of the CBAK by account holders shown on the balance sheet of the CBAK for the end of that financial year, the Ministry of Finance and Economy shall, within one month after publication of that balance sheet, make a capital contribution to the CBAK in such amount or amounts as shall be necessary to remedy this deficit.

### Section 13

#### Determination and Allocation of Income

13.1 For each financial year, the net income or the net loss of the CBAK shall be calculated in accordance with international financial accounting and reporting standards.

13.2 Net income shall be allocated in each year to a general reserve account until the capital and General Reserve accounts are equal to five percent of the aggregate amount of the credit balances of all accounts maintained on the books of the CBAK by account holders shown on the balance sheet of the CBAK for the end of each financial year.

13.3 Any balance of net realized income shall be transferred to the Ministry of Finance and Economy as revenue for the budget.

13.4 If there is a net realized loss, it shall be charged to the general reserve account or to capital, in that order.

Section 14  
Annual Budget

14.1 All proposed material expenditures of the CBAK should be reported in an annual budget to be approved by the Governing Board. The CBAK's spending shall not be subject to budgetary controls of the Ministry of Finance and Economy but shall be determined through the CBAK budget. The Ministry of Finance and Economy shall transfer any duly appropriated funds required from the Kosovo Consolidated Budget to the CBAK at the beginning of each year for use according to CBAK's policies and procedures.

14.2 The CBAK annual budget shall be prepared so as to coincide with the schedule of the Kosovo Consolidated Budget. The CBAK shall keep the Ministry of Finance and Economy fully informed about its budget plans.

ORGANIZATION AND ADMINISTRATION

Section 15  
Organization of the CBAK

The CBAK shall have a Governing Board, a management and a staff.

Section 16  
The Governing Board

16.1 The Governing Board shall formulate policies for the operations of the CBAK and supervise their implementation.

16.2 The management of the CBAK shall report, not less than ten times each year, to the Governing Board on the conduct of its operations and policies, on the soundness of the financial system, and on the state of the money, capital and foreign exchange markets, including all events and conditions that have or are expected to have a significant effect on the administration or operations of the CBAK or on the conduct of its policies or on the financial system or on the before-mentioned markets and on any other matter that affects or would potentially affect the policies of the CBAK.

Section 17  
Powers of the Governing Board

The Governing Board shall have the following powers:

- (a) To approve the policies for the execution of the powers of the CBAK described in section 6 and to supervise their implementation by the management and staff;
- (b) To adopt all rules, orders and guidelines issued by the CBAK;
- (c) To approve all reports and recommendations that the CBAK makes to the United Nations Interim Administration Mission in Kosovo and the Provisional Institutions of Self-Government;
- (d) To make recommendations to the Special Representative of the Secretary-General on the participation of the CBAK in technical consultations with international organizations;
- (e) The Board shall, by resolution, designate at least two non-executive Directors to constitute an Audit Committee.
- (f) To approve the organization of the CBAK;
- (g) To appoint the two Deputy Managing Directors upon proposal by the Managing Director;
- (h) To approve the appointment of the Inspector General of the CBAK;
- (i) To approve the budget of the CBAK.
- (j) To approve the accounting policies of the CBAK and to approve the periodic reports and financial statements of the CBAK;
- (k) To decide on the incurring of debt in material amounts by the CBAK and the terms and conditions of such debt;
- (l) To approve the categories of assets that shall be suitable for investment of the financial resources of the CBAK;
- (m) To approve or deny applications for financial institution licences or registrations and to revoke financial institution licences or registrations;
- (n) To adopt internal structures, policies and procedures for licensing, registering, supervising and regulating financial institutions, including delegated powers to the CBAK staff to take corrective actions; and
- (o) To ratify, before their implementation, all enforcement measures prepared by the CBAK staff, with the exception of those which are specifically

under the competence of the Managing Director as listed under section 29.4 of the present regulation.

### Section 18 Composition of the Governing Board

18.1 The Governing Board shall be composed of five members appointed by the Special Representative of the Secretary-General, subject to the procedures of section 18.2: the Managing Director who shall be the CEO of the CBAK, and four non-executive Directors among which the Chairperson of the Board.

18.2 In consultation with the Special Representative of the Secretary-General:

(a) the Managing Director shall be nominated by a proposal of the PISG which, after approval by the Assembly, shall be submitted for appointment to the SRSG. Two non-executive Directors shall be nominated by a proposal of the PISG, one of which upon proposal to the PISG by the Ministry of Finance and Economy, and both of which after approval by the Assembly, shall be submitted to the SRSG for appointment; and

(b) one non-executive Director shall be the Director of the Treasury and another non-executive Director shall be nominated by a proposal by UNMIK.

18.3 One of the two non-executive Directors appointed by the SRSG shall be designated by the SRSG as the Chairperson of the Governing Board, following consultations with the Board members.

18.4 The Two Deputy Managing Directors may attend meetings of the Governing Board as observers.

18.5 Governing Board members, except the Director of the Treasury, and the two Deputy Managing Directors, must be persons of recognized integrity and professional high education and experience in financial, banking, or legal matters, without any political mandate, current or having lasted less than one year.

18.6 The term of each member of the Governing Board shall be five years. Members of the Governing Board shall be eligible for reappointment for one further five-year term only.

Section 19  
Compensation of Members of the Governing Board

19.1 The members of the Governing Board shall receive compensation from the CBAK in the form of meeting fees similar to that received by persons holding executive or non-executive positions with supervisory or managing boards, as the case may be, in large financial institutions in the region.

19.2 The non-executive Director nominated by UNMIK and any other member of the Governing Board funded by international organizations shall receive no compensation based solely on their capacity as Governing Board member.

19.3 Compensation received, or the renouncement of such compensation, by members of the Governing Board in relation to their service to the CBAK, other than as mentioned here above, shall be disclosed in writing to the Special Representative of the Secretary-General.

Section 20  
Ineligibility to Serve on the Governing Board

(a) No person shall serve on the Governing Board while he or she is an official or employee of a financial institution operating through offices in Kosovo or is a beneficial owner of five percent or more of an equity interest in a financial institution operating in Kosovo.

(b) No person, except the Director of the Treasury, shall serve on the Governing Board while he/she holds a public office or is a civil servant except that this disqualification shall not apply to staff of academic or research institutions.

(c) Each member of the Governing Board shall also meet any other requirement, as set out by the CBAK for members of boards of banks, unless this would be incompatible with this Regulation.

Section 21  
Removal of Members of the Governing Board

21.1 Any member of the Governing Board shall be removed from the Board by the Board, or by the Special Representative of the Secretary-General if the Board fails to act, if he or she:

(a) Becomes ineligible to serve on the Governing Board pursuant to

section 20;

(b) Has been convicted of an offence which carries a sentence of imprisonment without the option of a fine;

(c) Has been involved as a debtor in bankruptcy or insolvency proceedings;

(d) Has, on grounds of personal misconduct, been disqualified or suspended by a competent authority from practicing a profession; or

(e) Has been found by a majority of the members of the Governing Board responsible for having been engaged in activities inconsistent with the standards and integrity or unbecoming of a member of the Governing Board.

21.2 In addition to the provisions of section 21.1, any member of the Governing Board may be removed from the Board, by the Board or by the Special Representative of the Secretary-General if the Board fails to act, upon a finding and recommendation by a majority of the members of the Governing Board that the member:

(a) Is unable to perform the functions of such office because of an infirmity of body or mind that has lasted for more than two months; or

(b) Has been absent from three consecutive meetings of the Governing Board without, in the opinion of the Governing Board, justifiable reason.

## Section 22 Resignation

Members of the Governing Board may resign by giving not less than one-month notice in writing to the Special Representative of the Secretary-General.

## Section 23 Vacancy on the Governing Board

Any vacancy on the Governing Board shall be filled within a maximum period of six months by the appointment of a new member of the Governing Board in accordance with section 18.

Section 24  
Meetings of the Governing Board

24.1 The two Deputy Managing Directors may attend meetings of the Governing Board as observers. They shall have no voting rights.

24.2 The meetings of the Governing Board shall be chaired by the Chairperson or, in his or her absence, by the Managing Director; in the event the Managing Director is also absent, the meeting shall be chaired by one of the Deputy Managing Directors according to section 29.5.

24.3 The Governing Board shall meet as often as the business of the CBAK may require but not less frequently than ten times a year.

24.4 Meetings of the Governing Board are convened, after due consultation with the Managing Director, by the Chairperson, who shall decide the Agenda upon proposal by the Managing Director; meetings may also be convened at the written request of any two members of the Governing Board.

24.5 Governing Board meetings shall be convened by communicating the time, venue and agenda of the meeting to all members of the Governing Board at least five working days before the date set for the meeting; in the event of an emergency, meetings may be so convened at shorter notice.

24.6 Each member of the Governing Board shall have one vote. In the event of a tied vote, the Chairperson shall cast a tie-breaking vote.

24.7 Each meeting of the Governing Board requires the attendance of the Managing Directors or, in his or her absence, the Deputy Managing Director substituting for him or her in accordance with Section 29.6, and of the non-executive Director nominated by UNMIK or, in his or her absence, of another person, with voting rights, designated in writing by him or her.

24.8 A quorum for the conduct of business and taking of decisions at any meeting of the Governing Board shall consist of three members of the Governing Board.

24.9 Except as otherwise provided by the present regulation, decisions of the Governing Board shall be adopted by a simple majority of those present and voting; however, meetings and voting by teleconferencing are permitted.

24.10 Subject to the quorum requirement of section 24.8, no act or proceeding of the Governing Board shall be invalidated merely by reason of the existence of a vacancy or vacancies on the Governing Board.

24.11 All acts done by a person acting in good faith as member of the Governing Board shall be valid notwithstanding that some defect in that person's appointment, eligibility or qualification is afterwards discovered.

### Section 25 Proceedings of Governing Board Meetings

25.1 The proceedings of the meetings of the Governing Board shall be confidential. The Governing Board may decide to make the outcome of its deliberations on any matter public and shall publish promptly its decisions on general policy matters. A member who is present at a meeting of the Board at which action on any matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent with the person acting as Secretary of the meeting before the adjournment of the meeting.

25.2 Minutes of each Governing Board meeting shall be signed by the Managing Director of the CBAK, or the Deputy Managing Director temporary serving as presiding officer, by the Chairperson, and by the Secretary of the Governing Board.

25.3 The Secretary of the Governing Board shall be appointed by the Managing Director in consultation with the Chairperson from among the senior staff of the CBAK to attend all Board meetings and keep all CBAK records. The Secretary shall not be a member of the Governing Board.

### Section 26 Disclosure by Members of the Governing Board; Fiduciary Duties

26.1 Members of the Governing Board shall periodically disclose to the Governing Board in full their significant financial interests, which they or members of their household may directly or indirectly possess; such disclosures shall comply with guidelines adopted by the Governing Board.

26.2 Whenever any matter related to such interest is before the Governing Board, the member concerned shall disclose his interest at the beginning of the discussion and shall not participate in the discussion and decision on such matter; the non-participation of that member, due to a conflict of interest issue, shall be noted in the minutes.

26.3 Governing Board members and employees of the CBAK have a fiduciary duty to the CBAK and to the CBAK's customers to place the CBAK's interests and its customers' interests before their own pecuniary interest.

Section 27  
Subsequent Service

Former members of the Governing Board shall not serve in a professional managerial capacity in a financial institution doing business in Kosovo during a period of one year immediately following their departure from the CBAK.

Section 28  
Composition of the Management of the CBAK

The management of the CBAK shall consist of the Managing Director, who shall be the Chief Executive Officer, and two Deputy Managing Directors.

Section 29  
Management of the CBAK

29.1 The Managing Director shall be responsible for the implementation of the policies adopted by the Board and for leading management in its strategy planning and execution towards the principal objectives of the CBAK as set out in section 5.

29.2 The Managing Director shall be responsible to the Governing Board for the execution of its decisions and for the direction and control of the administration and operations of the CBAK.

29.3 All powers that are not specifically reserved for the Governing Board shall be vested in the Managing Director. Within the limitations of his powers, the Managing Director shall have the authority to take all actions required or deemed advisable for the administration or operations of the CBAK, including without limitation entering into contractual commitments on behalf of the CBAK, appointing the employees, agents and correspondents of the CBAK, and generally representing the CBAK. The Managing Director may, with the approval of the Governing Board, delegate some of his or her powers to other employees of the CBAK.

29.4 Provided they are regularly reported to the Board, the Managing Director shall take directly the following enforcement actions:

- (i) the issuance of written warnings,
- (ii) the issuance of written orders to cease and desist from infractions to the CBAK regulation or to any other rule or order or other applicable legislation on licensing and supervision of financial institutions and to undertake remedial actions,

- (iii) the imposition of fines up to 10 000 euros,
- (iv) the issuance of written orders to impose measures for restoring a sound financial situation.

29.5 The Deputy Managing Directors monitor and oversee the activities of the CBAK as determined by the Managing Director and they shall be responsible to the Managing Director.

29.6 In the absence of the Managing Director at meetings of the Governing Board and at times when the Managing Director is not in office, one of the Deputy Managing Directors, in the order determined by the Managing Director, shall substitute the Managing Director and assume his or her responsibilities to be carried out as directed by the Managing Director or, if not so directed, in his or her own judgment.

### Section 30 Inspector General of the CBAK

30.1 The Inspector General of the CBAK shall be appointed by the Managing Director with the approval of the Governing Board. The Inspector General shall be a person meeting the qualifications required to serve as member of the Governing Board.

30.2 The Inspector General may resign from office on giving not less than two months notice to the Managing Director. The Inspector General shall be removed from office only by a decision of the Special Representative of the Secretary-General or the Governing Board that is supported by one or more of the grounds of removal specified in section 21.

30.3 The duties of the Inspector General shall include:

- (a) Evaluating the quality of existing and proposed management and financial control systems;
- (b) Assessing the operation of those systems and the reliability and integrity of information and transactions generated;
- (c) Assessing the adequacy of controls for safeguarding the assets of the CBAK and, when appropriate, verifying the existence of assets;
- (d) Assessing compliance with laws, regulations, administrative directions, rules, orders and policies governing the operations of the CBAK;

(e) Conducting reviews of the effective and efficient use of the resources of the CBAK and making appropriate recommendations to management; and

(f) Performing special reviews when requested by management and liaising with the auditors of CBAK.

30.4 The Inspector General shall provide a summary of his findings and suggestions in reports presented every six months to the Audit Committee within the Governing Board, which shall be composed of at least 2 non executive members; the Inspector General shall, in addition to this, report to the Audit Committee at any time whenever he considers the Committee should be informed.

### Section 31 Staff of the CBAK

31.1 Staff of the CBAK shall not be employed by any institution or person other than the CBAK, unless the Governing Board expressly decides otherwise where reasons justified.

31.2 The Governing Board shall adopt the terms and conditions of employment that shall include provisions to preclude conflicts of interest.

### Section 32 CBAK Employees, Agents and Correspondents

32.1 The Managing Director shall appoint and terminate the appointment of the employees, agents and correspondents of the CBAK, within the limits and in accordance with the general terms and conditions of employment adopted by the Governing Board.

32.2 No salary, fee, wage, or other remuneration or allowance paid by the CBAK shall be computed by reference to the net income, net profits or other revenues of the CBAK.

### Section 33 Conflict of Interest

33.1 The Management and Inspector General shall devote the whole of their professional services to the CBAK, and shall not occupy any other office or employment, whether remunerated or not, except as nominee of the CBAK and for occasional educational and civic endeavours.

33.2 No member of the Governing Board or staff of the CBAK shall accept any gift or credit, or on behalf of any person with whom he or she has family, business, or financial connections, if the acceptance thereof would result, or give the appearance of resulting, in a diminishment of impartial devotion to his or her duties to the CBAK.

Section 34  
Secrecy

34.1 No person who serves or has served as a member of the Governing Board or staff or as an auditor, agent or correspondent of the CBAK shall, in a manner unauthorised by the present regulation permit access to, disclose or publicise non public material information which he has obtained in the performance of his CBAK duties or use such information, or allow such information to be used, for personal gain.

34.2 Notwithstanding section 34.1, such persons may disclose non public material information outside the CBAK, in accordance with procedures established by the CBAK, but only if:

(a) In accordance with the express or implied consent of the person about whom the information relates;

(b) In performance of a duty to the public to make disclosure, including to aid law enforcement and on the order of a court or other person of competent authority;

(c) Given to the auditors of the CBAK ;

(d) Given to financial institution supervisory authorities and staff of public international financial institutions in performance of their official duties;

(e) The interest of the CBAK itself in legal proceedings requires disclosure; or

(b) The Governing Board has given its consent.

RELATIONS WITH ENTITIES OF THE  
UN INTERIM ADMINISTRATION IN KOSOVO

Section 35

Banker, Financial Adviser, Fiscal Agent

35.1 The CBAK, in acting as banker and as adviser to, and as fiscal agent of the Ministry of Finance and Economy, and other entities of UNMIK and the PISG, shall ensure that no transaction carried out by the CBAK may serve to extend credit to or for the benefit of any public authority or any other physical or legal entity.

35.2 The CBAK shall have the duty to render advice to UNMIK and the PISG on significant financial matters that relate to CBAK objectives or that otherwise are within its fields of competence.

35.3 The CBAK shall be consulted by the Ministry of Finance and Economy on the occasion of the preparation of the budget.

Section 36

Depository and Cashier

The CBAK may accept deposits, in any currency, from UNMIK, the Ministry of Finance and Economy, and other public entities. As depository, the CBAK shall receive and disburse moneys and keep account thereof and provide other financial services related thereto. The CBAK shall pay to the limits of the deposited amounts against payment orders concerning such accounts. The CBAK shall pay interest on such deposits at the deposit facility rate as offered by the central bank of issue of that currency. The interest rate paid by the CBAK on its deposit facility for such organizations should not exceed the ones offered by the issuing bank.

Section 37

Fiscal Agency Function

The CBAK may, on such terms and conditions as it shall agree with the Ministry of Finance and Economy, act as fiscal agent for the account of the Ministry of Finance and Economy and such of its agencies and instrumentalities as UNMIK and the PISG may determine.

Section 38  
Information to be Provided to the CBAK

The CBAK shall receive from the Ministry of Finance and Economy and other entities of the PISG and UNMIK all such financial and economic information and documents as the CBAK shall request for the carrying out of its functions.

RELATIONS WITH FINANCIAL INSTITUTIONS AND PAYMENT  
SYSTEMS FUNCTIONS

Section 39  
Payments, Clearing and Settlement Facilities

In accordance with the principal objectives and specific powers of the CBAK in sections 5 and 6, the CBAK may organize, own, and operate, and shall oversee and regulate systems for payment orders and for clearance and settlement of interbank payments, in currencies it determines, whether or not legal tender, including payments by check and other payment instruments, and shall establish such procedures and issue such rules and orders relating thereto as it shall deem appropriate.

Section 40  
Banks' Accounts on CBAK Books

Each bank operating in Kosovo that wishes to participate in a payment, clearing, or settlement system shall open and maintain an account on the books of the CBAK, on such terms and conditions as the CBAK shall specify, and shall provide promptly as required to the CBAK such information concerning its operations and financial condition as the CBAK shall prescribe by rule.

Section 41  
Information Network

The CBAK may establish and maintain an information network for the financial system of Kosovo.

Section 42  
Financial Institution Supervision and Regulation

The CBAK shall be exclusively responsible for the licensing of financial institutions in Kosovo and for their supervision and regulation and shall be empowered:

(a) To issue such rules, orders and guidelines and to take such other actions, including revoking licences of financial institutions and assuming control of a failed financial institution as it shall deem necessary or advisable, in order to execute its powers and responsibilities under the present regulation and other applicable laws;

(b) To cause an inspection to be made, by any of its officers or by any other qualified person appointed to that effect, of any financial institution and to examine its books, records, documents and accounts for the purpose of ascertaining the condition of its affairs and whether it is in compliance with the present regulation, or any rule or order and other applicable law on licensing and supervision of financial institutions;

(c) To require a director, officer or employee of a financial institution to furnish to the CBAK such information as requested for the purpose of enabling the CBAK to supervise and regulate financial institutions; and

(d) To cause any financial institution to take remedial actions or to impose penalties provided in the present regulation or any rule or order or other applicable legislation on licensing and supervision of financial institutions if there has been an infraction by a financial institution or by one or more of its officers or directors with respect to the present regulation or any rule or order or other applicable legislation or a directive of the CBAK pursuant thereto, or the violation of any condition or restriction attached to an authorisation or approval issued to a financial institution by the CBAK, or the violation of any rule or order issued by the CBAK, or in the event of unsafe or unsound conditions in or acts by the financial institution.

(e) To conduct supervisions of financial groups on the basis of a consolidated approach involving the entire group activities.

Section 43  
Prudential Rules and Orders

43.1 Each financial institution shall comply with the rules and orders of the CBAK concerning: its balance sheet accounts, off-balance-sheet commitments, and income and expense statement items with respect to ratios among accounts

or items and prohibitions, restrictions or conditions concerning specific types or forms of credit or investments, or of credit or investments that exceed a certain amount or forms of commitments of a risk-bearing nature or matching as to maturity of assets and liabilities and off-balance-sheet items or open foreign currency, swap, option or similar positions or access to the payments system.

43.2 Financial institutions that engage in similar activities and that are in comparable financial condition shall be subject to similar rules and orders.

#### Section 44

##### Submission of Information to the CBAK

44.1 Financial institutions shall furnish to the CBAK such information concerning their operations and financial condition as the CBAK may require.

44.2 The CBAK may publish such information and data in whole or in part in aggregate form for classes of financial institutions determined in accordance with the nature of their business.

44.3 Financial Institutions shall publish periodical accounting statements only according to models and standards set by the CBAK in accordance with international financial reporting standards.

### FOREIGN EXCHANGE REGULATION AND OPERATIONS

#### Section 45

##### Foreign Exchange Dealers

The CBAK shall have the power to:

(a) Issue rules and orders governing foreign exchange transactions of individuals, non-financial enterprises, financial institutions, and agencies and instrumentalities established under the applicable law in Kosovo;

(b) License, supervise and regulate foreign exchange dealers, including banks;

(c) Set limits on foreign exchange positions of foreign exchange dealers, including banks; and

(e) Establish the method for determining the value of currencies in

relation to other currencies.

Section 46  
Reporting of Foreign Exchange Transactions

Licensed foreign exchange dealers, including banks, may be required by the CBAK to report periodically to the CBAK on their operations, including their open foreign exchange positions, on a currency-by-currency basis; the CBAK shall prescribe the reporting forms and supporting documents to be submitted.

Section 47  
Dealing in Foreign Exchange

The CBAK may:

- (a) Buy, sell, or deal in gold coins or bullion or other precious metals;
- (b) Buy, sell, or deal in foreign exchange, using for these purposes assets described in section 48; and
- (c) Determine the rate at which it will buy, sell or deal in foreign currencies.

Section 48  
Foreign Exchange Assets

48.1 The CBAK shall hold on its balance sheet and manage assets denominated in foreign exchange consisting of any or all of the following assets:

- (a) Gold;
- (b) Foreign exchange in the form of notes and coins held within Kosovo or bank balances held abroad in foreign currencies in banks whose short term liabilities are rated in one of the two highest categories by internationally recognized credit rating agencies; and
- (c) Debt securities issued or guaranteed by States or central banks of the European Union maturing within a maximum period of one year which are denominated and payable in Euros.

48.2 The primary objectives in selecting foreign exchange assets shall be safety of principal and liquidity. Subject to these objectives, such assets shall

be selected to maximize earnings.

Section 49  
Clearing and Payments Agreements

The CBAK may, either for its own account or for the account and by order of the Ministry of Finance and Economy, enter into clearing and payments agreements or any other contracts for the same purpose with public and private central clearing institutions domiciled abroad.

CURRENCY MANAGEMENT

Section 50  
Currency Safekeeping

The CBAK shall provide custodial facilities to financial institutions and the public at large for banknotes and coins in currencies that it determines.

Section 51  
Currency Reserve Inventory

The CBAK shall administer a currency reserve inventory in such currencies as it deems appropriate for the settlement of domestic and international transactions to ensure the regular supply of currency to meet the requirements of the economy of Kosovo in consultation with competent governmental authorities.

FINANCIAL STATEMENTS, AUDIT, AND REPORTS

Section 52  
Financial Year of the CBAK

The financial year of the CBAK shall begin on the first day of January and end on the last day of December.

Section 53  
Accounting Practices

53.1 The CBAK shall maintain accounts and records in accordance with international financial reporting standards to reflect its operations and financial condition.

53.2 The financial statements of the CBAK shall include separate accounts for a General Reserve; provisions for bad and doubtful debts; and depreciation in assets.

Section 54  
Financial Statements

The CBAK shall prepare financial statements for each of its financial years. They shall include a balance sheet, a profit and loss statement, and related statements.

Section 55  
Independent Audit of CBAK Accounts

The accounts, records, and financial statements of the CBAK shall be audited by internationally recognized independent external auditors recommended by the Governing Board and approved by the Special Representative of the Secretary-General. The Special Representative of the Secretary-General may dismiss the CBAK independent external auditors for good cause. The same external auditor cannot be used for more than five years in a row.

Section 56  
Transmittal and Publication of Statements and Reports

56.1 The CBAK shall, within four months after the close of each of its financial year, submit to the Special Representative of the Secretary-General and the President of Kosovo:

- (a) Financial statements certified by its external auditors;
- (b) A report of its operations and affairs during that year; and
- (c) A report on the state of the economy.

56.2 The CBAK shall prepare, as soon as possible after the last working day of each calendar quarter, but in any event within 15 working days, summary

financial statements as of the end of that quarter.

56.3 Upon their completion, the CBAK shall publish the financial statements and reports described in sections 56.1 and 56.2; the CBAK may publish such other reports and studies on financial and economic matters, as it may deem appropriate.

## MISCELLANEOUS PROVISIONS

### Section 57

#### Consultations on Regulatory Proposals

The CBAK shall be consulted by UNMIK and the PISG on any proposals with respect to matters that relate to CBAK's objectives or that otherwise are within its fields of competence, before they are finalized.

### Section 58

#### Preferential Right of the CBAK

58.1 The CBAK shall have an unconditional preferential right to satisfy each of its claims from any cash balances and other assets that it holds for its own account or for the account of the debtor concerned, whether as collateral to secure its claims or otherwise, at the time that such claim becomes due and payable.

58.2 The CBAK may exercise its preferential right only by keeping cash balances and by selling other assets against a reasonable price and paying itself from the proceeds of the sale after deducting therefrom the costs associated with the sale. No court action shall be required for, and no competing claim shall be permitted to delay, the exercise by the CBAK of its preferential right in accordance with the provisions of this section, not even claims of ownership or other previously acquired rights, unless there shall be clear and convincing evidence that staff of the CBAK knew or should be considered to have known at the time that the assets came into the possession of the CBAK that the assets did not belong to the debtor concerned.

### Section 59

#### Prohibited Activities of the CBAK

59.1 Except as otherwise specifically authorised by the present regulation or any subsequent regulation or administrative direction, the CBAK shall not:

(a) Grant any credit, maintain any deposit, or make any monetary or financial gift;

(b) Engage in commerce, purchase the shares of any corporation or company, including the shares of any financial institution, or otherwise have an ownership interest in any financial, commercial, agricultural, industrial, or other undertaking; or

(c) Acquire by purchase, lease, or otherwise any real rights in or to immovable property, except as it shall consider necessary or expedient for the provision of premises for the conduct of its administration and operations or for the housing of its employees or similar requirements incidental to the performance of its functions under the provisions of the present regulation.

59.2 Notwithstanding any other provision of the present regulation, the CBAK may:

(a) Make loans to, or have an ownership share or otherwise participate in, any organization that is engaged in activities that are required for the proper discharge of the CBAK's own functions or responsibilities;

(b) Acquire, in the course of satisfaction of debts due to it, any interests or rights referred to in section 59.1(b); provided that all such interests or rights so acquired shall be disposed of at the earliest suitable opportunity;

(c) Grant credit to any of its employees for such purposes, in such amounts and on such terms and conditions as it may determine; provided, however, that its capital accounts shall be reduced by the amounts of such credit; or

(d) Charge reasonable fees, on a competitive neutrality basis, for the services it renders as:

- (i) owner or operator of systems for payments, clearing and settlement facilities;
- (ii) supervisor of financial institutions, dealers of foreign exchange, broker-dealers, and mutual funds; and
- (iii) provider of currency management.

Section 60  
Collection of Statistical Information

60.1 The CBAK shall collect the statistical information required for the achievement of its objectives and the carrying out of its tasks and may engage in technical cooperation to this end with competent authorities from outside Kosovo. The CBAK may impose penalties to financial institutions if there has been a serious and repeated violation with respect to the CBAK rules on statistics.

60.2 The CBAK shall define the statistical information so required and the form in which such information is to be provided to the CBAK, the persons that are to provide such information to the CBAK, and the confidentiality regime that shall apply to statistical information provided to the CBAK.

60.3 The CBAK shall contribute to the harmonisation of rules and practices governing the collection, compilation and distribution of statistics within its fields of competence.

Section 61  
Immunity of the CBAK from Corporate Income Tax

The CBAK shall be exempt from Corporate Income Tax.

Section 62  
CBAK Regulatory and Inspection Powers

62.1 The CBAK shall be empowered to issue such rules, orders or guidelines to visit such offices of financial institutions, to examine such accounts, books, documents and other records, and to take such other action as the CBAK shall deem necessary or advisable to give effect to the provisions of the present regulation.

62.2 All rules, orders and guidelines issued by the CBAK that apply to more than one financial institution shall be published and shall take effect on the date of such publication or on such later date as such directive or guideline shall specify. The CBAK shall maintain a public register of such rules, orders and guidelines.

62.3 Rules and orders of the CBAK shall be final determinations in administrative proceedings.

Section 63  
Standards of Good Administration

63.1 The CBAK shall use the powers given to it under the present regulation equitably and uniformly and in accordance with sound administrative practices. It shall refrain from using any such power to serve an objective for which the power was not given or in excess of what shall be required to achieve the objective for which the power was given.

63.2 The decisions of the CBAK taken pursuant to the present regulation shall be impartial and shall be motivated only by objective and rational considerations; they shall be executed with fairness and restraint.

Section 64  
Trust Accounts

The CBAK shall be authorised to open, and maintain on its books, accounts the assets and liabilities of which shall be segregated from the other assets and liabilities of the CBAK. The assets of each such account shall be available only to meet liabilities of that account and no other assets of the CBAK shall be available to meet liabilities of such account.

Section 65  
Employment Practices

The CBAK shall apply non-discriminatory personnel policies to ensure that the composition of the staff of the CBAK reflects the multi-ethnic character of the communities of Kosovo.

Section 66  
Judicial Review

In any court or arbitration proceeding arising out of or in connection with the present regulation against the CBAK or an officer, employee, or agent of the CBAK:

(a) The sole question before the court or arbitration court in determining whether the defendant acted unlawfully shall be whether the defendant acted in an arbitrary or capricious manner in light of the facts and the law or rules, orders or guidelines at issue;

(b) An administrator, employee, or agent of the CBAK shall not be liable for damages or otherwise liable for acts or omissions performed pursuant

to and in the course of the duties and responsibilities unless such acts or omissions constitute intentional wrongful conduct; and

(c) The action in question shall continue without restriction during the period of an appeal and any further appeal or other judicial proceedings related to the appeal.

Section 67  
Repeal

UNMIK Regulation No. 1999/20 is hereby repealed.

Section 68  
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 69  
Applicable Law

The present regulation shall supersede any provision in the applicable law, which is inconsistent with it.

Section 70  
Transitional Provision

69.1 Notwithstanding the nomination procedure for the appointment and the term of office of the Managing Director, as prescribed in sections 18.2 and 18.6, the SRSG shall appoint directly the first person to assume the responsibilities as Managing Director according to the present Regulation and for a term of office that may be shorter than five years.

69.2 Notwithstanding the limit of reappointment of members of the Governing Board to one further five-year term only as required in section 18.6, the Governing Board to be appointed as from the effective date of the present Regulation may be composed of acting members of the Governing Board prior to that date irrespective of previous terms.

Section 71  
Entry into Force

The present Regulation shall enter into force on 24 August 2006.

Steven P. Schook  
Acting Special Representative of the Secretary-General