

UNMIK/REG/2008/28
29 May 2008

REGULATION NO. 2008/28

**AMENDING UNMIK REGULATION NO. 1999/13 ON THE
REGISTRATION, LICENSING, SUPERVISION AND REGULATION
OF MICRO-FINANCE INSTITUTIONS**

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),

Having consulted the Economic and Fiscal Council and the Provisional Institutions of Self-Government in Kosovo,

Having promulgated UNMIK Regulation No. 1999/13 of 16 October 1999 on the Licensing of Non-Bank Micro-Finance Institutions in Kosovo,

For the purpose of making technical amendments necessary to reflect the changes in the business practices of Micro-Finance Institutions since the promulgation of UNMIK Regulation No. 1999/13 of 16 October 1999 on the Licensing of Non-Bank Micro-Finance Institutions in Kosovo,

Hereby amends sections 1 to 39 of UNMIK Regulation No. 1999/13,

Consequently, the regulation will have the following wording as of the date on which the present regulation enters into force:

REGULATION NO. 1999/13

ON THE REGISTRATION, LICENSING, SUPERVISION AND REGULATION OF MICRO-FINANCE INSTITUTIONS

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),

Duly noting that non-bank Micro-Finance Institutions are under the supervision of the Central Banking Authority of Kosovo (“CBAK”) which is an Independent Body under Chapter 11 of the Constitutional Framework for Provisional Self-Government in Kosovo, with functions and powers defined in UNMIK Regulation No. 2006/47 of 24 August 2006, as amended, on the Central Banking Authority of Kosovo,

Hereby promulgates the following:

I. GENERAL PROVISIONS

Section 1

Scope of the Regulation

This regulation applies to the operations of Micro-Finance Institutions in Kosovo as defined under the present regulation and provides a legal framework for their registration and licensing.

Section 2

Definitions

For the purpose of this regulation, the following terms shall have the following meanings:

“Administrator” means any person including legal persons, who is an officer of a Micro-Finance Institution, or any other person, including any member of a Governing Board or Audit Committee, who alone or jointly with one or more others has the authority to enter into commitments for the account of such Micro-Finance Institution or legal person;

“Bank” means a legal person with the status of financial institution but not of a Micro-Finance Institution, engaged in the business of accepting Deposits in Kosovo and using such funds either in whole or in part to extend Credit or investments for the account and at the risk of the person carrying on the business;

“Capital” or “Equity” means the net worth or funds of a Micro-Finance Institution that is the difference between its assets and liabilities in accordance with balance sheet accounts that reflect international accounting standards or other sound accounting principles acceptable to the CBAK, and shall include, if the micro finance institution is a branch of a Micro-Finance Institution Licensed in another country, its Capital Equivalency Deposit;

“Capital Equivalency Deposit” means the amount of money that must be kept on Deposit in Kosovo, in lieu of Capital, by a branch of a Micro-Finance Institution that is licensed in a foreign country, in an amount prescribed by CBAK;

“CBAK” means the Central Banking Authority of Kosovo;

“Credit” means any Loan or other direct or indirect commitment to disburse money in exchange for a right to repayment of the amount disbursed and outstanding and to the payment of interest or other charges on such amount, any extension of the due date of a debt, any guarantee or letter of Credit issued, and any commitment to acquire a right to payment of a sum of money;

“Deposit” means the Deposit of money to be repaid in full, with or without interest or premium, either on demand or at an agreed time, accepted by a Micro-Finance Institution;

“License” means an authorization issued by the CBAK granting the right to engage in financial activities specified by that License;

“Loan” means any disbursement or commitment to disburse a sum of money in exchange for a right to repayment of the amount disbursed and outstanding and with, or without, the payment of interest or other charges on such amount, and including any extension of the due date of the corresponding debt;

“Low-income household” means a household with annual gross income of which is equal to, or less than, one and one-half times the amount of individual

annual gross income which is not subject to tax according to the Tax Administration of the Ministry of Finance and Economy;

“Low-income individual” means an individual with annual gross income which is equal to, or less than, the amount of individual annual gross income which is not subject to tax according to the Tax Administration of the Ministry of Finance and Economy;

“Licensed Micro-Finance Institution” means a Micro-Finance Institution that is authorized to collect time and savings Deposits in excess of a total amount of 125,000 Euro or its counter value pursuant to a License issued by the CBAK;

“Micro-Finance Institution” means a legal person which provides as its Primary business micro-loans, small Loans and a limited number of financial services to Small and medium enterprises, Low-income households and individuals,;

“Order” means an obligatory directive of the CBAK issued to a Bank, a financial institution, a Micro-Finance Institution, an insurance company or insurance intermediary, or any particular group thereof, in implementation of the Regulations and Rules governing them;

“Portfolio at Risk” refers to the monetary value of an institution’s Loan portfolio, less eligible collateral values as defined in Section 4 of CBAK rule IX;

“Portfolio at Risk > 30 days” means the portion of an institution’s “portfolio at risk” having payments of principal or interest contractually overdue in excess of 30 days;

“Primary business” means not less than 75% of the average total outstanding Loans of a Micro-Finance Institution;

“Principal shareholder” means a person that owns directly or indirectly ten percent or more of any class of voting shares of a Bank or company;

“Receiver” means a person appointed by the CBAK pursuant to Section 39 of UNMIK Regulation No.1999/21, on Bank Licensing, Supervision and Regulation, for purposes delineated therein;

“Registered Micro-Finance Institution” means a Micro-Finance Institution which is authorized to collect Deposits for an amount not exceeding 125,000 Euro or its counter value, pursuant to its registration with the CBAK;

“Related business organizations” means holding company and subsidiaries and/or affiliates, or sister companies, or business enterprises with common shareholders, or common partners, or under common control, control being

understood as the ability to exercise a dominant influence over the management and the policies of such groups of legal persons, on the basis of ownership, majority of directors or any other agreement;

“Related individuals” means the spouse of an individual, the children of an individual whether they are adults or minors, and whether or not they reside with the individual, mother, father, step-parents, brothers, step-brothers, sisters, step-sisters, aunts or uncles, whether by blood or marriage, or other persons with whom an individual has a familial relationship;

“Related persons” means without limitation any Administrator of a Micro-Finance Institution or non-bank financial institution; any shareholder; any person who is related to such Administrator, shareholder or holders by marriage, consanguinity to the second degree, or business interest; or any person that has a significant interest in a legal person in which the Micro-Finance Institution or non-bank financial institution has a significant interest;

“Rule” means an obligatory directive addressed to a Bank, a financial institution, a Micro-Finance Institution, an insurance company or insurance intermediary, or any particular group thereof, and issued by the CBAK Governing Board to implement provisions of the Regulation(s) governing them;

“Significant interest” means a direct or indirect holding of an interest in a legal person or enterprise that represents twenty percent or more of its outstanding voting shares, or that, in the opinion of the CBAK, makes it possible to exercise a controlling influence over its management or policies;

“Small enterprise” means an enterprise that has up to 9 employees and during a 12-month period has aggregate sales of 500,000 Euro or less.

Section 3 Prohibitions

3.1. No person shall engage in the business of a Micro-Finance Institution without being first registered with the CBAK.

3.2. No Micro-Finance Institution incorporated outside Kosovo shall be permitted to engage directly in any micro-finance activity in Kosovo unless the activity is undertaken through a branch office or subsidiary duly Registered with the CBAK

3.3. No Registered Micro-Finance Institution shall engage in the business of collecting Deposits in excess of 125,000 Euro without a valid License issued by the CBAK for that purpose.

3.4. No Micro-Finance Institution shall use the word “bank”, or any derivative of the word “bank”, in its title, and any other word that is misleading concerning its financial activities, its financial condition, legal status or connection with government or international institutions.

3.5 No existing Micro-Finance Institution will be permitted to continue its operations without applying for a new registration under the present regulation within a period of six months from the entry into force of this regulation.

II. REGISTRATION AND LICENSING OF MICRO-FINANCE INSTITUTIONS

Section 4

Registration and Licensing of Microfinance Institutions

The CBAK shall have sole authority for registering and licensing of Micro-Finance Institutions operating in Kosovo.

Section 5

Application for Registration of Micro-Finance Institutions

5.1. The application for registration shall be in such form as may be prescribed by the CBAK and shall include the following information:

- i) Name, legal address and address(es) of business in Kosovo;
- ii) Legal representative in Kosovo;
- iii) Legal address outside Kosovo, if applicable;
- iv) Legal representative outside Kosovo, if applicable;
- v) Name, address, nationality and passport number of the founders of the institution;
- vi) In case of a corporation, name, address, nationality and passport number of each shareholder together with the amount of their respective shareholdings and name, address, nationality and passport number of each director of the corporation;
- vii) In case of a foundation or of a non-governmental organization (“NGO”), name, address, nationality and passport number of each director, manager or executive of the foundation or NGO;
- viii) In case of a partnership, constituting agreement of the partnership and name, address, nationality and passport number of each partner;

ix) Name, address and other contact information of each individual authorized to co-operate with the CBAK in the process of reviewing the registration application;

x) Copies of the founding instrument or agreement, partnership agreement statutes, charter, by-laws or articles of association as applicable;

xi) Audited financial statements of the applicant for the past two years as applicable;

xii) A business plan describing the expected target market and activities in Kosovo for at least three years, giving details about proposed products and Loan portfolio projections, and sources of financing of the activities including the financing provided by the founders and by other sources; projected initial balance sheet and projected financial statements (balance sheet and income statement) for at least three years; and

xiii) Such additional information as the CBAK deems appropriate.

5.2. The application may provide such additional information as the applicant deems appropriate and shall be accompanied by payment of the prescribed fee, which is not refundable.

Section 6

Registration of Micro-Finance Institutions

6.1 Upon receiving an application under section 5 above, CBAK shall review the information submitted and once it deems the information complete it shall notify the applicant accordingly in writing.

6.2. No later than 90 days after the applicant has been notified by the CBAK that the application for registration is complete, the CBAK shall issue a decision approving or denying the registration. By mutual agreement between the CBAK and the applicant, the decision period can be extended for up to 90 days. A notification of the denial of the registration shall state the grounds on which the registration was denied.

6.3. The registration of a Micro-Finance Institution shall be approved for an indefinite period of time and is not transferable. Once Registered, a Micro-Finance Institution shall commence operations within six months from the date of the notification of the registration. If it does not commence operations with such time, the registration becomes invalid. The Micro-Finance Institution may reapply for registration.

6.4. Registered Micro-Finance Institutions will be listed in the register of financial institutions maintained by the CBAK.

Section 7

Prior Conditions to the Licensing of Micro-Finance Institutions

7.1. In order to be authorized to collect Deposits from their members, or from the public, for a total amount in excess of 125,000 Euro, Micro-Finance Institutions must apply for and obtain a License from the CBAK.

7.2. Any applicant for a License from the CBAK, must first fulfil the following conditions at the time it applies for a license:

- i) Registration as a Micro-Finance Institution with the CBAK;
- ii) Registration as a business with the Ministry of Trade and Industry;
- iii) Having operated as a Micro-Finance Institution in Kosovo for three years;
- iv) Having recorded each year during the last three years a surplus or profit on operations after Loan loss provisions and write-offs;
- v) Having recorded every year during the last three years a ratio of Portfolio at Risk > 30 days and other Loan portfolio quality ratios, as stipulated by the applicable CBAK Rules;
- vi) Having recorded over the last three years maximum annual Loan loss provision expenses as a percentage of the average gross portfolio as mandated by the applicable CBAK Rules; and
- vii) Having a minimum paid up Capital and reserves or a minimum Equity as stipulated by the applicable CBAK Rules.

Section 8

Application for a License by Micro-Finance Institutions

8.1. The application for a License by a Micro-Finance Institution shall be in such form as may be prescribed by the CBAK and shall include the following information:

- i) Name, address, nationality and passport number of the shareholders of the Micro-Finance Institution, with amount of their shareholdings (number of shares, amount paid up and still to be paid, percentage of Capital);
- ii) Name, address, nationality, passport number, biographical data (including professional qualifications and working experience for the past ten years) and financial statements for the past three years of each person who is, or proposes to be, a Principal shareholder of, or has, or proposes to have, a Significant interest in the Micro-Finance

Institution, and the amount and percentage thereof; the proposed ownership interests of affiliated, or Related persons, shall be aggregated to determine the amount of such interest; and the directors and members of the general management of the Micro-Finance Institution;

iii) Name, address and other contact information of the individual authorized to co-operate with the CBAK in the process of reviewing the License application;

iv) Updated copy of the statutes, charter, by-laws or articles of association of the Micro-Finance Institution;

v) Audited financial statements for the past three years (if the Micro-Finance Institution is a branch of a foreign institution, audited financial statements of the Kosovo operations, and of the foreign institution that owns the Kosovo branch);

vi) A business plan describing, inter alia, the expected target market and activities in Kosovo for the next three years, giving details about proposed products and Loan portfolio projections, sources of financing of the activities including the financing provided by the founders and by other sources, projected initial balance sheet and projected financial statements (balance sheets and income statements);

vii) Organization chart of the Micro-Finance Institution, short description of its management information systems and IT systems, of its Credit and funding policies and of its management and operations manuals;

viii) Any other information as may be required by the CBAK in order for the CBAK to satisfy itself that the Micro-Finance Institution is, and will continue to be, in the position to meet its liabilities and obligations as they come due, and that the affairs of the Micro-Finance Institution are not likely to be conducted in a manner detrimental to the interests of its customers; and

ix) Such additional information as the CBAK deems appropriate.

8.2. The application may provide such additional information as the applicant deems appropriate and shall be accompanied by payment of the prescribed fee, which is not refundable.

Section 9

Licensing of Micro-Finance Institutions

9.1. Upon receiving an application under section 8 above, CBAK shall review the information submitted and once it deems the information complete it shall notify the applicant accordingly in writing.

9.2. No later than 90 days after the applicant has been notified by the CBAK that the Micro-Finance Institution's License application is complete, the CBAK shall issue a preliminary decision approving or denying the License. By mutual

agreement between the CBAK and the applicant, the decision period can be extended for up to 90 days. A notification of the denial of the License shall state the grounds on which the License was denied.

9.3. In the case of preliminary approval of an application for a Micro-Finance Institution License, the CBAK shall enumerate the conditions for the Micro-Finance Institution to receive the License. Such conditions shall include, inter alia:

- i) The payment of the minimum Capital required from Licensed Micro-Finance Institutions in accordance with Section 19 of this regulation;
- ii) Where necessary, the hiring and training of additional staff, and the lease or purchase of additional operations equipment and systems to perform permitted activities listed in section 12; and
- iii) The engagement of external and internal auditors in accordance with section 26 of this regulation.

9.4. When approved, a License is granted for an indefinite period of time and is not transferable. Once Licensed, a Micro-Finance Institution shall commence corresponding permitted activities within six months from the date of the notification of the License. If it does not commence operations with such time, the License becomes invalid. The Micro-Finance Institution may reapply for a License.

9.5. Licensed Micro-Finance Institutions will be listed in the register of financial institutions maintained by the CBAK.

Section 10 Cancellation of License and Withdrawal of Registration of Micro-Finance Institutions

10.1. The CBAK may cancel the License of a Micro-Finance Institution or withdraw its registration on one or more of the following grounds:

- i) If it is confirmed that the Micro-Finance Institution registration or licensing was effected on the basis of false or misleading information;
- ii) If the Micro-Finance Institution ceases to carry on its primary activities;
- iii) After a request by the Micro-Finance Institution following a decision of closure of the Micro-Finance Institution, and subject to such conditions as the CBAK may impose;

iv) If Deposit taking exceeds 125,000 Euro or its counter value without the Micro-Finance Institution having been Licensed to collect Deposits;

v) If the Micro-Finance Institution failed to comply with Regulations, Rules, prudential requirements applying to such institutions, or orders issued by the CBAK, and failed to correct within agreed periods of time the deficiencies and irregularities noted by the CBAK;

vi) If the Micro-Finance Institution has intentionally presented fraudulent reports or repeatedly presented reports with false information to the CBAK, or failed to present in due time to the CBAK information and documentation requested by the CBAK authorized examiners;

vii) If, in the judgment of the CBAK, the Micro-Finance Institution has engaged in illegal practices or in practices that are causing significant distortion in relevant markets and consequently cause serious financial harm to the financial institutions operating in Kosovo;

viii) If the parent of the Micro-Finance Institution ceases its primary activities in the home country; and

ix) If, in the judgment of the CBAK, the Micro-Finance Institution becomes or may soon become insolvent. In this case, the CBAK may exercise any or all of the actions set forth in Chapter IX of this regulation.

10.2. A decision to cancel the License of a Micro-Finance Institution or to withdraw its registration shall be published in one or more newspapers of general circulation wherever the Micro-Finance Institution's main office is located.

10.3. The Micro-Finance Institution whose License has been cancelled or registration withdrawn shall cease to transact micro-finance services in Kosovo except as may be approved by the CBAK for the purpose of closing or liquidating its business.

III. PERMITTED ACTIVITIES

Section 11

Permitted Activities of Registered Micro-Finance Institutions

11.1. The main purpose of Registered Micro-Finance Institutions is to provide Loans primarily to Low-income households and individuals, and Small and medium enterprises.

11.2. The maximum aggregate amount of the Loans outstanding to the benefit of any single person or to the benefit of a group of Related persons shall not exceed the amounts prescribed by the CBAK. The maximum aggregate amount of the Loans outstanding to the benefit of any single enterprise or to the benefit of a group of Related business interest and Significant interests shall not exceed the amounts prescribed by the CBAK.

11.3. Registered Micro-Finance Institutions may also engage in the following activities:

- i) Providing limited payments services in connection with Loans extended to clients;
- ii) Acquiring funds by grant or by borrowings for the purpose of lending or for their own use;
- iii) Borrowing from and placing funds in markets and institutions approved by the CBAK for the purpose of managing their liquidity;
- iv) Providing Loans to finance the purchase of equipment;
- v) Acquiring, owning, leasing, renting, maintaining, transferring, selling or disposing of any movable or immovable property that is used for carrying out their business; and
- vi) Providing financial, technical and professional assistance and training to their clients or assisting them in obtaining services in such fields.

Section 12

Permitted Activities of Licensed Micro-Finance Institutions

In addition to the activities that can be performed by Registered Micro-Finance Institutions, Licensed Micro-Finance Institutions are authorized to engage in the following activities:

- i) Accepting savings Deposits and time Deposits in the currencies officially used in Kosovo;
- ii) Buying and selling of foreign exchange on a spot basis for their members and clients on condition that they do not maintain open foreign currency positions;
- iii) Extending non-funded Credit facilities (such as letters of Credit, bonds and guarantees) to their clients on condition that these facilities are fully secured by cash Deposits in the same currency as the facility; and
- iv) Such other services specifically authorized by the CBAK.

Section 13
Other Activities of Micro-Finance Institutions

13.1. Registered or Licensed Micro-Finance Institutions may also engage in such other financial activities as the CBAK may determine by Rule.

13.2. The CBAK may define by Rule specific terms and conditions applying to the performance by Micro-Finance Institutions of authorized activities, and the Micro-Finance Institution Registered or Licensed under the present regulation shall comply with these Rules.

13.3. The CBAK may also prohibit or restrict any Registered or Licensed Micro-Finance Institution from engaging in any of the permitted activities. In such a case, the CBAK will provide reason(s) in writing for its decision.

**IV. ORGANISATION, MANAGEMENT AND ADMINISTRATION OF
MICRO-FINANCE INSTITUTIONS**

Section 14
Transactions Requiring Prior Authorization from the CBAK

The following require prior written approval from the CBAK:

- i) The change of name of a Micro-Finance Institution;
 - ii) The change of location of an a Micro-Finance Institution;
 - iii) The sale or transfer of its business to a different entity;
 - iv) The merger or amalgamation of the Micro-Finance Institution;
- and
- v) If the Micro-Finance Institution is a company, all transactions and operations on its share Capital modifying the list of the shareholders owning 10% and more of the share Capital and/or of the voting rights of the company.

Section 15
Governance of Micro-Finance Institutions

The affairs of a Micro-Finance Institution are governed and managed by and under the direction of its executive bodies in conformity with applicable law and the institution's legal status to the extent they are not inconsistent with

present Regulations. They are performed in accordance with accepted principles of good governance ensuring that the business of the institution is conducted in a safe and sound manner. The Micro-Finance Institution must comply with all Regulations and applicable Rules issued by the CBAK.

Section 16 Governing Board

16.1 A Licensed Micro-Finance Institution shall be administered by a Governing Board consisting of an uneven number of not less than three members, of which two must be without executive or management functions in the institution. All Governing Board members shall be “fit and proper” and of good repute, meeting the criteria established by the CBAK regarding qualifications, experience and integrity of the members of the Governing Board of a Bank. Prior to assuming their office, members of the Governing Board of a Licensed Micro-Finance Institution must have written approval by the CBAK.

16.2 The Governing Board and its members may not delegate their responsibilities to others.

Section 17 Committees

In its management, organization, administration and control functions, the Governing Board of a Licensed Micro-Finance Institution is assisted by at least three Committees:

- i) An Audit Committee including – and chaired by – a non-executive member of the Governing Board;
- ii) A Credit Risk Management Committee; and
- iii) An Asset and Liability Management Committee.

The duties and responsibilities of these committees are prescribed in Section 20 of UNMIK Regulation No. 1999/21, as amended. Ordinary meetings of the Committees are convened according to a calendar fixed by the Governing Board. Extraordinary meetings of the Committees may be convened by two members of the Governing Board or by two members of the Committee.

Section 18 Executive Director – Chief Executive Officer

Day-to-day activities of a Licensed Micro-Finance Institution are under the responsibility of an Executive Director or Chief Executive Officer or General

Manager appointed by the Governing Board and reporting to it. That person shall not simultaneously serve as the Chairperson of the Governing Board.

Section 19

Secrecy

Present and past Governing Board members, employees, and agents of a Micro-Finance Institution shall keep secret, and not use for personal gain or gain by other than the Micro-Finance Institution that they serve or have served, or permit to be examined by others, any non-public information that they obtained in the course of their services for the Micro-Finance Institution. Such information may be disclosed only to the CBAK, including its inspectors and the auditors appointed by it, external auditors of the Micro-Finance Institution, judicial authorities as provided by the applicable law, foreign Bank supervisory authorities if the Micro-Finance Institution is subject to such supervision, and in legal proceedings involving the Micro-Finance Institution where such disclosure is required by the court.

V. PRUDENTIAL REQUIREMENTS FOR LICENSED MICRO-FINANCE INSTITUTIONS

Section 20

Minimum Capital

20.1 The CBAK shall have the sole responsibility for establishing the minimum amount of paid-in Capital or Equity to be maintained by Licensed Micro-Finance Institutions, which required amount may never be less than 2,500,000 Euro. The CBAK may increase such required minimum amount from time to time by Rule or Order.

20.2 All credit extended by a Licensed Micro-Finance Institution to members of its Governing Board; its Executive Director or Chief Executive Officer or General Manager; those holding a Significant interest; and those who are Related individuals or business organizations with respect to the aforementioned will be deducted from paid-in Equity for the purpose of establish compliance with CBAK Rules or Orders.

Section 21

Equity and Liabilities

21.1. Total liabilities of a Licensed Micro-Finance Institution cannot exceed five times the amount of its Equity as defined for that purpose by the CBAK.

21.2. Total amount of Deposits collected from an individual or person or a group of Related individuals or persons shall not exceed the amounts or percentages of Capital or total Deposits prescribed by the CBAK.

Section 22

Liquidity and Matching of Assets with Liabilities

22.1. Licensed Micro-Finance Institutions are required to maintain, at any given time, minimum liquidity reserves calculated as a percentage of their Deposits, as prescribed by the CBAK.

22.2. Licensed Micro-Finance Institutions shall ensure that they adequately match the maturities of their funding sources and uses.

Section 23

Loan Portfolio

The CBAK may prescribe by rule individual and aggregate Credit exposure limits extended by a Licensed Micro-Finance Institution.

Section 24

Credit Classifications and Minimum Provisions

No less frequently than quarterly, Licensed Micro-Finance Institutions shall self-classify their Credit exposures in accordance with CBAK Rule IX, and shall constitute Credit provisions for impaired Loans accordingly.

Section 24bis

Consumer Protection

Licensed Micro-Finance Institutions will provide their depositors, borrowers and others with whom they engage in financial business with adequate information on the terms and conditions of any contractual obligation, in accordance with the relevant CBAK Rules and Ordinances.

VI. ACCOUNTING, AUDIT AND FINANCIAL REPORTING

Section 25 **Accounts and Financial Statements**

25.1. All Micro-Finance Institutions shall maintain accounts and records, and prepare annual financial statements, adequate to reflect their operations and financial condition in accordance with internationally accepted accounting standards. Accounts and records shall also reflect the operations and financial condition of their branch offices, subsidiaries and affiliates, both on an individual and on a consolidated basis. Regulatory reports to CBAK shall be prepared on a consolidated basis, consolidating the financial activities of all Kosovo offices.

25.2. Accounts and financial statements shall be in such form and detail and in accordance with internationally accepted accounting standards or such other accounting standards as shall be prescribed by the CBAK

Section 26 **Audit**

All institutions shall appoint an external auditor. Additionally, all Licensed Micro-Finance Institutions shall have an internal auditor approved by CBAK in accordance with the terms and conditions enunciated in Section 33 of UNMIK Regulation No. 1999/21. The duties of these auditors will be the same as those listed in Section 33 of that Regulation, and as may be specified by CBAK Rules.

VII. SUPERVISION AND CONTROL OF ALL MICRO-FINANCE INSTITUTIONS

Section 27 **Reporting to the CBAK**

All Micro-Finance Institutions shall report their activities to the CBAK in accordance with the prescription in their registration or License and as may be prescribed from time to time by the CBAK.

Section 28
Examination

All Micro-Finance Institutions are subject to examinations by the examiners of the CBAK or by agents appointed by the CBAK. Such examiners may include officials of the authority of another country that is charged with the prudential supervision of financial activities in that country when the institution is a branch or a subsidiary of a Micro-Finance Institution supervised by the other country's regulator.

VIII. INFRACTIONS, SANCTIONS AND REMEDIAL MEASURES

Section 29
Infractions, Penalties and Remedial Measures

29.1. The CBAK may take one or more of the following actions or impose the following penalties with respect to a Micro-Finance Institution if the CBAK, in its findings, determines that the Micro-Finance Institution or any of its Administrators or holders of a Significant interest in it have violated a provision of the present regulation or of any Rule or Order of the CBAK, has violated any condition or restriction attached to an authorization issued by the CBAK, or has engaged in unsafe or unsound practices:

- i) Issue written warnings;
- ii) Require the Micro-Finance Institution to submit a remedial plan;
- iii) Conclude a written agreement with the Governing Board providing for a program of remedial action;
- iv) Impose limits and/or place restrictions on the activities and operations of the Micro-Finance Institution;
- v) Issue written Orders to cease and desist from such infractions and to undertake remedial action;
- vi) Impose fines on the Micro-Finance Institution or on its Administrators, Principal shareholders or those holding Significant interest in it, in amounts of from 100 to 1,000 Euro for each day that the infraction continues provided that fines shall be of similar amount for entities with comparable total assets for the same type of infraction;
- vii) Appoint an adviser to the Micro-Finance Institution;
- viii) Suspend temporarily or dismiss management or a member or members thereof, the Board of Governors or a member or members thereof;

- ix) Appoint a temporary Administrator in place of current management; and
- x) Revoke the License and the registration of the Micro-Finance Institution and appoint a Receiver pursuant to section 32 of this regulation.

29.2. The measures and penalties provided in this section shall not preclude application of other civil penalties or criminal penalties as provided under applicable law.

29.3. Any fines or revenue imposed in accordance with this section shall be paid to the Kosovo Consolidated Budget.

29.4. Penalties described in the present section may be applied to any person who violates any of the provision of section 3 and the CBAK shall also, notwithstanding any other provision of law, be empowered to seek the liquidation of the business of such person under the provisions of applicable law.

Section 30

Suspension and Removal of Persons Related to a Micro-Finance Institution

30.1. If the CBAK determines that any Administrator, employee or holder of a Significant interest in a Micro-Finance Institution has wilfully or repeatedly committed any violation of the present regulation or any Rule or Order that has resulted in a material loss to the Micro-Finance Institution or a financial gain to such a person or has engaged in unsafe or unsound practices and has persisted in such violations or practices following a written warning from the CBAK, the CBAK may issue an Order containing any or all of the following provisions:

- i) Requiring the dismissal of the person from his or her position in the Micro-Finance Institution;
- ii) Prohibiting such person from serving in or engaging in the banking or financial business for a stated period or for life;
- iii) Prohibiting the person from direct or indirect exercise of voting rights attached to shares of the Micro-Finance Institution;
- iv) Requiring the person to dispose of all or any part of his or her direct or indirect ownership interest in the Micro-Finance Institution or cease to hold a Significant interest in it; and
- v) Requiring the person to reimburse the Micro-Finance Institution for losses caused by such violations.

30.2. If any such person is charged with any criminal offence, the CBAK may issue an Order temporarily suspending such person from his or her position in the Micro-Finance Institution and, if applicable, suspending the exercise of

voting rights of shares in the Micro-Finance Institution by such person pending the determination of the criminal case. A dismissal of the criminal case or decision of not guilty on the merits shall not preclude the CBAK from taking any enforcement action with respect to a person authorized by the present regulation.

30.3. In the event that any person does not sell or dispose of voting shares of a Micro-Finance Institution pursuant to an Order issued under this section within the prescribed period of time, the CBAK may Order that all the shares in the Micro-Finance Institution held by such person be transferred to a trustee for sale at auction and the net proceeds, less expenses of sale, will be remitted to that person.

IX. VOLUNTARY LIQUIDATION AND RECEIVERSHIP

Section 31 Voluntary Liquidation

If the shareholders, directors or owners of a Micro-Finance Institution wish to voluntarily liquidate the Micro-Finance Institution in accordance with applicable law, they shall submit a request for approval of the voluntary liquidation to the CBAK accompanied by such information as the CBAK may prescribe. The CBAK shall make due inquiry into the affairs of the Micro-Finance Institution and, if it assures itself that depositors' interests or other creditors' interests will be sufficiently protected, may approve the voluntary liquidation under applicable law.

Section 32 Receivership

32.1. If the CBAK determines that a Licensed Micro-Finance Institution is insolvent or that it may reasonably be expected to become insolvent within the next ninety days, the CBAK shall revoke the License of that Micro-Finance Institution and shall forthwith take possession and control of that Micro-Finance Institution through a Receiver appointed by the CBAK. This proceeding shall be known as Receivership.

32.2. Notwithstanding any applicable bankruptcy law in Kosovo, the provisions related to Receivership applying to Banks, as stated in Sections 39 to 45 of UNMIK Regulation No. 1999/21, apply, *mutatis mutandis*, to Licensed Micro-Finance Institutions and shall control the process of administration and liquidation of insolvent Micro-Finance Institutions.

X. MISCELLANEOUS PROVISIONS

Section 33

Prevention of Money Laundering

33.1 No Micro-Finance Institution shall conceal, convert, or transfer cash or other property, if it knew or ought to have known that such cash or other property is derived from criminal activity, or aiding or abetting any person in concealing or disguising the illicit origin of any cash or property.

33.2 Micro-Finance Institutions shall inform the CBAK of any facts which suggests that property may be derived from criminal activity and provide any additional information to the appropriate authorities, in accordance with applicable law and the CBAK Rules.

Section 34

Regulatory and Supervisory Powers of the CBAK

The CBAK shall be empowered to issue such Rules, Orders or guidelines, to visit such offices of Micro-Finance Institutions at such reasonable times as it deems appropriate, to examine such accounts, books, documents and other records, and to take such other action as it shall deem necessary or advisable to give effect to the intent of the present regulation or Rules or Orders issued there under.

Section 35

Rules and Orders of the CBAK; Fees

35.1. The CBAK shall publish its Rules and Orders which shall take effect on the date of such publication or on such later date as such Order or Rule shall specify.

35.2. The CBAK shall charge fees to Micro-Finance Institutions for its supervisory and regulatory services in order to defray its direct and indirect costs incurred in providing such services. Fees shall be assessed against Micro-Finance Institutions in relation to the amount of their assets or based on any extraordinary expenses incurred by the CBAK or its agents in relation to its supervisory activities with respect to a particular Micro-Finance Institution. Micro-Finance Institutions shall pay fees within ten days of presentation of a statement by the CBAK.

Section 36 Judicial Review

In any proceeding in any court, arbitration tribunal or administrative body in any action or measure brought or taken against the CBAK for any action taken by CBAK in its capacity as supervisor or Receiver, or against any of its officials, employees or agents:

- i) The sole question before the court or body in determining whether a defendant acted unlawfully, wrongfully or negligently shall be whether a defendant exceeded clear authority or acted in an arbitrary or capricious manner in light of all the facts and circumstances, the provisions and intent of the present regulation, Rules, Orders and applicable law;
- ii) No actual or former official, employee or agent of the CBAK shall be liable for damages or otherwise liable for acts or omissions performed in good faith in the course of his or her duties; and
- iii) The action taken which is the subject of any such proceeding shall continue without restriction during the proceeding and any appeals or judicial review unless enjoined by a court of competent jurisdiction.

Section 37 Implementation

The Special Representative of the Secretary-General may promulgate administrative directions to implement the present regulation.

Section 38 Applicable Law

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

Section 39 Transitional Rule

39.1 Any existing Micro-Finance Institutions have to meet the requirements of this regulation, together with applicable CBAK Rules in all their operations, and have to apply for a new registration no later than six months after the entry into force of this amending regulation.

39.2 An existing Micro-Finance Institution that currently accepts deposits under provision ... have to apply for a new licensing no later than six months after the entry into force of this regulation if it wishes to continue to accept deposits.

Section 40
Entry into Force

This regulation shall enter into force on the 29th day of May, 2008

Joachim Rücker
Special Representative of the Secretary-General