



Republika e Kosovës
Republika Kosovo-Republic of Kosovo
Kuvendi - Skupština – Assembly

Law No.03/L –216

**ON THE ESTABLISHMENT OF A DEPOSIT INSURANCE SYSTEM
FOR FINANCIAL INSTITUTIONS IN KOSOVO**

The Assembly of Republic of Kosovo,

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

Adopts:

**LAW ON THE ESTABLISHMENT OF A DEPOSIT INSURANCE
SYSTEM FOR FINANCIAL INSTITUTIONS IN KOSOVO**

CHAPTER I
GENERAL PROVISIONS

Article 1
Aim and scope of operation

1. The Law regulates the insurance of deposits of natural persons and legal entities and the establishment, governance and authorities of the Deposit Insurance Fund of Kosovo.
- 2.. This Law shall apply to all deposit-taking Financial Institutions required to have deposit insurance as provided herein by this law.

Article 2
Definitions

1. Terms used in this law will have the following meaning:

- 1.1. **Bank**- an entity defined by the law on Central Bank.
- 1.2. **Management Board**- the governing board of the DIFK comprised as detailed in Article 18 of this Law.
- 1.3. **Deposit**- a sum of money paid to a deposit-taking Financial Institution on condition that it is to be repaid in full by the institution, with or without interest or premium either on demand or at an agreed time and not referable to the provision of property or services or the giving of security whether or not evidenced by any entry in a record of the bank, or by any receipt, certificate, note or other document.
- 1.4. **Depositor** - a natural person or legal entity that holds a deposit in a deposit-taking financial institution.
- 1.5. **Insured depositor**- a natural or legal person that has an insured deposit in an account at a deposit-taking financial institution in Kosovo.
- 1.6. **Insured deposit**- a deposit that is within the limits of insurance as defined under this Law.
- 1.7. **Probable**- a future event that is likely to occur.
- 1.8. **Institution**- any deposit-taking Financial Institution licensed by the Central Bank.
- 1.9. **Financial Institution**- 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; extending credit; underwriting, dealing in, brokering, or distributing securities; acting as an investment company manager or investment advisor; providing other financial services such as equipment leasing finance services, micro-finance services, factoring, or foreign exchange; or other financial informational, advisory or transactional services.
- 1.10. **Institution in difficulties**- a deposit-taking Financial Institution for which it is probable that the Central Bank will within a one year timeframe appoint a receiver.
- 1.11. **Deposit Insurance Fund of Kosovo (hereinafter, the “DIFK” or “Fund”)** - the legal entity created under this Law responsible for managing the Deposit Insurance Fund.
- 1.12. **Deposit Insurance Fund**- the resources of the Fund to include in an account at the Central Bank of the Republic of Kosovo (hereinafter, the Central

Bank), and any investments in the name of the Fund as detailed in Article 25 of this Law.

1.13. **Initial capital funds**- the initial capital contribution by a newly authorized deposit-taking Financial Institution

1.14. **Deposit insurance system**- the operations of the Fund, as well as the supporting supervision and monitoring of deposit-taking financial institutions undertaken by the Central Bank.

1.15. **Insured event**- the revocation of a license by the Central Bank from a deposit-taking Financial Institution.

1.16. **Joint account** - an account opened in the names of two (2) or more persons or over which two (2) or more persons have rights as opposed to an individual account which is an account opened in the name of only one person.

1.17. **Capital of Work** – necessary funds for operational expenses.

Article 3 Objectives of the System

The objective of the deposit insurance system shall be to protect small depositors from loss in the case where an insured event occurs as defined under this Law, as well as to support the Central Bank in meeting its objective to foster the soundness, solvency and efficient functioning of a stable, market-based financial system.

CHAPTER II DEPOSIT INSURANCE

Article 4 Principles of Deposit Insurance

1. All deposit-taking Financial Institutions in Kosovo must have deposit insurance as provided for in this Law.

2. In the case of an insured event, the Fund shall reimburse all depositors who are not otherwise excluded from the coverage limits under Articles 5 and 6 of this Law.

Article 5
Deposit Coverage Limits

1. In the case of an insured event, the Fund shall reimburse each natural or legal person for the amount of their total combined insured deposits in all accounts at the institution where the insured event in Kosovo took place, including accrued interest to the time of the insured event, up to the level of two thousand (2,000) Euros. In the case of a joint account the share of each depositor shall be divided equally among the account holders. If a depositor is a trustee for the account of a third party, the third party shall have the total for the deposit added to all other deposit accounts in his or her name in applying the deposit coverage limit.
2. The amount of this reimbursement is reduced by any amounts owed to the insured deposit-taking Financial Institution that are past their scheduled due date by thirty (30) days or that are otherwise supported by documents possessing a material weakness that may impact the collection of a debt.
3. When a purchasing transaction for the assumption of a deposit by an acquiring institution under the law in force, the Fund does not compensate that insured depositor, as it would be considered a fulfillment of the DIFK's obligation to protect small, insured depositors.
4. Upon presentation of evidence of ownership, a legal right to the deposit reimbursement vests if the depositor is eligible under the limits as detailed in the paragraphs 1, 2 and 3 of this Article, unless excluded under Article 6 of this Law.
5. No provision under this Law shall be read to prevent private agreements for coverage at a greater level than vested under this Article.

Article 6
Exclusions from Deposit Coverage Limits

1. The following shall be excluded from the definition of insured deposit:
 - 1.1. the portion of deposits above the limits described in Article 5 above;
 - 1.2. accounts for which the depositor has not been identified under Article 5 of this law or suspected by the Central Bank for money laundering according to the law on Prevention of Money Laundering and Terrorist Financing;
 - 1.3. accounts of those who have held a significant interest in the institution as defined under this law and all relatives or third parties acting on their behalf;

1.4. deposits of banks, Financial Institutions, insurance and collective investment undertakings, pension and retirement funds, local and central government and administrative authorities;

1.5. branches of foreign deposit-taking Financial Institutions in Kosovo whose home country provides a deposit insurance system for the branches of similar or greater coverage as determined by the Management Board; and

1.6. branches of Financial Institutions of Kosovo that operate outside the country

Article 7

Certificate of Membership Displayed

1. The Fund shall issue a certificate of membership in the deposit insurance system for all member deposit-taking Financial Institutions and develop materials explaining the coverage of deposits under the system.

2. All deposit-taking Financial Institutions covered under the system or otherwise offering deposit insurance shall display copies of the certificate of membership at the main office and all branches and shall make openly and readily available copies of the materials explaining coverage provided by the Fund.

3. In case of branches of financial institutions that receive deposits which are provided by the original place, the fund shall decide internal rules for certifications of such branches.

Article 8

Initiation of Membership and Announcement of Reimbursement

1. Upon positive assessment of an application by the Central Bank as described with the law in force, the DIFK will simultaneously grant deposit insurance.

2. Immediately upon revocation of a license by decision of the Central Bank as described by the law in force, through public announcement for the revocation of the license and the process of reimbursement of insured deposits, as provided in the law in force will simultaneously be published in one or more newspapers of general circulation.

Article 9

Level of Initial Premium

Deposit-taking Financial Institutions that are granted a license to operate in Kosovo after the effective date of this Law shall pay an initial one-time premium of 0.3% of initial capital funds as defined with the law in force. This premium shall be treated as an

expense of the insured deposit-taking Financial Institution and shall be drawn from the insured institution's account at the Central Bank.

Article 10 Level of Ongoing Premium

The Fund shall determine the level of ongoing premium paid by the insured institution. The level of such premium will range between 0.3% and 1.5% of the average of the beginning and ending balance of insured deposits for the relevant accounting period as defined under rule by the DIFK. The pro rata annual share of this premium will be paid on a quarterly basis for each quarterly accounting period. This premium shall be treated as an expense of the insured deposit-taking Financial Institution and shall be drawn from the insured institution's account at the Central Bank.

Article 11 Differential Premium Assessment among Institutions

1. The Fund shall have the competence to assess differential premiums among institutions that expose the Fund to differing estimated levels of risk.
2. The Fund shall distinguish between institutions that expose the Fund to differing levels of risk through use of the Central Bank ratings of deposit-taking Financial Institutions from periodic examinations.

Article 12 Compensation of Depositors and Timeframe

1. Upon timely presentation of evidence of ownership as defined under rule by the DIFK, the process for reimbursement in Euros of insured depositors shall begin as soon as possible and be completed within sixty (60) days of the insured event. The Fund shall have the authority to pay the insured deposits in a single payment or a series of payments over the course of the sixty (60) days.
2. Upon payment of insured depositors, the Fund shall subrogate to the claim position of insured depositors as set forth by the law in force.
3. Deposits not denominated in Euros that are instead denominated in a convertible currency shall be reimbursed in Euros at the daily exchange rate published by the European Central Bank as of the date of the insured event.

CHAPTER III DEPOSIT INSURANCE FUND

Article 13 Establishment of the Fund

1. By this law shall be established a Deposit Insurance Fund of Kosovo which will be responsible for managing the Deposit Insurance Fund.
2. The Fund is an “Independent Fund” in Kosovo and reports to the Central Bank at least on an annual basis and is accountable to Central Bank.
3. The Fund 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 DIFK personnel, including staff, consultants, and experts, and procurement. No person shall seek improperly to influence any DIFK Management Board member or employee in the discharge of his or her duties or to interfere in the activities of the DIFK and no such Management Board member or employee shall seek nor act in accordance with such improper instructions while performing their duties as members of the Management Board or of the staff.
4. The Fund shall have an account established with the Central Bank.

Article 14 Powers and Responsibilities of the Fund

1. The Fund shall have the authority to:
 - 1.1. set the rate for and collect premiums for insurance of deposits;
 - 1.2. invest directly or through delegation of authority the assets of the Deposit Insurance Fund pursuant to the limitations of this Law;
 - 1.3. pay off insured depositors pursuant to the provisions of this Law;
 - 1.4. cooperate with the Central Bank in exchanging information relevant to the Funds’ individual objectives;
 - 1.5. coordinate with the relevant deposit insurance authorities or with home country supervisors through Central Bank with regard to branches and subsidiaries of foreign-owned institutions in Kosovo and regard to branches and subsidiaries of Kosovo-owned institutions;

- 1.6. borrow for working capital purposes and on an emergency basis according to the applicable laws.
2. The Fund shall not grant any credit or make any financial gift.

Article 15 Capital

The authorised capital of the Fund shall be up to fifteen (15) million Euros. Initial contributions may be drawn from donor grants or through other means with conditions for receipt of such funds to be approved by the Management Board. Additional sources of capital may include revenues from premiums, gains on disposition of assets and returns on investments. The capital may be increased by such amounts as may be determined by the Management Board. The Fund capital shall not be subject to deposit.

Article 16 Financing of the Fund

1. The budgeting and financing of the DIFK shall be as provided for by this law.
2. Any revenue derived by the DIFK from fees, return on investment, premiums, donations and any other charges lawfully levied pursuant to the present law, and applicable legislation, shall be governed by the rules of DIFK and Central Bank.

Article 17 Emergency or Extraordinary Funding

1. If upon the basis of a review of the financial plan or other supporting financial information, the Managing Director or the Management Board of the DIFK determines that the Deposit Insurance Fund does not have sufficient financial resources to carry out its objectives, the Management Board shall approve a plan, in keeping with principles of financial sector soundness, to undertake one or more of the following actions:
 - 1.1. increase the level of the ongoing premium levied against insured institutions on a temporary basis up to two (2) times its level at the time of the emergency in one (1) year, with the Management Board determining whether such emergency premiums will be credited against future premiums; or
 - 1.2. secure loans and/or guarantees in compliance with the applicable laws in Kosovo and Central Bank rules for the necessary funding in the market, except from members institutions.

Article 18
Governance – Membership of the Management Board

1. Central Bank shall appoint the Management Board of DIFK.
2. The Fund will be governed by a Management Board of five (5) persons:
 - 2.1. Governor of the Central Bank or his authorized representative;
 - 2.2. one (1) representative from the Ministry of Economy and Finances;
 - 2.3. Director of Managing Fund;
 - 2.4. one (1) expert experienced in the field of deposits and finance insurance;
 - 2.5. one (1) expert – certified Auditor.
3. The chairperson shall be appointed by the Management Board. Till nomination of the president, the Board shall be headed by the Governor of the Central Bank or his authorized representative.
4. The Management Board shall invite advisors from the following list, who will not be permitted access to confidential information on a case by case basis as decided upon by the Management Board, to be consulted with upon invitation, but at least twice per year:
 - 4.1. one (1) representative of the Kosovo Banks' Association;
 - 4.2. one (1) representative of Association of Microfinance Institutions of Kosovo;
and
 - 4.3. others advisors as the Management Board shall see fit.
5. Additionally the Management Board can invite independent experts from donor organizations or donor agencies to attend its meetings. These experts will not have voting rights.
6. Independent members of the Management Board will serve for a period of five (5) years and will have the right of a re-selection for one mandate. The chairperson and the independent member must be individuals who have recognized integrity and professional higher education and experience in financial, banking or legal matters, and every Management Board member has to be without any political mandate for the previous year. Additionally, the independent member shall be without prior employment history with any insured institution in Kosovo that receives deposits for at least two (2) years prior to its board membership.

7. The chairperson shall call, preside over and ensure the orderly conduct of the meetings of the Management Board.

8. Members of the Management Board, advisors and experts shall indefinitely keep confidential the information they obtain during the performance of their duties except as provided for under Article 24 of this Law.

9. Independent members of the Management Board of DIFK shall receive reasonable compensation with decision of the Management Board from the Fund in the form of meeting fees and where applicable travel and accommodation reimbursement similar to that received by persons holding executive or non-executive positions with supervisory or managing boards, as the case may be.

10. Members of the Management Board must attest to the fact that they are not executives or members of the Governing Board of any financial institution that receives deposits operating during the course of their service, nor can they provide services to any insured institution during the course of their service on the Management Board or one (1) year preceding.

11. Members with a financial interest in a decision of the Board shall disclose such interests and unless unanimously approved by the remaining members of the Management Board shall not participate in the deliberations.

Article 19

Governance - Powers of Management Board

1. The Management Board shall be responsible for:

1.1. appointing a Managing Director of the Fund;

1.2. entering into contracts and be a party to legal proceedings;

1.3. acquiring, holding and disposing of DIFK property;

1.4. approving all rules, orders and guidelines for the management and operation of the Deposit Insurance Fund;

1.5. adopting the Fund's financial plan and financial statements;

1.6. adopting the Fund's investment policy for the Deposit Insurance Fund;

1.7. making decisions on changing the level of insurance premiums as provided in this Law;

- 1.8. making recommendations on changes to this Law based on operational experience in its application;
- 1.9. approving appointment of the Fund's external auditors;
- 1.10. approving the payment of insured depositors in institutions difficulties;
- 1.11. assessing penalties and applying enforcement measures for actions in contravention to this Law;
- 1.12. determining if ongoing premiums should be reduced below the range specified in Article 10 of this Law if the fund target size is reached;
- 1.13. approving borrowing for emergency or working capital purposes; and
- 1.14. approving number of staff as recommended by the Managing Director of the Fund.

Article 20
Governance - Dismissal of Management Board

1. A member of the Management Board shall be removed from the office by majority votes of the Management Board, if he or she:
 - 1.1. is ineligible to serve on the Management Board under the requirements of Article 18 of this Law;
 - 1.2. has been convicted of an offence which carries a sentence of imprisonment without the option of a fine;
 - 1.3. has been involved as a debtor in bankruptcy or insolvency proceedings;
 - 1.4. has, on grounds of personal misconduct, been disqualified or suspended by a competent authority from practicing a profession;
 - 1.5. has been found by a majority of the members of the Management Board responsible for having been engaged in activities inconsistent with the standards of integrity or unbecoming of a member of the Management Board;
 - 1.6. is unable to perform the functions of such office because of an infirmity of body or mind that has lasted for more than two (2) months; or
 - 1.7. has been absent from three (3) consecutive meetings of the Management Board without, in the opinion of the Management Board, justifiable reason.

2. every member of the Board is entitled to offer resignation:
 - 2.1. in case of resignation, the Board member should notify the management Board at least three (3) months earlier
 - 2.2. the Management Board should approve the resignation in terms of three (3) months.

Article 21
Governance - Meetings of the Management Board

1. The meetings of the Management Board shall be chaired by the Chairperson, or in his or her absence, the Chairperson's designee.
2. The Management Board shall meet as often as business of the Fund may require but not less frequently than four (4) times a year.
3. Meetings of the Management Board are convened by the Chairperson who shall decide the agenda upon proposal of the Managing Director of the Fund. Meetings may also be convened at the written request of any two (2) members of the Management Board.
4. Management Board meetings shall be convened by communicating the time, venue and agenda of the meeting to all members of the Management Board at least five (5) working days before the date set for the meeting; in the event of an emergency, meetings may be convened at shorter notice.
5. Each member of the Management Board shall have one vote. In the event of equality of votes, the Chairperson's vote shall define its selection.
6. A quorum for the conduct of business and taking of decisions at any meeting of the Management Board shall consist of three (3) members of the Management Board.
7. Except as provided by this Law, decisions of the Management Board shall be adopted by a simple majority of those present and voting. However, meetings and voting by teleconferencing are permitted, but at least one in person meeting of the Management Board shall be held each year.
8. Subject to the quorum requirement above, no act or proceeding of the Management Board shall be invalidated by reason of the existence of a vacancy or vacancies on the Management Board.
9. All acts done by a person acting in good faith as member of the Management Board shall be valid notwithstanding that some defect in that person's appointment, eligibility or qualification is afterwards discovered.

Article 22
Governance – Managing Director of the Fund

1. The Managing Director of the Fund shall be the Chief Operational Officer of the Fund on a full-time basis and shall be responsible and accountable to the Management Board for:

1.1. representing and managing the affairs of the Fund and implementing the policy decisions of the Management Board;

1.2. making recommendations to the Management Board regarding improvement of the operations of the Fund;

1.3. preparing and proposing the financial plan, including the level of the premium assessed against insured institutions, and submitting the annual financial statements for approval of the Management Board;

1.4. submitting the investment policy for approval of the Management Board;

1.5. presenting all proposed actions, rules, orders and guidelines for the approval of the Management Board;

1.6. making recommendations regarding the Fund’s external auditor;

1.7. hiring staff with the approval of the Managing Board and in accord with this Law; and

1.8. perform other activities in compliance with this Law, including presenting the above mentioned issues in this Article before the Management Board on a regular basis.

Article 23
Administrative Sanctions

1. The Fund shall determine the administrative sanctions provided for infractions under this Law by issuance of a rule detailing the detection and assessment of administrative sanctions and the range of applicable administrative sanctions assessable.

2. The administrative sanctions provided under this Law shall not preclude application of other sanctions or criminal penalties as provided under applicable law.

Article 24
Information Access, Use and Exchange

1. All insured institutions shall provide any necessary information requested by the Fund and be responsible for the accuracy and quality of information provided. To the extent possible the Fund shall rely on financial information already provided to the Central Bank by insured institutions.
2. The Fund and the Central Bank shall exchange information and the Central Bank shall regularly and upon request of the Fund inform the Fund regarding problem institutions to allow the Fund to be fully prepared to meet its objective and the requirements of this Law. The parameters of this exchange of information shall be codified in a memorandum of understanding between the Fund and the Central Bank.
3. No person who serves or has served as a member of the Management Board or staff as well as other persons hired by the DIFK to provide professional or technical services, agent or correspondent of the DIFK shall, in a manner unauthorized by this Law permit access to, disclose or publicize non-public material information which he or she has obtained in the performance of duties or use such information or allow such information to be used, for personal gain.
4. Notwithstanding the previous paragraph, such persons may disclose non-public material information outside the DIFK, in accordance with procedures established by the DIFK only:
 - 4.1.in accordance with the express or implied consent of the person about whom the information relates;
 - 4.2. 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;
 - 4.3. if given to the auditors of the DIFK;
 - 4.4. if given to the deposit-taking Financial Institution supervisory authorities and staff of public international deposit-taking Financial Institutions in performance of their official duties;
 - 4.5. if the interest of the DIFK itself in legal proceedings requires disclosure; or
 - 4.6. if the Management Board has given consent.

Article 25
Investment of Deposit Insurance Fund Assets

1. Investment of Deposit Insurance Fund assets by the Fund shall be limited to fixed income securities denominated in Euros issued by, or guaranteed by, member countries of the European Union, European Union governmental agencies and European Union supranational agencies.
2. The Fund may also invest in short-term fixed income securities or debt instruments denominated in Euros issued by European Union banks or companies with the highest ratings, defined as a minimum quality rating of “A1”, “P1” “AA” or “Aa2,” as relevant.

Article 26
Working Capital Borrowing

The Fund shall have the authority to borrow from external sources except from member institutions for the purpose of funding the working capital needs of the Fund upon approval by the Management Board, and as allowed under Article 17 of this Law.

Article 27
Deposit Insurance Fund Target Size

The Management Board of the Fund shall manage the Deposit Insurance Fund and shall, consistent with its responsibilities to protect small depositors, if the ratio of the total capital of the Deposit Insurance Fund to insured deposits exceeds five percent (5%), consider reducing and have the power to reduce the premium assessed on deposit-taking Financial Institutions below the range specified in Article 10 of this Law.

Article 28
Financial Reporting by the Fund

1. The Fund shall maintain accounts and records in accordance with international financial reporting standards to reflect its operations and financial condition.
2. The financial year of the Fund shall begin on the first day of January and end on the last day of December.
3. The financial statements of the Fund shall include separate accounts for provisions; reserves on claims; and unresolved institution liability.
4. The Fund shall prepare financial statements for each of its financial years, which shall include a balance sheet, a profit and loss statement and related statements. These

financial statements shall be audited and issued without undue delay, but not later than June 30 for the previous year.

5. The accounts, records and financial statements of the Fund shall be audited by an internationally recognized independent external auditor approved by the Managing Board. The same external auditor cannot be used for more than three (3) consecutive years.

Article 29
Immunity from Corporate Income Tax and Acts in Good Faith

1. The Fund shall be exempt from Corporate Income Tax.
2. An employee or agent of the Fund shall not be liable for damages or otherwise liable for acts and omissions performed in the course of duties unless such acts or omissions constitute violation of the law. Under these same circumstances, the Fund shall reimburse an employee or agent of the Fund for the costs of litigation in the performance of prescribed duties within the scope of this Law.

CHAPTER IV
TRANSITIONAL PROVISIONS

Article 30
Effectiveness of Insurance of Depositors

Six (6) months after the promulgation of this Law the Fund will begin to insure depositors at all existing deposit-taking Financial Institutions not otherwise excluded under Article 32 of this Law. This date for insuring depositors may be delayed if the Management Board is not fully constituted or if sufficient initial contributions for authorized capital under Article 15 of this Law as determined by the Management Board are not made available.

Article 31
Payment of Premiums by Insured Institutions

Upon promulgation of this Law, but prior to the effectiveness of depositors insurance as described in Article 30 of this Law, deposit-taking Financial Institutions will be required to make premium payments for one quarterly cycle as described in Article 10 of this Law.

Article 32
Requirements for Membership

Three (3) months prior to the effectiveness of the insurance of depositors as described in Article 30 of this Law, the Central Bank shall notify the Fund of any deposit-taking Financial Institutions that are classified as problem institutions. If any such institutions are operating as of the date of notification, they will not be granted membership in the deposit insurance system, unless they are no longer classified as a problem institution at inception of deposit insurance.

CHAPTER V
FINAL PROVISIONS

Article 33
Implementation

Central Bank may issue sub-legal acts for implementation of this Law.

Article 34
Law in Force

This Law predominates any legal provision, which is inconsistent with it related to deposit insurance.

Article 35
Entry into Force

This Law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

Law No. 03/L-216
07 October 2010

Member of the Presidency of the Assembly

Xhavit Haliti