

**LAW No. 05/L -057**

**ON THE ESTABLISHMENT OF THE KOSOVO CREDIT GUARANTEE FUND**

**The Assembly of the Republic of Kosovo,**

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

Approves:

**LAW ON THE ESTABLISHMENT OF THE KOSOVO CREDIT GUARANTEE FUND**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Purpose of the Law**

1. Kosovo Credit Guarantee Fund is created to help meet the need for increased access to finance for micro, small and medium enterprises in Kosovo in order to create jobs, increase local production and value added services, improve the trade balance, and enhance financing opportunities for MSMEs.

2. The Kosovo Credit Guarantee Fund will offer credit guarantees to Registered Financial Institutions on selected loans to MSMEs. KCGF will be able to provide additional financial services with the prior approval of both the Board of Directors and the CBK.

**Article 2  
Scope of the Law**

This Law establishes the Kosovo Credit Guarantee Fund, and determines its authority, structure, governance, operations, scope, and policies and procedures for the issuance of Credit Guarantees.

**Article 3  
Definitions**

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

1.1. **Charter of the KCGF** – the set of rules of the KCGF adopted by the Board of Directors which regulate its functioning, internal organization and organization of the KCGF in accordance with this Law.

1.2. **CBK** – the Central Bank of the Republic of Kosovo as defined in the Law No.03/L-209 on the Central Bank.

1.3. **Capital Fund** – the capital made up of donated capital, further donations or grants

received, fees and income retained and not allocated to expenses

1.4. **Claim** – written request for payment submitted by the Registered Financial Institution to KCGF, against the Guaranteed Event requesting the payment of the Payable Amount.

1.5. **Committees of the Board of Directors** –committees established by the Board of Directors.

1.6. **Credit** – a loan, lease or other financial instrument issued by a Financial Institution to a MSME to provide financing.

1.7. **Credit Guarantee** – a guarantee granted by the KCGF to a Registered Financial Institution on a compliant Credit within the provisions of this law and the Guarantee Agreement.

1.8. **Donated Capital** – funds provided to the KCGF by the Government of the Republic of Kosovo, donors and international financial institutions as a donation or grant as permanent assets of the KCGF.

1.9. **Financial Institution** – Financial Institutions as defined in the Law No. 04/L-093 on Banks, Micro Finance Institution and Non-Bank Financial Institutions.

1.10. **Guarantee Agreement** – the Agreement signed between the KCGF and Registered Financial Institution that stipulates terms and conditions for the Credit Guarantees.

1.11. **Guaranteed Amount** – the amount of the outstanding principal on the Credit multiplied by the Guarantee Percentage.

1.12. **Guaranteed Event** – notice by the Registered Financial Institution to KCGF, which is accompanied by a Claim stating that an MSME client has defaulted on a Credit, and that all execution and collections procedures have been exhausted.

1.13. **Guarantee Fee** – a fee to be paid by a Registered Financial Institution to KCGF on the issuance of the Credit Guarantee, and annually thereafter, on the Guaranteed Amount until a Guaranteed Event has occurred or the Credit Guarantee is no longer in effect, whichever is earlier. The percentage amount of the fee will be specified in the Guarantee Agreement. The Guarantee Fee will cover the operational costs and loan losses of KCGF, in order for KCGF to be sustainable.

1.14. **Guarantee Percentage** – the percentage of the outstanding principal of the Credit that is covered by the Credit Guarantee, specified by the Registered Financial Institution when submitting that Credit to the KCGF for the Credit Guarantee, not to exceed fifty percent (50%) of the outstanding amount.

1.15. **International Rating Agencies** – the four international rating agencies recognized by the European Central Bank (Standard & Poor's, Moody's, Fitch Ratings and Dominion Bond Rating Service).

1.16. **International Financial Institution**– financial institutions that have been established by or adhered to by more than one country, subject to international legislation.

1.17. **Kosovo Credit Guarantee Fund (KCGF)** – the independent, autonomous legal entity created under this Law to manage the KCGF Assets and to provide Credit Guarantees as provided by the provisions of this Law and Charter and Internal Policies and Procedures.

1.18. **KCGF Assets** – all resources of the KCGF including any amounts on deposit at the CBK or commercial banks, other accounts and investments as detailed in Article 13 and 22 of this Law.

1.19. **Board of Directors**– one of the bodies of the KCGF as defined in Article 16 of this Law.

1.20. **Minimum Capital**- the minimum of capital that is required for KCGF to maintain.

1.21. **MSME** – a micro, small or medium business enterprise duly registered with the Kosovo Business Registration Agency (KBRA) that has obtained its fiscal number and that has less than two hundred and fifty (250) employees.

1.22. **Payable Amount** – the amount KCGF will pay the Registered Financial Institution in the event of a documented Guaranteed Event, which will be the amount of the net principal amount outstanding, after execution and collections by and at the expense of the Registered Financial Institution, multiplied by the Guarantee Percentage.

1.23. **Qualifying MSME** – an MSME that is qualified to be the subject of the Credit Guarantee in compliance with eligibility criteria provided in the Guarantee Agreement.

1.24. **Registered Financial Institution** – a Financial Institution licensed and supervised by the CBK that has entered into a Guarantee Agreement with the KCGF and agreed between KCGF and the respective Registered Financial Institution.

1.25. **Related Parties** – any person that maintains with the MSME at least one of the following relationships:

1.25.1. any Senior Manager or Director of the MSME and any principal shareholder of the MSME;

1.25.2. any person who is related to a Senior Manager or Director or principal shareholder of the MSME by marriage or consanguinity to the second degree;

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

1.25.4. any person that has a significant interest in a legal entity in which the MSME has a significant interest;

1.25.5. any subsidiary of the MSME;

1.25.6. any other person involved in a relationship with the MSME similar to those identified in sub-paragraphs 1-5 of this paragraph, that the KCGF determines by its policies or procedures to be a related party of the MSME;

1.26. **Re-insurance** – the sharing of risk from KCGF to another entity or entities utilizing insurance instruments.

1.27. **Managing Director** - one executive manager of the KCGF appointed by the Board of Directors with responsibilities as provided in Article 20 of this Law.

1.28. **Loan Losses** – the total amount of payable amounts that KCGF pays to Registered Financial Institutions against Claim submitted for payment after the documentation of the Guaranteed Event.

#### **Article 4** **Guarantee Eligibility**

KCGF shall not guarantee Credits which may support illegal activities or activities that are prohibited in the Guarantee Agreement. All credits guaranteed by the KCGF shall comply with applicable financial, social, health and safety standards.

### **CHAPTER II** **CREDIT GUARANTEES**

#### **Article 5** **Principles of Credit Guarantees**

1. KCGF may issue Credit Guarantees or other products and services adopted in compliance with this Law and approved by the Board of Directors as provided in Article 17 of this Law. Any new products and services are subject to the provisions of Article 9 of this Law, including approval by the CBK.

2. Financial Institutions licensed and supervised by the CBK may apply for registration to KCGF, and KCGF will evaluate such financial institutions based on the CBK methodology for risk assessment, other institutional factors and credit portfolio risk. If deemed qualified, the KCGF will register the Financial Institution.

3. KCGF will register Financial Institutions and enter into a Guarantee Agreement with each registered institution specifying the coverage, limits, policies and procedures for putting Credits under the guarantee into force, paying fees to KCGF and for Registered Financial Institutions making claims to KCGF in the event of a Guaranteed Event and such other matters as may be established by the Charter and Internal Policies and Procedures.

4. KCGF may provide Credit Guarantees to Financial Institutions registered with KCGF and meeting the criteria and requirements of the Guarantee Agreement.

5. KCGF must approve in advance any restructuring, rescheduling or negotiated settlement of any Credits placed under the Credit Guarantee.

6. Upon the occurrence of a Guaranteed Event, the KCGF shall pay the Registered Financial Institution the Payable Amount after the Registered Financial Institution makes a valid, documented Claim, and KCGF validates and approves the Claim. Any further recovery of principal of the Credit obtained by the Registered Financial Institution will be shared with KCGF based on the Guarantee Percentage.

#### **Article 6**

##### **Application and Eligibility of Credits for Guarantee Coverage**

1. For a Credit to qualify for a Credit Guarantee, the following minimal conditions must be satisfied:

- 1.1. the Credit must be for a Qualifying MSME;
- 1.2. the Credit must be for new financing, and can not be a renewal, restructuring or rescheduling of an existing or prior loan, lease or other financing;
- 1.3. the Credit must be for lawful purposes and to enhance the growth and viability of the MSME;
- 1.4. the Credit cannot exceed the maximum principal value specified in the Guarantee Agreement;
- 1.5. all Credits to the same MSME and Related Parties cannot exceed the maximum credit ceiling value specified in the Guarantee Agreement for each MSME, which includes the sum of the loans under guarantee and loans not under guarantee;
- 1.6. the Credit meets such other terms and conditions specified in the Guarantee Agreement.

#### **Article 7**

##### **Liability of the KCGF**

1. KCGF is liable to pay the Payable Amount according to Article 5 paragraph 6 of this Law.

2. KCGF is not liable to pay the Payable Amount to the Registered Financial Institution if KCGF determines that the Credit or the MSME did not meet the eligibility requirements or the Registered Financial Institution did not adhere to the terms and conditions of the Guarantee Agreement. In such event, KCGF will give notice to the Registered Financial Institution within fifteen (15) days after the claim for payment of the payable amount was made by the Registered Financial Institution to KCGF. KCGF shall not make any payment of any kind to the Registered Financial Institution for any reason if:

- 2.1. the Registered Financial Institution has not paid in full and on time any Guarantee Fees due to KCGF;
- 2.2. the Registered Financial Institution is in violation of this Law, other applicable laws and regulations applicable for lending activities or the terms and conditions of its Guarantee Agreement;

2.3. the Registered Financial Institution has not undertaken and completed all execution and collections procedures as specified in the Guarantee Agreement against the MSME borrower to recover against the Credit that is covered by the Credit Guarantee;

2.4. KCGF did not approve in advance the restructuring, rescheduling or negotiated settlement of the Credit pursuant to Article 5, paragraph 5 of this Law.

2.5. the Registered Financial Institution has in any manner misrepresented the qualifications of the MSME or the Credit submitted for a Credit Guarantee.

3. The liability of the KCGF is limited to the Payable Amount.

4. The KCGF will be liable for its liabilities only with its own assets. No other institution or individual is liable for KCGF's liabilities unless agreed in writing between the parties.

### **Article 8 Fees and Charges**

1. The Registered Financial Institution will pay KCGF a Guarantee Fee at the time the Credit is put under a Credit Guarantee by the KCGF and annually thereafter on the then outstanding principal balance of the guaranteed loan. The Guarantee Fee percentage will be specified in the Guarantee Agreement. The Guarantee Fees will be set and used to cover the operational costs and eventual loan losses of the KCGF in order for KCGF to be sustainable. Any surpluses of fees collected above the operational costs and eventual loan losses will be retained in the KCGF for purposes of increasing sustainability of the KCGF.

2. The level of the guarantee fee will be led by the following principles:

2.1. functioning, management and administration is led by the principle of rationality, efficiency and effectiveness of administrative and other costs, by ensuring the sustainability of the KCGF; and

2.2. KCGF will undertake necessary measures that the level of the fee will not impact the level of interest rates related to the financing of the loans of MSMEs in a need.

3. KCGF will periodically assess the levels of the fees in relation to its operational and budgetary sustainability and risk assessments and adjust them accordingly to cover its operational costs and loan losses. Registered Financial Institutions are responsible for their own credit analysis and risk assessment of loans to be covered by the KCGG Credit Guarantee.

4. The fees charged to Registered Financial Institutions for the Credit Guarantees are not interest.

### **Article 9 Additional Financial Products and Services**

After twenty-four (24) months of operations of providing Credit Guarantees, KCGF may begin to introduce new products and services with the prior approval of both the Board of Directors and the CBK. In order to implement a new product or service, KCGF will develop a feasibility study and business plan, and obtain prior approval from the Board of Directors and the CBK.

### **CHAPTER III**

## **KOSOVO CREDIT GUARANTEE FUND**

#### **Article 10**

#### **Establishment and Organizational Form of Kosovo Credit Guarantee Fund**

1. KCGF is an independent, autonomous, legal entity established by this Law, with full legal personality, and a legal identity that is separate and distinct from the KCGF Board of Directors and Executives. Without limiting the forthcomings, KCGF has the right to contract, sue and be sued in its own name, own assets and receive by way of grant or donation to further its objectives, specifically including the Capital Fund as provided in this Law.
2. The Minimum Capital of KCGF shall be three hundred thousand (300,000) Euros, and KCGF will be required to maintain capital of at least this amount.
3. KCGF shall enjoy full operational and administrative autonomy and function outside the framework of the Kosovo governmental structures and the Kosovo Civil Service.
4. Any revenue derived by the KCGF from fees, return on investment, donations and any other charges lawfully received or levied pursuant to this Law, and applicable legislation, shall be governed by the provisions of this Law and the Charter and Internal Policies and Procedures of KCGF in force. In case of any inconsistency with any other applicable Laws related to budgeting and expenditures of the KCGF this Law shall prevail, except the Law on CBK.

#### **Article 11**

#### **Powers and Responsibilities of the KCGF**

1. KCGF shall have the authority to:
  - 1.1. issue Credit Guarantees in accordance with this Law;
  - 1.2. set the conditions for registering qualified Kosovo Financial Institutions in the KCGF;
  - 1.3. set the conditions for issuing Credit Guarantees by the KCGF;
  - 1.4. set the Guarantee Fees of the KCGF;
  - 1.5. invest directly or through delegation of authority the assets of KCGF within the limitations of this Law;
  - 1.6. pay Payable Amounts on Credit Guarantees to Registered Financial Institutions pursuant to the provisions of this Law and the Guarantee Agreement;
  - 1.7. cooperate with the CBK in exchanging information relevant to KCGF's objectives and operations.
  - 1.8. report to the CBK as provided in this Law, KCGF Charter and Internal Policies and Procedures and CBK regulations on credit guarantee instruments. In the event KCGF

offers additional financial services with the prior approval of the Board of Directors and CBK, KCGF will additionally report to the CBK according to the respective regulations.

1.9. borrow in the case of insufficiency of funds for operations;

1.10. enter into credit enhancement and risk mitigation mechanisms to re-insure or re-guarantee all or portions of the KCGF existing and or future guarantee portfolio and pay related costs for the re-insurance or re-guarantees;

1.11. issue internal policies and procedures;

1.12. develop, manage and monitor its own budget, including all revenues and expenditures;

1.13. develop its own human resources management, including engaging personnel and establishing compensation;

1.14. KCGF shall not grant any credit or make any financial gift or donation;

1.15. exercise any other powers and responsibilities in accordance with this Law.

#### **Article 12**

##### **Financing and Instruments of KCGF**

1. KCGF will earn income on its deposits and investments of the KCGF Assets and earn fees charged for Credit Guarantees. KCGF will utilize this income and fees to cover its operational expenses and costs associated with disbursing Payable Amounts on Credit Guarantees. Any surpluses of incomes and fees collected above the operational costs and eventual loan losses will be retained in the KCGF for purposes of its function and will not be distributed outside the KCGF in any form or manner, including dividends.

2. KCGF shall deposit and/or invest the Capital Fund to back the Credit Guarantees and to earn income for KCGF operations, in accordance with the provisions of this Law and specifically Article 22 of this Law.

3. KCGF will pursue the purpose for which it was established, and carry out its activities with the following instruments:

3.1. credit Guarantees to Registered Financial Institutions for Credits to MSMEs;

3.2. such other financial instruments subject to Article 9 of this Law.

#### **Article 13**

##### **Sources of Funding for KCGF**

1. Sources of funding for KCGF include:

1.1. capital Fund donated by the Government of the Republic of Kosovo and Donors as a grant.



- 1.2. guarantee Fees paid by Registered Financial Institutions for Credit Guarantees;
- 1.3. interest and investment income from deposited and invested Capital Fund and other KCGF Assets;
- 1.4. additional capital contributions, including such additional donated capital as may be received;
- 1.5. borrowings, excluding borrowings from Registered Financial Institutions;

#### **Article 14**

##### **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 Board of Directors of the KCGF determines that KCGF does not have sufficient financial resources to carry out its objectives, the Managing Director shall recommend and present such plan for approval to an emergency session of the Board of Directors which, keeping with principles of financial sector soundness, shall undertake one or more of the following actions:

- 1.1. increase the fees charged to Registered Financial Institutions for new Credit Guarantees, and/or identify additional fees and charges as appropriate;
- 1.2. obtain grants and/or donations;
- 1.3. borrow funds, excluding borrowings from Registered Financial Institutions;
- 1.4. raise additional capital which will generate additional interest or investment income.

#### **Article 15**

##### **Bodies of KCGF**

1. The bodies of the KCGF are the Board of Directors and the Managing Director.
2. The operational details of each of these bodies, including the rights and obligation of each body shall be as provided by this Law and as provided in the Charter and Internal Policies and Procedures approved by the Board of Directors.
3. The operational details, rules and procedures will be specified in the Charter and Internal Policies and Procedures of the KCGF to be adopted within sixty (60) days from the first meeting of the Board of Directors, and serve as the legal basis for the rights and obligation of each body in accordance with this Law.
4. The Board of Directors, within sixty (60) days from the first meeting shall approve the Charter and Internal Policies and Procedures with simple majority of votes of the Board Members. The Charter and Internal Policies and Procedures may be amended from time to time, by the Members of the Board of Directors with the same procedure as originally approved.

**Article 16**  
**Board of Directors**

1. The Board of Directors is composed of seven (7) members, with the following structure:

1.1. an appointed representative from the Ministry of Trade and Industry, which will serve as a voting ex-officio member;

1.2. an appointed representative from the Ministry of Finance, which will serve as a voting ex-officio member;

1.3. the Managing Director of the KCGF that will be appointed by the Board of Directors and will serve as a voting ex-officio member.

1.4. the other four independent (4) members will be elected by the donors in accordance with criteria and requirements set out in this Law, and will be considered as independent members of the Board of Directors, hereafter referred as Independent Members of the Board of Directors.

2. The Charter and Internal Policies and Procedures will include a mechanism for electing the Independent Members of the Board in the event or at such time as the donors will no longer be involved in KCGF.

3. Members of the Board of Directors will meet fit and proper requirements as provided by the provisions of this Law.

4. Board Members are elected for four (4) year terms. Upon the expiration of the mandate of the Board Members, existing members shall continue to serve as acting Board Members until the subsequent Members are elected and the new Board is established.

5. The Board of Directors oversees the KCGF and its strategic objectives in the context of this Law and Charter and Internal Policies and Procedures. It approves annual plans and objectives, and reviews the outcomes of these objectives regularly.

6. The Chairperson of the Board of the KCGF shall have subject-matter expertise in one of the areas specified in paragraph 8.1 or 8.2 of this Article;

7. Managing Director of KCGF shall have subject-matter expertise in banking and finance;

8. The remaining four (4) positions shall be filled from candidates with the following areas of expertise:

8.1. Banking and Finance;

8.2. Accounting/Auditing;

8.3. Legal (Commercial or Financial Law);

8.4. Private Business Sector.

9. The Members of the Board of Directors must be individuals who have recognized integrity, appropriate education and professional experience specifically relevant to KCGF's activities, as contained in Article 16 of this Law, and meet fit and proper criteria as provided in the Law No. 04/L-093 on Banks, Micro-Finance Institutions and Non-Bank Financial Institutions.
10. The Members of the Board of Directors may be re-elected based on the provisions of the Charter and Internal Policies and Procedures, but for a maximum of two (2) consecutive terms.
11. No Member of the Board of Directors shall be an elected official, political appointee or a person who has held an elected or leadership position in any political party at any time during the prior twelve (12) months, nor executives or members of the Governing Board of any financial institution licensed by the CBK at any time during the prior twelve (12) months. Four (4) independent members of the Board of Directors and the Managing Director shall not be persons exercising any position as civil servants.
12. At their first meeting, the elected members of the initial Board of Directors shall elect a Chairperson. Until the Board of Directors selects the Chairperson for the term of the Management Board, the oldest Board Member will serve as an interim Chairperson. The Chairperson shall be appointed by the Board of Directors from among its elected Members.
13. The Chairperson shall call, preside over and ensure the orderly conduct of the meetings of the Board of Directors.
14. The Members of the Board of Directors shall exercise their functions independently and solely in the best interest of KCGF, and in a professional and collegial manner. Board members must bring specialized expertise and understanding to the Board of Directors but should in no way exercise her or his vote on the instruction of or on behalf of any other stakeholder or interest group. All Members shall maintain the highest standard of ethics and professionalism throughout their tenure.
15. No person shall seek improperly to influence any KCGF Board of Directors member or employee in the discharge of his or her duties or to interfere in the activities of the KCGF. Board of Directors members or employees shall not seek nor act in accordance with any improper instructions while performing their duties as members of the Board of Directors or of the employees, and shall avoid conflicts of interest.
16. Members of the Board of Directors, Committees of the Board of Directors, advisors and experts shall indefinitely keep confidential the information they obtain during the performance of their duties except as provided for under Article 21 of this Law.
17. Members of the Board of Directors, with the exception of the Managing Director of KCGF, shall receive reasonable compensation from KCGF for attendance at Board meetings, pursuant to the KCGF Charter and Internal Policies and Procedures and budget.
18. Members of the Board of Directors must attest in writing to the fact that they are not executives or members of the Governing Board of any Registered Financial Institutions during the course of their service, and will not provide services to any Registered Financial Institution during the course of their service and for one (1) year thereafter.
19. Members of the Board of Directors with a financial interest in a decision of the Board shall disclose such interests and shall recuse themselves from deliberations and voting.

**Article 17**  
**Powers of Board of Directors**

1. The Board of Directors shall:

- 1.1. appoint a Managing Director of KCGF who will serve ex officio as a member of the Board of Directors with a voting right, and determine the Managing Director's compensation;
- 1.2. approve the registration of Financial Institutions for participation in the Credit Guarantees of KCGF;
- 1.3. approve the Guarantee Agreements to be entered into with Registered Financial Institutions;
- 1.4. authorize the Managing Director to sign and execute the approved Guarantee Agreements;
- 1.5. acquire, holding and disposing of KCGF property;
- 1.6. approve all policies, procedures, rules, orders and guidelines for the management and operation of KCGF;
- 1.7. approve and amend the Charter and Internal Policies and Procedures of the KCGF;
- 1.8. approve the KCGF's financial plan, annual budget and financial statements;
- 1.9. approve Euro deposits in Kosovo banks and determine that such bank has a sufficient risk rating based on the CBK methodology for risk assessment;
- 1.10. make decisions on setting the level of fees and payments as provided in this Law;
- 1.11. make recommendations on amending- supplementing this Law based on operational experience in its application;
- 1.12. approve the appointment of the KCGF's external auditors;
- 1.13. approve the payment by the KCGF in a Guaranteed Event, for specific amounts as provided in the Charter and Internal Policies and Procedures;
- 1.14. approve borrowing as per Article 14 for emergency purposes;
- 1.15. approve entering into a re-insurance or re-guarantee or co-guarantee mechanism;
- 1.16. approve total staff numbers and senior staff and their compensation as recommended by the Managing Director of KCGF;
- 1.17. other powers and responsibilities foreseen by this Law that are not included

specifically in the Article 20 of this Law and as may be established in the Charter and Internal Policies and Procedures.

### **Article 18**

#### **Dismissal of Members of the Board of Directors**

1. A member of the Board of Directors shall be removed from the position based on and upon the power of this Law, if she or he:

1.1. is ineligible or has become ineligible to serve on the Board of Directors under the requirements of Article 16 this Law;

1.2. has been convicted of a criminal offence with final court decision with imprisonment for six (6) months or more;

1.3. has become or has been involved as a debtor in bankruptcy or insolvency proceedings;

1.4. has, on grounds of professional misconduct, been disqualified or suspended by a competent authority from practicing a profession;

1.5. is unable to perform the functions of such office because of an infirmity of body or mind that has lasted for more than six (6) months;

1.6. has been absent from three (3) consecutive meetings of the Board of Directors without justifiable reason.

2. A member of the Board of Directors shall be dismissed from the position, if they have been engaged in activities inconsistent with the standards of integrity or unbecoming of a member of the Board of Directors.

3. Procedure and the decision-making process for the dismissal of the Board of Directors members shall be conducted pursuant to the Charter and the Internal Policies and Procedures of KCGF.

4. Every member of the Board is entitled to offer his or her resignation. In case of resignation, the Board of Directors member shall notify the Board of Directors, indicating his or her effective date of resignation.

### **Article 19**

#### **Meetings of the Board of Directors**

1. The meetings of the Board of Directors shall be chaired by the Chairperson, or in his or her absence, the Chairperson's designee.

2. The Board of Directors shall meet as often as business of KCGF may require but not less frequently than four (4) times a year, with at least two (2) meetings a year being in person in Kosovo.

3. Meetings of the Board of Directors are convened and notified to all Board Members by the Chairperson who shall decide the agenda upon proposal of the Managing Director of the KCGF. Meetings may also be convened at the written request of any two (2) members of the Board of Directors.
4. The Agenda will indicate which part of the Board of Directors will be closed and which part will be public.
5. Board of Directors meetings shall be convened by communicating the time, venue and agenda of the meeting to all members of the Board of Directors at least ten (10) working days before the date set for the meeting; in the event of an emergency, meetings may be convened at shorter notice.
6. Each member of the Board of Directors shall have one vote. In the event of equality of votes, the Chairperson shall have the deciding vote.
7. A quorum for the conduct of business and taking of decisions at any meeting of the Board of Directors shall consist of four (4) members of the Board of Directors, at least one of which is the Chairperson or the Chairperson's designee.
8. Except as provided by this Law, decisions of the Board of Directors shall be adopted by a simple majority of those present and voting. However, meetings and voting by teleconferencing are permitted, but at least two in person meetings of the Board of Directors shall be held each year.
9. Subject to the quorum requirement above, no act or proceeding of the Board of Directors shall be invalidated by reason of the existence of a vacancy or vacancies on the Board of Directors.
10. An employee or agent of the KCGF shall not be liable for any losses, liabilities, claims, judgments, costs, demands and expenses caused in the course of duties except to the extent it is finally judicially determined to have resulted primarily from the intentional misconduct or gross negligence.
11. The Board of Directors may invite persons as observers and experts to public sessions of the Board, who will not be permitted access to confidential information. Such observers could include representatives of donors, international finance institutions, associations, chambers of commerce, women's and minorities' groups, MSMEs, and academia. Such invitees and experts will not have voting rights but may request and be invited by the Chairperson to address the Board of Directors.
12. The Board of Directors shall establish Audit and Risk Management Committees. Additional Committees may be established by the Board of Directors.

## **Article 20**

### **Managing Director of KCGF**

1. The Managing Director of KCGF shall be the Chief Executive Officer of the KCGF on a full-time basis.
2. The Managing Director is appointed for a five (5) year term, with the possibility to be reappointed by the Board of Directors based on the performance evaluation. Rules and procedures for the

performance criteria and evaluation will be subject of the KCGF Charter and Internal Policies and Procedures.

3. The Managing Director makes all management and operational decisions for the KCGF and is responsible to:

3.1. represent and manage the affairs of KCGF and implement the policy decisions of the Board of Directors;

3.2. make recommendations to the Board of Directors regarding improvement of the operations of KCGF and compliance with this Law and other applicable rules and requirements;

3.3. prepare and propose the financial plan, including the level of the fees to be assessed to the financial institutions, and submitting the annual financial statements for approval;

3.4. draft and submit the investment policy for approval;

3.5. present all proposed actions, rules, orders and guidelines for the approval of the Board of Directors

3.6. make recommendations regarding the appointment of the KCGF's external auditor;

3.7. hire staff in accordance with this Law;

3.8. perform other activities in compliance with this Law and Charter and Internal Policies and Procedures;

3.9. review KCGF activities from a risk-assessment perspective determining what risks are acceptable and ensuring that appropriate mitigation steps are in place, all in full compliance with the provisions of this Law and Charter and Internal Policies and Procedures in force.

4. The Managing Director shall receive reasonable compensation, established by the Board of Directors on the recommendation of the Chairperson, from KCGF by way of salary. Such salary shall be reasonable compensation based on the budget of KCGF and its corporate governance standards.

## **Article 21**

### **Information Access, Use and Exchange**

1. All Registered Financial Institutions shall provide any necessary information requested by the KCGF and shall be responsible for the accuracy and quality of information provided. Registered Financial Institutions are also responsible for ensuring the handling of data in accordance with the applicable Law on Personal Data Protection.

2. No person who serves or has served as a member of the Board of Directors or staff as well as other persons hired by the KCGF to provide professional or technical services, agent or correspondent of the KCGF shall, permit access to, disclose or publicize non-public 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.

3. Notwithstanding the previous paragraph, such persons may disclose non-public information outside the KCGF, in accordance with procedures established by the KCGF only:

- 3.1. in accordance with the expressed or implied consent of the person about whom the information relates;
- 3.2. 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;
- 3.3. if given to the auditors of the KCGF;
- 3.4. if given to the Financial Institution supervisory authorities and staff of public International Financial Institutions in performance of their official duties;
- 3.5. if the interest of the KCGF itself in legal proceedings requires disclosure;
- 3.6. if the Board of Directors has given consent.

#### **Article 22**

#### **Investment of KCGF Capital Fund**

1. The KCGF Capital Fund shall only be invested in accordance with the provisions of this Law and the approved investment policy approved by the Board of Directors in order to protect the Capital Fund for backing the guarantees, to generate income to support the sustainability of KCGF, and to maintain adequate liquidity.
2. The investment policy of KCGF will be prepared by the Managing Director and be approved by the Board of Directors.
3. The investment policy will strictly limit investments to the following:
  - 3.1. Euro deposits or instruments with the Central Bank of Kosovo.
  - 3.2. Treasury bills and Government of Kosovo bonds;
  - 3.3. Euro deposits or instruments with banks that are Registered Financial Institutions, licensed and operating in Kosovo, limited in amount and term based on the bank's level of guarantees with KCGF and the bank's risk rating with KCGF;
  - 3.4. Euro and non-Euro deposits or instruments with the European Central Bank and other European Union Central Banks from member states which, at the time of investment, are rated as Prime or High Grade by the international rating agencies;
  - 3.5. Euro and non-Euro deposits or instruments issued by state or commercial banks licensed as such in such countries as defined in paragraph 3.4 and which in addition are individually rated at least as High (a) by Fitch Ratings, or then equivalent rating;



3.6. Non-Euro deposits or instruments with the Central Banks of non-EU Member States who are Members of the OECD and also meet the same rating standards as in paragraph 3.4;

3.7. Non-Euro deposits or instruments issued by state or commercial banks licensed as such in such non-EU member states as defined in paragraph 3.5 and which in addition are individually rated at least as High (a) by Fitch Ratings, or then equivalent rating;

3.8. Euro and non-Euro deposits or investments in income earning money market funds and fixed income funds that are rated at least strong (Ammf) by Fitch Ratings, or then equivalent rating, and that are domiciled in EU or non-EU Member States that are Members of the OECD and also meet the same rating standards as in paragraph 3.3.

4. KCGF capital may not be invested in:

4.1. any country not qualified under paragraphs 3.3 and 3.5 of this Law;

4.2. real estate or any movable or immovable asset, either in or outside Kosovo, excluding the ownership over assets paid by its operating budget of KCGF or donations targeted for the purpose but not paid by capital funds backing the Credit Guarantees;

4.3. loans or guarantees except as specifically provided for in the Law.

5. Compliance with this Article by the KCGF will be certified by the Managing Director and reported in the annual IFRS audit.

### **Article 23**

#### **Financial Reporting and Audit of KCGF**

1. KCGF shall maintain accounts and records in accordance with International Financial Reporting Standards (IFRS) to reflect its operations and financial condition.

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

3. KCGF shall prepare annual financial statements in accordance with IFRS. The KCGF's financial statements shall be audited and published without delay, but not later than June 30 for the previous year.

4. The accounts, records and financial statements of KCGF shall be audited by an independent external auditor from the approved list of statutory auditors and auditory firms of the Kosovo Financial Reporting Council, and appointed by the Board of Directors. The same external auditor or firm cannot be used for more than three (3) consecutive years.

5. KCGF shall submit audited financial statements to the Board of Directors for approval.

6. The Managing Director is responsible that the Board of Directors is provided with the draft audited financial statements of the KCGF at least fifteen (15) days prior to their finalization and approval.

7. The KCGF should publish its annual report and annual audited financial statements on its website.

#### **Article 24**

#### **Immunity from Corporate Income Tax, VAT and other Taxes**

The KCGF shall be exempt from Corporate Income Tax, VAT, and tax on dividends, interest or investment income earned from funds on credit guarantees or investments, and any other levy, withholding or tax to any aspect of the operations of KCGF. KCGF shall not distribute any surpluses and any such surpluses will remain within KCGF.

### **CHAPTER V FINAL PROVISIONS**

#### **Article 25**

#### **Reporting and Cooperating with the CBK**

1. The KCGF shall fully comply with the reporting and oversight mechanisms provided in this Law and the KCGF Charter and Internal Policies and Procedures to the CBK, and include:

1.1. KCGF will submit its annual IFRS audit report to the CBK.

1.2. KCGF will report to the CBK on its guarantee portfolio and its assessment of the guarantee portfolio risk, including any Claims paid out, on a monthly, quarterly, semi-annual and annual basis. KCGF will report both on the overall combined guarantee portfolio as well as on the guarantee portfolios of each Registered Financial Institution, as specified in the Guarantee Agreements.

1.3. KCGF and the CBK will exchange information relevant to KCGF operations.

2. CBK will issue regulations relating to risk-weighting and reserve requirements for the Registered Financial Institutions on the portion of Credits covered by Credit Guarantees issued by the KCGF.

#### **Article 26**

#### **Law in Force**

This Law is of specific application and supersedes any law or legal provision which is inconsistent with it related to KCGF as an institution, except the Law on the CBK.

#### **Article 27**

#### **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.05/L - 057**

**14 December 2015**

**Promulgated by Decree No.DL-040-2015, dated 29.12.2015, President of the Republic of Kosovo Atifete Jahjaga**