



**REPUBLIC OF ALBANIA
BANK OF ALBANIA
SUPERVISORY COUNCIL**

DECISION

No. 56, dated 3.10.2017

**ON APPROVING THE REGULATION “ON RESOLUTION FUND AND ITS
ADMINISTRATION PROCEDURES”**

In accordance with Article 12(a), and Article 43(c), of the Law No. 8269, dated 23.12.1997 “On the Bank of Albania”, as amended; as well as Article 6, paragraphs 6, Article 71, Article 73, paragraphs 1 and 6, Article 75 paragraphs 1 and 2, Article 76 paragraph 2, Article 77 paragraph 6, Article 79 and Article 87 of the Law No. 133/2016, dated 22.12.2016 “On the recovery and resolution of banks in the Republic of Albania”, having regard to the proposal from Resolution Department, the Supervisory Council of the Bank of Albania,

DECIDED:

1. To approve the Regulation “On Resolution Fund and its administration procedures”, as attached herein.
2. Resolution Department and Albanian Deposit Insurance Agency are responsible for the implementation of this Decision.
3. The Governor’s Office and Research Department are responsible for the publication of this Decision in the Official Journal of the Republic of Albania and the Official Bulletin of the Bank of Albania, respectively.

This decision shall enter into force 15 (fifteen) days after its publication in the Official Journal of the Republic of Albania.

SECRETARY

Elvis Çibuku

CHAIR

Gent Sejko

**REGULATION
ON RESOLUTION FUND AND ITS ADMINISTRATION PROCEDURES**

**SECTION I
GENERAL PROVISIONS**

**Article 1
Subject matter**

This regulation lays down the rules specifying:

- a. the setting up of the “Resolution Fund”,
- b. the methodology for calculation of the target level of the “Resolution Fund”,
- c. the methodology for establishing the annual contribution of banks and their payment procedure,
- d. extraordinary ex-post contributions and the circumstances and conditions for their partial or total suspension,
- e. the procedures on approving the investment policy of the “Resolution Fund”,
- f. the approval procedures on the annual amount and payment method of the reimbursed costs related to the administration of the “Resolution Fund”
- g. the procedures for consulting the selection criteria of the external auditor of the annual financial statements of the “Resolution Fund”
- h. the exchange of information and reporting between Bank of Albania and Albanian Deposit Insurance Agency regarding the “Resolution Fund”.

**Article 2
Legal ground**

This regulation is established pursuant to the:

- a. Article 12“a” and Article 43 “c”, of the Law No. 8269, dated 23.12.1997, “On the Bank of Albania”, as amended;
- b. Articles 6, paragraph 6, Articles 71, 73 paragraphs 1 and 6, 75, paragraph 1 and 2, 76 paragraph 2, 77 paragraph 6, 79 and 87 of the Law No. 133/2016 dated 22.12.2016 “On the recovery and resolution of banks in the Republic of Albania”, following referred as the Law “On the recovery and resolution of banks”
- c. Law No. 9662, dated 18.12.2006 “On Banks in the Republic of Albania”, as amended.

Article 3

Scope

This regulation applies to all banks and branches of foreign banks licensed to exercise banking activity in Republic of Albania and to the Albanian Deposit Insurance Agency.

Article 4

Definitions

1. For the purposes of this Regulation, the definitions contained in the Law “On the Recovery and Resolution of Banks in Republic of Albania” and in the Law “On Banks in Republic of Albania”, as amended, shall apply.
2. In addition to the indication in paragraph 1, for the purposes of this Regulation, the following definitions shall also apply:
 - a. **“Administrator”** means the Administrator in the Bank of Albania, who is responsible for the Resolution Department under his/her dependency, as defined in the organizational structure of the Bank of Albania.
 - b. **The target level of “Resolution Fund”** means the target level as defined in Article 75, paragraph 1 of the Law “On the Recovery and Resolution of Banks in Republic of Albania” that is calculated annually by the Bank of Albania based on the last audited data of banks.
 - c. **The annual target level of “Resolution Fund”** means the total amount calculated and to be paid annually by all the banks to reach the target level referred to in point “b” of this paragraph.
 - d. **The annual contribution** means the amount of annual payment of each bank to reach the annual target level of the “Resolution Fund” as referred to in point “c” of this paragraph.

SECTION II

THE RESOLUTION FUND

Article 5

Set up of the “Resolution Fund”

1. “The Resolution Fund” is set up through the part of contribution payments that banks will make until 10 January 2018 in the account opened by ADIA at the Bank of Albania, pursuant to Article 20 of this regulation.
2. The Albanian Deposit Insurance Agency opens an account at the Bank of Albania for the Resolution Fund, not later than one month after entering into force of this Regulation.

3. The financial resources of the “Resolution Fund” are as defined in Article 72 of the Law “On the Recovery and Resolution”.
4. “The Resolution Fund” is used only in the cases specified in Article 74 of the Law “On the Recovery and Resolution”.

Article 6 **Target level of the “Resolution Fund”**

1. The “Resolution Fund” shall reach 0.5% of the total amount of liabilities of all banks, calculated as a difference between the total assets and the regulatory capital of all banks, by 11 July, 2027.
2. Bank of Albania calculates annually the target level of “Resolution Fund” based on the audited financial statements provided by banks, for the purpose of reaching the amount of “Resolution Fund” set out in paragraph 1 of this Article.
3. The calculation of the target level of “Resolution Fund” is based on the following formula

$$\mathbf{TLRF_n = 0.5\% * (Total Assets_{n-2} - Regulatory capital_{n-2})}$$

where:

- **n**- ranges from year 2018 to 2027. In case of extending the initial period for reaching the target level, as specified in Article 75, paragraph 2, of the Law “On the Recovery and Resolution”, n takes value in accordance with this new term.
- **TLRF_n**- target level of “Resolution Fund” for year n.
- **0,5%** - coefficient, as determined in the Law “On the Recovery and Resolution”.
- **Total assets_{n-2}** - total assets of all banks for the year-end n-2 referring to the audited financial statements reported to Bank of Albania, in accordance with Article 52 of Law “On Banks in Republic of Albania”
- **Regulatory capital_{n-2}** – the amount of the regulatory capital for the year –end n-2 of all banks, referring to the audited financial statements reported to Bank of Albania, in accordance with Article 52 of Law “On Banks in Republic of Albania”

Article 7 **Annual target level of resolution fund**

1. In order to reach the target level of the resolution fund, as defined in Article 6, paragraph 2 of this regulation, the Bank of Albania calculates annually the annual target level of resolution fund based on the following formula:

$$ATLRF_n = \frac{TLRF_n - \text{fund outstanding amount}_{n-1}}{2027 - n + 1}$$

where:

- **ATLRF_n** - the annual target level of resolution fund for all banks for year n.
 - **Fund outstanding amount_{n-1}** – the outstanding amount of the “Resolution Fund” by the end of year n-1, as provided by ADIA.
2. In case of extending the initial period for reaching the target level, as specified in Article 75, paragraph 2, of the Law “On Recovery and Resolution of Banks in Republic of Albania”, the year 2027 specified on the formula defined in paragraph 1 of this article, is postponed in accordance with this new term.
 3. After the funds’ financial statements are being certified by the external auditor, the Bank of Albania, if necessary, performs any relevant adjustment in the calculation of annual target level of “Resolution Fund” of the consecutive year.

SECTION III

ANNUAL CONTRIBUTION

Article 8

Calculation of annual contribution

1. To reach the annual target level of the “Resolution Fund”, as set out in Article 7 of this Regulation, banks shall pay annual contribution, which is calculated based on the following formula:

$$ACRF_n = ATLRF_n \times \text{Bank's share}_n$$

where:

- **ACRF_n** – annual contribution of banks in year n.
- **ATLRF_n** – annual target level of “Resolution Fund” for year n, calculated in accordance with the Article 7 of this regulation.
- **Bank’s share** – the share of bank’s liabilities for year n, as calculated in paragraph 2, of this Article.

2. The share of bank’s liabilities is calculated based on the following formula:

$$\text{Bank's share}_n = \frac{\text{Bank's total assets}_{n-2} - \text{Bank's regulatory capital}_{n-2}}{(\text{Total assets}_{n-2} - \text{Regulatory capital}_{n-2})} * 100\%$$

where:

- **Bank's total assets** _{n-2} – each bank's total assets at the end of year n-2, referring to the audited financial statements reported to Bank of Albania, in accordance with Article 52 of Law “On Banks in Republic of Albania”
- **Bank's regulatory capital** – each bank's regulatory capital at the end of year n-2, referring to the audited financial statements reported to Bank of Albania, in accordance with Article 52 of Law “On Banks in Republic of Albania”

Article 9

New supervised institutions

1. A new bank, which performs banking activity for only a part of the contribution period, shall pay a partial annual contribution proportionally with the period for which it has performed banking activity.
2. The partial annual contribution is calculated by multiplying the annual contribution with the 1/12 for each full month of the contribution period for which it has performed banking activity.

Article 10

Notification and payment of annual contributions

1. The responsible Administrator determines through a special notification the amount of annual contribution for each bank as well as the deadline for its payment.
2. The special notification for payment of annual contribution shall be sent to Albanian Deposit Insurance Agency and to each bank and includes:
 - a. the target level of the “Resolution Fund”
 - b. the annual target level of the “Resolution Fund”
 - c. the outstanding amount and the adjustment on the calculation of the fund's outstanding amount under Article 7, paragraph 3 of this regulation
 - d. the annual contribution due for the bank
 - e. the bank account number of the Albanian Deposit Insurance Agency at the Bank of Albania, referred to in Article 5, paragraph 2, where the contribution shall be paid;
 - f. the deadline for the contribution payment.
3. The above notification is performed by registered mail, by the end of February, each year.
4. Banks shall perform the payment of annual contributions in Lek, in full amount by April the 30th each year, in the bank account referred to, in paragraph 2 “e” of this Article.

5. Where a bank is a new bank, its partial annual contribution shall be collected together with the annual contribution due for the subsequent contribution period.
6. The Albanian Deposit Insurance Agency shall notify the Bank of Albania and the banks for the collection of the annual contribution, not later than 15 days after the collection.
7. In case of the bank not performing the payment of contribution due by the respective deadline, as defined in paragraph 1 of this article, the Bank of Albania after acknowledgement, notifies the bank and ADIA for the accrued penalties due to contribution's payment delay, as specified in Article 81, paragraph 2 of the Law "On the Recovery and Resolution", through a special order by the responsible Administrator. ADIA calculates the accruing penalties up to the moment when the payment is performed.

SECTION IV

EXTRAORDINARY *EX-POST* CONTRIBUTIONS

Article 11

Extraordinary ex-post contributions

1. Banks shall pay extraordinary *ex-post* contributions as referred to the cases in Article 77, paragraph 1 of the Law "On the Recovery and Resolution of Banks in Republic of Albania". The decision for payment of extraordinary contribution shall be made by the Supervisory Council of the Bank of Albania and shall include the amount of extraordinary contribution for each of the banks and the deadline for its payment.
2. The decision referred to in paragraph 1 of this Article is being sent for notification to the banks and to ADIA.
3. In case that the payment of the extraordinary contributions is not performed until the deadline specified in paragraph 1 of this Article, ADIA shall notify the Bank of Albania, within 15 days from the deadline.

Article 12

Suspension of extraordinary ex-post contributions

1. The Bank of Albania may, upon request by the bank, defer, in whole or in part, a bank's payment of extraordinary ex post contribution pursuant to Article 77, paragraph 5 of the Law "On the Recovery and Resolution of Banks in Republic of Albania", if it is necessary to protect its financial position.
2. The request under paragraph 1 of this Article shall be submitted to Bank of Albania not later than 10 days from the receipt of extraordinary contribution payment order, and shall contain any relevant information, to carry out the assessment on the impact that the payment of extraordinary

ex post contribution would have on its financial position. The Bank of Albania may request any additional information to conduct the above assessment.

3. When determining whether the bank meets the conditions for deferral referred to in paragraph 4 of this Article, the Bank of Albania shall assess, within 10 days, the impact that the payment of extraordinary ex post contributions would have on the solvency and liquidity position of the bank.
4. Bank of Albania may suspend in whole or in part the payment of extraordinary *ex-post* contributions where it concludes that the payment results in any of the following. :
 - a. A breach of the banks' minimum required level of capital adequacy ratio during the following semester
 - b. A breach of the banks' minimum required level of liquidity ratios during the following semester
5. The Bank of Albania shall limit the deferral period to the extent it is necessary to avoid risks to the banks' financial position and shall regularly monitor whether the conditions for deferral referred to in paragraph 4 of this Article continue to apply during the suspension period.
6. The Bank of Albania, where it determines that the conditions for the deferral referred to in paragraph 4 continue to apply, may renew only once the deferral period. This renewal shall not exceed 6 months.
7. The decision of extraordinary ex-post contributions' deferral is sent for notification to banks and ADIA.

Article 13

Assessment of the impact of the extraordinary ex-post contribution payment on solvency

1. The Bank of Albania shall assess the impact of the payment of extraordinary ex post contributions on the banks' regulatory capital position, according to Article 12, paragraph 3 of this Regulation. The assessment shall include an analysis of the impact that the payment of extraordinary ex-post contributions would have on the banks' capital adequacy ratio.
2. For the purpose of this assessment, the amount of *ex post* contributions shall be deducted from the bank's regulatory capital value (amount).

Article 14

Assessment of the impact of extraordinary ex-post contribution payment on liquidity ratios

1. The Bank of Albania shall assess the impact of the payment of extraordinary *ex post* contributions on the institution's liquidity position, according to Article 12, paragraph 3 of this Regulation. The assessment shall include an analysis of the impact a payment of extraordinary *ex post*

contributions would have on the bank's ability to meet the liquidity ratios in domestic currency (Lek) and in total.

2. The Bank of Albania shall assess the compliance with the required level of liquidity ratios at the point of payment of the extraordinary *ex post* contribution, by taking into consideration the liquidity outflow (referring to the regulation "On the liquidity risk management") equal to 100% of the amount payable.

SECTION V

PROCEDURES FOR THE ADMINISTRATION OF THE FUND'S FINANCIAL ASSETS

Article 15

"Resolution Fund" Financial Assets Investment Policy

1. The "Resolution Fund" is administrated by ADIA according to the "Resolution Fund" Financial Assets Investment Policy.
2. **The "Resolution Fund" Financial Assets Investment Policy** is approved by the Administrator following ADIA proposal and is being guided by the investment principles for the purpose of providing a low risk profile and high liquidity of the fund's financial assets, aiming at its immediate disposal when necessary.
3. ADIA presents annually the "Investment Policy" to the Bank of Albania. The proposed investment policy, referred to in this paragraph, is accompanied by the respective explanatory report.
4. Bank of Albania approves the "Investment Policy" including the procedures, criteria and concentration and maturity benchmarks for the investment of the funds financial assets as well as any other related changes proposed by ADIA, not later than one month after the proposed policy.
5. ADIA administers the resolution fund in complete independence from the other funds under its management. ADIA keeps separated accounts and records for the fund, and provides separate reporting with regard to its administration.

Article 16

Annual payment for the administration of "Resolution Fund"

1. ADIA receives an annual payment fee for the reimbursement of costs incurred for funds' financial assets administration purposes.
2. Within the first trimester of the year, ADIA provides the Bank of Albania with the previous year financial statements of the fund and with a detailed report regarding the annual expenses for purposes of the fund administration. This report shall contain the value of direct costs as well as

indirect costs incurred for the fund administration. Direct costs refer to bank commissions and similar fees that are directly related to the fund administration. Indirect costs refer to expenses of ADIA's staff involved in the fund administration process, calculated proportionally with the number of transactions performed for the investment of the fund's assets.

3. Not later than one month after receiving the report referred to in paragraph 2 of this article, the Administrator decides on the amount of costs to be reimbursed to ADIA for the purposes of funds' administration.
4. ADIA withholds the annual payment fee from the account of the fund at the Bank of Albania, after receiving the approval from the BoA, as per paragraph 3 of this article.

Article 17

The external auditor of the "Resolution Funds" Financial Statements

1. The annual financial statements of the "Resolution Fund" are being certified by experienced external auditors, approved by the Board of Directors of ADIA.
2. The proposed criteria for selecting the external auditors are being sent for opinion to the Bank of Albania. BoA shall provide its opinion within 15 days after receiving the proposed criteria, through the respective Administrator.
3. In any case, ADIA cannot start the external auditor selection procedures before the deadline mentioned in paragraph 2 of this Article.

Article 18

Exchange of information

1. ADIA reports on quarterly basis to the BoA on the investment activity, the portfolio structure and resolution fund outstanding amount, as well as annually on the funds' performance.
2. BoA notifies immediately ADIA on the adjustment or suspension of the investment activity in cases of liquidity shortage or any other emergency situations.

SECTION VI

FINAL PROVISIONS

Article 19
Sanctions

1. The Bank of Albania, in case of breach of the provisions of this Regulation, shall apply the sanctions referring to the Law “On the Recovery and Resolution of banks in Republic of Albania”.
2. In order to comply with Article 81, paragraph 1 of the Law “On the Recovery and Resolution of banks in Republic of Albania”, contributions to the fund will be considered as not paid, if their payment has not been performed within 45 days after the deadline mentioned in Article 10, paragraph 3 of this Regulation.

Article 20
Transitional provisions

1. The Bank of Albania shall calculate and notify banks on their annual contribution of the first year, not later than 15 November 2017.
2. The calculation of the funds’ Target Level, Annual Target Level and Annual Contribution for each bank, for the first contribution period is performed based on the financial statements of the year 2016.
3. By way of derogation from Article 10, paragraph 3 of this Regulation, the annual contribution payment for the first contribution period shall be performed in two partial installments as below:
 - a. 10% of the annual contribution shall be paid not later than 10 January 2018.
 - b. The remaining amount of the annual contribution shall be paid not later than 30 April 2018.

Chair of the Supervisory Council

Gent Sejko